

Family Educational Rights and Privacy Act (FERPA)

Policy EM013

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Responsible Administrator: Vice President for Enrollment Management and Student Success

Responsible Office: Office of the Registrar

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Policy Statement

FERPA (The Family Educational Rights and Privacy Act of 1974) is a federal law that protects the privacy of personally identifiable information contained in student education records maintained by an educational institution, establishes the rights of students to inspect and review their education records, and, in certain circumstances, the right to request the record be amended. The law limits, subject to certain exceptions, the rights of institutions to disclose education records or information contained in such records without the student’s written consent. FERPA also requires that campuses notify students of their rights under FERPA on an annual basis. The law also allows an eligible student to file a complaint with the U.S. Department of Education concerning any failures by the Fashion Institute of Technology (“FIT” or “the college”) to comply with the requirements of the Act.

Reason for the Policy

This policy is in compliance with the Family Educational Rights and Privacy Act (“FERPA”) (20 U.S.C. § 1232g; 34 C.F.R. Part 99), a federal law that protects the privacy of personally identifiable information contained in student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education. While this policy summarizes many of the key rights and responsibilities under FERPA at the college, it is not an exhaustive summary of the FERPA statute or regulations and the policy will therefore be implemented in accordance with FERPA. two to four sentences, provide a general overview of why the policy is necessary.

Who is Responsible for this Policy

- All Faculty, Staff and Administrators
- Office of the Registrar

Who is Affected by this Policy

- All students
- All employees

Definitions

- **Directory Information:** is information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. Directory Information is the only information about students that may be disclosed by the institution without consent of the student. FIT holds the right to disclose directory information to third parties outside the institution, without written consent of the student, provided that the student has been given the opportunity to withhold such disclosure. FIT defines the following as Directory Information:
 - Legal First Name
 - Legal Last Name
 - Chosen Name
 - Address, City, State, Zip Code, Country
 - Major
 - Class standing
 - Photographs
 - Participation in recognized sports
 - Height and weight of athletes
 - Dates of attendance and enrollment status
 - FIT email address
 - Degrees, certificates, and/or awards received
 - Digitized images

- **Disclosure:** to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records to any party, by any means, including oral, written or electronic means, except the party identified as the party that provided or created the record.

- **Education Records:** Those records, files, documents and other materials that contain personally identifiable information directly related to a student that are maintained by FIT or SUNY System Administration or by a person or designated agent acting on its behalf. Such a record may take any form where information is recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm and microfiche. Education Records may include, but are not limited to, class schedules, e-mail, disciplinary files, transcripts and coursework. For example, the following education records are maintained by FIT:
 - Admissions records are maintained by the Office of Admissions.
 - Academic records are maintained by the Office of the Registrar.
 - Financial records are maintained by Financial Aid and Services.
 - Judicial records are maintained by the Dean of Students and the Title IX/Affirmative Action Office.
 - Academic and course records are maintained by individual faculty, department chairs, and deans.
 - Other department records (e.g. Residential Life, Athletics, Career and Internship, etc.) are maintained by the individual department. In accordance with FERPA, Education Records do not include:

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- Records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record.
 - Records of Public Safety created for a law enforcement-related purpose and maintained by Public Safety.
 - Records related solely to the employment of a student by the college, provided that the student is not employed as a result of their status as a student.
 - Records (i) made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional capacity or assisting in a paraprofessional capacity; (ii) made, maintained, or used only in connection with treatment of the student; and (iii) disclosed only to individuals providing the treatment.
 - Records created or received about an individual after they are no longer a student in attendance and that are not directly related to the individual's attendance as a student.
 - Peer-graded papers before collection and recording by the course instructor.
- **Eligible Student:** student who is or has been enrolled at FIT in a degree or non-degree program or in a credit or non-credit course. Once a student is enrolled, FERPA rights take effect. The FERPA rights of minors in the Precollege Program remain with the parent(s) or legal guardian(s).
 - **Legitimate Educational Interest:** A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill their professional duties. This includes such purposes as:
 - Performing a task that is specified in their position description or contract;
 - Performing a task related to a student's education or to student discipline;
 - Providing a service or benefit related to the student or student's family, such as health care, counseling, job placement or financial aid;
 - Maintaining safety and security on campus; or
 - Participating in or conducting studies, evaluations or assessments of educational programs.

A legitimate educational interest does not convey inherent rights to share any and all student information. The law discriminates between educational interest, and personal or private interest; determinations are made on a case-by-case basis.

- **Personally Identifiable Information:** includes, but is not limited to, the student's name, the name for the student's parent or other family member, the address of the student or student's family, a personal identifier (such as Social Security number, FIT @ number, or biometric records), other indirect identifiers, other information that, alone or in combination, can be linked or linkable to a specific student that would allow a reasonable person in the campus community to identify the student with reasonable certainty, or information requested by a person who FIT reasonably believes knows the identity of the student to whom the education record relates.
- **School Official:** FIT defines a school official as a:
 - Person employed by FIT in an administrative, supervisory, academic, research, or support staff position, including health or medical staff;
 - Member of FIT's or SUNY's Board of Trustees;

- Contractor, consultant, volunteer or other outside party providing services or functions to FIT which would otherwise be provided by employees of the campus;
- Person who is employed by FIT's Public Safety;
- Student serving on an official committee, such as a disciplinary or grievance committee, or who is assisting another school official in performing their tasks; or
- A person employed by SUNY's System Administration. As part of the State University, SUNY System Administration is considered a "school official" to the campuses, including FIT, for purposes of FERPA. This means that SUNY's system of campuses, including FIT, are permitted to share information with System Administration under the school official exception to FERPA where there is a legitimate educational interest. SUNY also defines a "school official" in the same way as FIT.

Principles

- **Students' Rights**

Eligible students have the following rights under FERPA:

- Limitations On Disclosure Without Consent – The right that the college will disclose information from a student's education records only with the written consent of the student, except that records may be disclosed without consent when authorized by FERPA, subject to the condition that the requestor not re-disclose personally identifiable information without student consent or otherwise in compliance with FERPA.

Some common examples of situations where FIT may disclose an eligible student's personally identifiable information in an education record without consent of the student include but are not limited to:

- Disclosures to school officials with a legitimate educational interest in the record;
- Disclosures of Directory Information;
- Upon request, disclosure to officials of another school when a student seeks or intends to enroll or is already enrolled for purposes related to the student's enrollment or transfer;
- Disclosures to appropriate parties made in connection with a health or safety emergency necessary to protect the health or safety of the student or other individuals;
- Disclosures to accreditation agencies made in connection with carrying out their accrediting function;
- Disclosure to parents of a student who is under the age of 21 at the time of the disclosure and the disclosure relates to a determination that the student has violated the college's drug or alcohol policies;
- Pursuant to a lawfully issued subpoena.

Information on other exceptions is available through the Office of the Registrar or within FERPA regulations. The college reserves the right to use discretion to deny the release of information.

- **Inspection and Review**

This the right to inspect and review the student's education records within 45 days of the day FIT receives a request for access and proper authentication of identity, as determined by the Office of the Registrar. Please submit your request in writing to fit_registrar@fitnyc.edu.

The college reserves the right to refuse to permit a student to inspect the following records:

- The financial statements or records of the student's parents or legal guardian.
 - Confidential letters and statements of recommendation for which the student has waived their right of access, or which were placed in file before January 1, 1975.
 - Records connected with an application to attend FIT (or another SUNY institution) if that application was denied or the student never enrolled.
 - Records that are excluded from the FERPA definition of education records.
 - Records for which access has been waived by the student.
- **Request Record Amendment** - The right to request the amendment of the student's education records that the student believes are inaccurate or misleading. Students may ask the college to amend a record that they believe is inaccurate or misleading by following the procedures outlined in this policy below.
 - **Withholding of Directory Information** - The student's right to request that their Directory Information not be disclosed outside the college. Procedures for withholding directory information are outlined in this policy below.
 - **File a DoED complaint** - The student's right to file a complaint with the United States Department of Education (DoED) concerning alleged failures by FIT to comply with the requirements of FERPA. The address for complaints is:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Responsibilities

- **FIT Responsibilities**
FIT is committed to protecting the privacy of personally identifiable information contained in education records in accordance with FERPA.
 - Students will be notified of their FERPA rights annually by publication in the student handbook.
 - Access to, and use of, student education records are privileges which must be accepted in strict compliance with FERPA and the highest standards of ethical and professional behavior. School Officials are required to abide by the policies governing inspection, review, and amendment of student education records.
 - If any person has any questions concerning FERPA, or what can or cannot be released, please contact the Office of the Registrar at (212) 217-3820.

Procedures

Withholding of Directory Information

- Students who do not wish Directory Information to be released outside of the college must submit a written request to the Office of the Registrar. Note that consent with federal and state law, FIT faculty, staff, and administrators will remain in contact with students about educational, administrative, and financial aid matters as may be necessary to administer FIT's education program even if a student has opted out of the release of Directory Information.
- Rights are granted to the student to challenge the contents of education records if the student believes them to be inaccurate or misleading. If the student believes that the education record is inaccurate or misleading the student may request that the record be changed by making their request in writing to the Office of the Registrar, identifying the college official the student believes is responsible for the record, clearly identify the part of the record they want changed, and specify why it is inaccurate or misleading. If upon initial review the college decides not to amend the record as requested by the student, the college will notify the student of the decision and advise the student of their right to a hearing regarding the request for the amendment. Additional information regarding the hearing procedures will be provided to the student when notified of the right to a hearing.
- Any student who has reason to believe the college is not complying with FERPA, or this policy, should inform the Office of the Registrar in writing. The Registrar will promptly review all such allegations and initiate appropriate actions.
- If the student's requests in any of these cases are denied, a hearing will be held by FIT.

Violations

Inappropriate use or misuse of student education records is a violation of college policy as well as state and federal laws. No employee is to aid, abet, or act with another to violate any part of this policy. Any knowledge of a violation of this policy by any individual must immediately be reported to that person's supervisor.

Violations will be handled in accordance with the following:

- **Employees:** Employees covered by the Collective Bargaining Unit will be disciplined according to the Collective Bargaining Agreement, as well as relevant law and college policy. For non-bargaining employees, the Vice President for Human Resource Management and Labor Relations, or their designee(s), will review the violation and make a recommendation for appropriate disciplinary action based upon relevant law and college policy.
- **Students:**
The Dean of Students will review the violation and implement appropriate counseling and/or disciplinary action in accordance with the Code of Student Conduct.
- **Third Party or Contractor**
Violations of FIT policies by third parties will be addressed by FIT senior leadership at its sole discretion and in accordance with the relevant policy, laws, and circumstances.

Related Policies

- [Acceptable Use for FIT IT Systems](#)

Related Documents

- [SUNY FERPA policy](#)
- FERPA Release Form (see Office of the Registrar)
- [U.S. Department of Education](#)

Contacts

- **Director of Records and Registration**
Office of the Registrar, Feldman Center, C158
FIT_Registrar@fitnyc.edu