

NOTICE OF RIGHTS UNDER FERPA AND ITS IMPLEMENTING REGULATIONS

The Family Educational Rights and Privacy Act (FERPA), enacted by 20 U.S.C. § 1232g, is a conditional funding law that prohibits federal education funding to educational agencies or institutions unless certain policies involving inspection, review, access, and protection of student education records are in place. 20 U.S.C. § 1232g(e) mandates that institutions of higher education effectively inform students of the rights accorded to them by FERPA. This notice is meant to inform students pursuant to 34 C.F.R. § 99.7, the implementing regulation of 20 U.S.C. § 1232g(e), of these rights.

A. Student Rights under FERPA

- 1.** Eligible students are afforded certain rights with respect to their education records. An “eligible” student” under FERPA is a student who is 18 years of age or who attends a postsecondary institution. As used in this notice, “student(s)” means “eligible student(s).”
- 2.** All students at Saint Vincent College have the right to inspect and review their education records within 45 days after the day Saint Vincent College receives a request for access. A student should submit to the registrar, dean, head of the academic department, or other appropriate official, a written request or an in-person verbal request that identifies the record(s) the student wishes to inspect. The school official will make arrangements for access and notify the student of the time and place where the records may be inspected. The student may be required to show proof of identification at the time of or prior to inspection. If the records are not maintained by the school official to whom the request was submitted, that official shall advise the student of the correct official to whom the request should be addressed.
- 3.** All students at Saint Vincent College have the right to seek amendment of their education records that the student believes to be inaccurate, misleading, or otherwise in violation of the student’s privacy rights under FERPA. A student who wishes to ask the school to amend a record should write the school official responsible for the record, clearly identify the part of the record the student wants changed, and specify why it should be changed. If Saint Vincent College decides not to amend the record as requested, Saint Vincent College will notify the student in writing of the decision and the student’s right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the student when notified of the right to a hearing.
- 4.** All students at Saint Vincent College have the right to provide written consent to disclosures of personally identifiable information contained in the student’s education records, except to the extent that FERPA and 34 C.F.R. § 99 authorize disclosure without consent. Consistent with FERPA and its implementing regulations, Saint Vincent College may, without written consent of the student, disclose the following:

- i. Directory information, as defined in § C.3 of this notice, containing personally identifiable information about a student unless that student opts out of directory information disclosure under the procedures outlined in § C.4 of this notice; and
- ii. Education records containing personally identifiable information under the conditions specified in 34 C.F.R. § 99.31. Those conditions are listed in § D.1 of this notice.

5. All students at Saint Vincent College have the right to file with the Family Compliance Office of the Department of Education under 34 C.F.R. §§ 99.63 and 99.64 concerning alleged failures by the educational institution to comply with the requirements of FERPA and 34 C.F.R. § 99. The address of the Family Compliance Office is: Family Compliance Office, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202.

- i. A complaint must contain specific allegations of fact giving reasonable cause to believe that a violation of FERPA or 34 C.F.R. § 99. has occurred. A complaint does not have to allege that a violation is based on a policy or practice of the educational institution, other recipient of Department of Education funds under any program administered by the Secretary, or any third party outside of an educational institution.
- ii. A timely complaint is defined as an allegation of a violation that is submitted to the Family Compliance Office within 180 days of the date of the alleged violation or of the date that the complainant knew or reasonably should have known of the alleged violation. The Family Compliance Office may extend this time limit for good cause shown.

B. Education Records

1. FERPA protections extend to education records. Therefore, it is important for students to know what constitutes an “education record” within the meaning of FERPA. 34 C.F.R. § 99.3 defines education records as follows:

- i. The term “education records” means those records that are:
 - a. Directly related to a student; and
 - b. Maintained by an educational institution—i.e. Saint Vincent College—or by a party acting for the institution.
- ii. The term “education records” does not include
 - a. 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.
 - b. Records of the law enforcement unit—i.e. the Department of Public Safety at Saint Vincent College—if those records, files, documents, or other materials are
 - (1) Created by a law enforcement unit;

- (2) Created for a law enforcement purpose; and
- (3) Maintained by the law enforcement unit.
- c. Records of a law enforcement unit does not mean
 - (1) Records created by a law enforcement unit for a law enforcement purpose that are maintained by a component of the educational institution other than the law enforcement unit; or
 - (2) Records created and maintained by a law enforcement unit exclusively for a non-law enforcement purpose, such as a disciplinary action or proceeding conduct by the educational institution.
- d. Records relating to an individual who is employed by an educational institution that
 - (1) Are made and maintained in the normal course of business;
 - (2) Relate exclusively to the individual in that individual's capacity as an employee; and
 - (3) Are not available for any other purpose.
- e. Records relating to an individual in attendance at the institution who is employed as a result of his or her status as a student are education records and thus are not excepted under (3)(i–iii) of this subsection.
- f. Records on a student attending an educational institution that are
 - (1) Made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her capacity or assisting in a paraprofessional capacity;
 - (2) Made, maintained, or used only in connection with treatment of the student; and
 - (3) Disclosed only to individuals providing the treatment. For the purpose of this definition, “treatment” does not include remedial educational activities or activities that are part of the program of instruction at the institution.
- g. Records created or received by an educational institution after an individual is no longer a student in attendance and that are not directly related to the individual's attendance as a student.
- h. Grades on peer-graded papers before they are collected and recorded by a teacher.

C. Directory Information

1. FERPA requires Saint Vincent College, with certain exceptions, to obtain written student consent prior to disclosing personally identifiable information about the student. However, Saint Vincent College may disclose “directory information” without written student consent unless the student has advised Saint Vincent College to the contrary in accordance with College procedures. The primary purpose of directory information is to allow Saint Vincent College to include this

type of information from students' education records in certain school publications. Examples include, but are not limited to, the following:

- News releases informing the public about events at Saint Vincent College
- Dean's Lists and other honors/recognitions
- Updates regarding athletics and athletes
- Commencement programs

2. Directory information can also be disclosed to outside organizations without a student's prior written consent.

3. Saint Vincent College's definition of directory information is modeled after the definition contained in 34 C.F.R. § 99.3:

- i.** Directory information means information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed.
- ii.** Saint Vincent College considers the following information pertaining to a student to be directory information:
 - Name
 - Address (local, home, and email)
 - Telephone listing (local, mobile, and home)
 - Photograph
 - Date and place of birth
 - Major field of study
 - Class level
 - Enrollment status (e.g., undergraduate or graduate, full-time or part-time);
 - Dates of attendance
 - Participation in officially recognized activities and sports
 - Weight and height of members of athletic teams
 - Past and present participation in officially recognized activities and sports
 - Degrees, honors, and awards received
 - Previous institutions attended
 - Home parish, church, synagogue, mosque, temple, or any other place of worship
- iii.** Directory information does not include a student's
 - a.** Social security number; or
 - b.** Student identification (ID) number, except as provided in (1) and (2) of this subsection
 - (1)** Directory information includes a student ID number, user ID, or other unique personal identifier used by a student for purposes of accessing or communicating in electronic systems, but only if the

identifier cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user's identity, such as a personal identification number (PIN), password or other factor known or possessed only by the authorized user; and

- (2) Directory information includes a student ID number or other unique personal identifier that is displayed on a student ID badge, but only if the identifier cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user's identity, such as a PIN, password, or other factor known or possessed only by the authorized user.

4. If a student does not want Saint Vincent College to disclose directory information from his/her education records without his/her prior written consent, he/she must notify Saint Vincent College by filing a written statement in the Registrar's Office by the end of the first week of each semester. Failure to file a written statement may result in the routine disclosure of directory information.

5. A student may not opt out of directory information disclosures to (1) prevent Saint Vincent College from disclosing or requiring a student to disclose the student's name, identifier, or institutional email address in a class in which the student is enrolled; or (2) prevent Saint Vincent College from requiring a student to wear, to display publicly or to disclose a student ID card or badge that exhibits information that may be designated as directory information.

D. Disclosure of Education Records Notice

1. FERPA permits the disclosure of personally identifiable information from students' education records, without consent of the student, if the disclosure meets certain conditions found in § 99.31 of the FERPA regulations. Except for disclosures to school officials, disclosures related to some judicial orders or lawfully issued subpoenas, disclosures of directory information, and disclosures to the student, § 99.32 of FERPA regulations requires the institution to record the disclosure. Eligible students have a right to inspect and review the record of disclosures. A postsecondary institution may disclose personally identifiable information from the education records without obtaining prior written consent of the student –

- i. To other school officials, including teachers, within Saint Vincent College whom the school has determined to have legitimate educational interests. This includes contractors, consultants, volunteers, or other parties to whom the school has outsourced institutional services or functions, provided that the conditions listed in § 99.31(a)(1)(i)(B)(1) - (a)(1)(i)(B)(2) are met. (§ 99.31(a)(1))
 - a. Saint Vincent College defines "school official" in the following way: A school official is a person employed by Saint Vincent College in an administrative, supervisory, academic, research, or support staff position (including law enforcement unit personnel, health staff, head coaches, assistant coaches, and

subject to the requirements of § 99.39. The disclosure may only include the final results of the disciplinary proceeding with respect to that alleged crime or offense, regardless of the finding. (§ 99.31(a)(13))

- xii.** To the general public, the final results of a disciplinary proceeding, subject to the requirements of § 99.39, if Saint Vincent College determines the student is an alleged perpetrator of a crime of violence or non-forcible sex offense and the student has committed a violation of the school's rules or policies with respect to the allegation made against him or her. (§ 99.31(a)(14))
- xiii.** To parents of a student regarding the student's violation of any Federal, State, or local law, or of any rule or policy of the school, governing the use or possession of alcohol or a controlled substance if Saint Vincent College determines the student committed a disciplinary violation and the student is under the age of 21. (§ 99.31(a)(15))

2. Saint Vincent College encourages students to learn what their rights are under FERPA and its implementing regulations. The following websites are helpful in this regard. However, these websites should not be construed as Saint Vincent College offering legal counsel, advice, or representation. Saint Vincent College encourages students to seek the assistance of private legal counsel where appropriate.

<http://www2.ed.gov/policy/gen/guid/fpco/ferpa/students.html>

<http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html>

<http://www2.ed.gov/policy/gen/guid/fpco/index.html>