

SWARTHMORE COLLEGE STUDENT HEALTH AND WELLNESS SERVICE

Balancing Student Privacy and School Safety: A Guide to FERPA for Colleges and Universities

Postsecondary officials are regularly asked to balance the interests of safety and privacy for individual students. While the **Family Educational Rights and Privacy Act (FERPA)** generally requires institutions to ask for written consent before disclosing a student's personally identifiable information, it also allows colleges and universities to take key steps to maintain campus safety. Understanding the law empowers school officials to act decisively and quickly when issues arise.

Health or Safety Emergency In an emergency, *FERPA* permits school officials to disclose without student consent education records, including personally identifiable information from those records, to protect the health or safety of students or other individuals. At such times, records and information may be released to appropriate parties such as law enforcement officials, public health officials, and trained medical personnel. This exception to *FERPA*'s general consent rule is limited to the period of the emergency and generally does not allow for a blanket release of personally identifiable information from a student's education records. In addition, the Department interprets *FERPA* to permit institutions to disclose information from education records to parents if a **health or safety emergency** involves their student.

If the College determines that an articulable and significant threat exists to the health or safety of a student in attendance at the College (or another individual at the College as a result of the virus that causes COVID-19, it may disclose, without prior written consent, personally identifiable information from student education records to appropriate officials at a public health department who need the information to protect the health or safety of the student (or another individual). Public health department officials may be considered "appropriate parties" by an educational agency or institution under FERPA's health or safety emergency exception, even in the absence of a formally declared health emergency. Typically, public health officials and trained medical personnel are among the types of appropriate parties to whom personally identifiable information from education records, may be non-consensually disclosed under FERPA's health or safety emergency exception.

I understand that the College may be conducting COVID-19 testing on all residential students and will be sharing their directory information with the testing provider. I give my consent to

such testing and sharing of my directory information to remain a residential student on campus. I recognize that if I am presumed or confirmed to test positive for COVID-19, or if I have direct exposure to someone else who is presumed or confirmed to test positive for COVID-19, it will be necessary for me to share information with College officials about my contacts with others in and/or around campus. I understand that in order to effectively perform contact tracing, College officials may have a legitimate need to share my information with others, and I will actively participate in all contact tracing protocols and procedures.

Disclosure to Parents When a student turns 18 years old or enters a postsecondary institution at any age, all rights afforded to parents under *FERPA* transfer to the student. However, *FERPA* also provides ways in which schools may share information with parents without the student's consent. For example, schools may disclose education records to parents if a health or safety emergency involves their son or daughter. Schools may inform parents if the student who is under age 21 has violated any law or its policy concerning the use or possession of alcohol or a controlled substance.

FERPA and Student Health Information Postsecondary institutions that provide health or medical services to students may share student medical treatment records with parents under the circumstances described above. While these records may otherwise be governed by the *Health Insurance Portability and Accountability Act of 1996* (HIPAA), the HIPAA Privacy Rule excludes student medical treatment records and other records protected by *FERPA*.

The Clery Act The *Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act* require postsecondary institutions to provide timely warnings of crimes that represent a threat to the safety of students or employees and to make public their campus security policies. It also requires that crime data be collected, reported, and disseminated to the campus community and to the Department annually. The *Clery Act* is intended to provide students and their families with accurate, complete, and timely information about safety on campuses so that they can make informed decisions. Such disclosures are permitted under *FERPA*.

Questions, contact Student Health & Wellness at health@swarthmore.edu

*Information obtained from the US Dept. of Education Website. Additional information and guidance may be found at FPCO's Web site at:
<http://www.ed.gov/policy/gen/guid/fpco/index.html>.*