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Chapter: Student Affairs

Modification No. 003

Subject: **Student Cumulative Records**

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- I. In the day-to-day operations of the College, employees must often utilize information of a confidential nature in order to carry out their jobs. It is a major responsibility both ethically and legally for all employees to safeguard and properly use confidential information.
- II. Any past or present student's cumulative record as maintained by the College is considered a confidential college record, and access thereto is limited to that student or those persons who have legitimate requests for information contained in the record. Only duly authorized personnel of the College, as designated by the President, are permitted to extract and disseminate requested information.
- III. The President is authorized and directed to establish procedures necessary to implement this policy.

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Board Approval: July 15, 1968; September 15, 1975; October 17, 2016.

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I. Introduction

Montgomery College (“the College”) complies with the Family Education Rights and Privacy Act of 1974 (“FERPA”) and its amendments. It is the College’s policy (1) to permit students to inspect their education records; (2) to limit disclosure of personally identifiable information from education records to others without students’ prior written consent, except to the extent FERPA authorizes disclosure without consent; and (3) to provide students the opportunity to seek correction of their education records where appropriate.

II. Definitions

A. Directory Information has been designated by the College to include the following information, which would not be generally considered harmful to the student, or an invasion of privacy, if disclosed:

1. Student’s name;
2. Address;
3. Email address;
4. High school attended;
5. Major field of study (including current classification, year, credit load, and number of academic credits earned toward degree);
6. Dates of attendance;
7. Degrees and awards received (type of degree and date granted);
8. Participation in officially recognized activities and sports;
9. Photograph, weight and height of members of athletic teams;

The following information will not be disclosed, but may be verified:

1. Telephone listing
2. Date of birth

B. Alleged Perpetrator of a Crime of Violence is a student who is alleged to have committed acts that would, if proven, constitute any of the following offenses or attempts to commit the following offenses: arson; assault offenses; burglary; criminal homicide - manslaughter by negligence; criminal homicide - murder and non-negligent manslaughter; destruction, damage, or vandalism of property; kidnapping or abduction; robbery; forcible sex offenses.

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- C. Alleged Perpetrator of a Non-Forcible Sex Offense means a student who is alleged to have committed acts that, if proven, would constitute statutory rape or incest.
- D. Disclosure means 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.
- E. Disciplinary Action or Proceeding is the investigation, adjudication, or imposition of sanctions by the College with respect to an infraction or violation of the internal rules of conduct applicable to College students.
- F. Education records include those records (in handwriting, print, computer media, video or audio tape, film, or other medium) that contain information directly related to a student and that are maintained by the College as official working files. Disciplinary action or proceeding records are considered education records.
1. The following are not education records:
    - a. records about students made by educational personnel which are in the sole possession of the maker of the record and are not accessible or revealed to any other individual (except a substitute who performs on a temporary basis);
    - b. law enforcement (campus security) records created by the law enforcement unit, maintained solely for law enforcement purposes, and kept separate from the education records described above and not shown to others;
    - c. employment records relating exclusively to the student's capacity as an employee, except that records of an individual who is employed by the College because of the individual's status as a student are education records (e.g. teaching or research assistants, work study and student assistants);
    - d. records of a physician, psychologist, or other recognized professional or paraprofessional made in connection with treatment of student and disclosed only to individuals providing the treatment. These records, however, may be reviewed by an appropriate professional designated by the student;
    - e. records containing information relating to a student that do not relate to the individual's time as a student, but rather related to matters after that person is no longer is in attendance at the College.
- G. Final Results means a decision or a determination, made by an honor court or council, committee, commission, or other entity authorized to resolve disciplinary matters within the institution. The disclosure of final results must include only the name of the student, the violation committed, and any sanction imposed by the institution against the student.

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- H. Law Enforcement Unit Records are records, files, documents and other materials that are (1) created by a law enforcement unit; (2) created for a law enforcement purpose; and (3) maintained by the law enforcement unit.
1. These records do not include:
    - a. 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;
    - b. records created and maintained by a law enforcement unit exclusively for non-law enforcement purposes such as a disciplinary action or proceeding conducted by the institution.
- I. Legitimate Educational Interest means the demonstrated need to know by a College official who needs the education record or personally identifiable information in order to fulfill their professional responsibility.
- J. Personally Identifiable Information includes, but is not limited to, the name of the student, the student's parent or other family member; the address of the student or student's family; a personal identifier such as a social security number or student number; a list of personal characteristics, or other information which would make the student's identity easily traceable.
- K. Sanction Imposed means a description of the disciplinary action taken by the institution, the date of its imposition, and its duration.
- L. School or College Officials include any persons employed by the College in an administrative, supervisory, academic or support staff position (including law enforcement unit personnel and health staff); any person, firm, or company with whom the College has contracted (such as an attorney, auditor, or collection agent); any person serving on the Board of Trustees; any student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing their duties.
- M. Student means any individual who is or has been in attendance at the College in either an on- or off-campus program, and regarding whom the College maintains education records. Persons whose applications to the College have not been accepted have no rights under FERPA. Admitted students are covered by FERPA once they have enrolled at the College.
- N. Violation Committed means the institutional rules or code sections that were violated and any essential findings supporting the institution's conclusion that the violation was committed.
- O. Violent Crime means an offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense. It includes, but is not limited to, the following offenses: criminal homicide, forcible sex offense, robbery, aggravated assault, and arson, as well as burglary of an occupied structure or dwelling and kidnapping.

III. Inspection and Review of RecordsA. Right of Access

1. Each student has a right to inspect and review their education records, except that the College does not have to permit a student to inspect and review:
  - a. education records containing information about more than one student, in which case the student may inspect and review or be informed of only the specific information pertaining to the student.
  - b. financial records of the student's parents;
  - c. confidential letters of recommendation received prior to January 1, 1975;
  - d. confidential letters of recommendation placed in a student's education records after January 1, 1975; if the student has signed a waiver of their right to access; and the letters and statements are related to the student's (1) admission to an education institution; (2) an application for employment; or (3) receipt of an honor or award
    - (1) The College will not require waivers as a condition for admission, receipt of financial aid, or any other service or benefit.
    - (2) When the student has signed such a waiver, the College shall give the student, upon request, the names of persons who provided the letters and statements of recommendation and use the recommendation solely for the purpose intended.
    - (3) A waiver may be revoked in writing at any time, and the revocation will apply to all subsequent recommendations, but not to recommendations received while the waiver was in effect.

B. Requests for Access

1. Requests for access should be made in writing to the Director of Enrollment Services and College Registrar. The College will comply with a request for access within a reasonable time, which shall not be more than forty-five (45) days from the request. The College shall respond to reasonable requests for explanations and interpretations of records. Usually, arrangements will be made for the student to inspect and review their records in the presence of the appropriate College staff member. If circumstances effectively prevent the student from exercising the right to inspect their education records, the College shall provide the student with a copy of the records requested. No campus will provide copies of

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any transcripts in the student's records other than the student's current College transcript. Official College transcripts, with the College seal, are provided at a higher charge, in accordance with the fee structure approved by the Board of Trustees and published in the College Catalog. The College shall not charge a fee to search for or retrieve education records.

2. Once a student has requested access to their education records, such records cannot be destroyed until inspection and review have been provided.

C. Types and Location of Education Records; Title of Record Custodians

1. Admissions

- a. Director of Enrollment Services and College Registrar.
  - (1) Applications and transcripts from high schools and other colleges previously attended.
  - (2) Admissions information.

2. Registrations

- a. Director of Enrollment Services and College Registrar.
  - (1) All ongoing academic and biographical records from high school and other colleges.
  - (2) Records of academic appeal.

3. Departments

- a. Departmental offices; Chairs (Check first with the Director of Enrollment Services and College Registrar).
  - (1) Miscellaneous records kept within the department.

4. Deans

- a. Deans' offices of each campus.
  - (1) Miscellaneous records.

5. Dean of Student Affairs

- a. Students' judicial and disciplinary records.

6. Counseling Department

- a. Counseling department for each campus.

- (1) Biographical data, summaries of conversations with students, and test results
  - (a) Where such records are made and used only for treatment purposes, they are not education records and are not subject to this policy.

7. Financial Aid

- a. Director of Financial Aid, Central Administration.
  - (1) Financial aid applications, needs analysis statements, awards
    - (a) There is no student access to parents' financial statements.

8. Career Development Center

- a. Career/Transfer Center for each campus.
  - (1) Recommendations, unofficial copies of academic records.

9. Business Services

- a. Chief Business Officer, Central Administration.
  - (1) All student accounts receivable, records of student's financial charges and credits with the College.

IV. Amending Education Records

A. Scope

The procedural safeguards set forth in this section are not applicable to grade disputes.

B. Request to Correct Records

- 1. A student who believes information contained in their education records is inaccurate or misleading or violates their right of privacy may submit a written request to the Director of Enrollment Services and College Registrar, specifying the document(s) being challenged and the basis for the complaint. The request will be sent to the person responsible for any amendments to the record in question.
  - a. Questions regarding the accuracy in recording of academic or admissions data will be referred to the Director of Enrollment Services and College Registrar, or the Campus Registrar where the record is maintained.

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- b. Questions regarding the accuracy or appropriateness of disciplinary material included in the cumulative report will be referred to the Dean of Student Development of the campus maintaining the record.
      - c. Questions regarding the accuracy of financial aid materials will be referred to the Director of Financial Aid.
    2. Within a reasonable period of time of receipt of the request, the College will decide whether to amend the records as requested. If the College decides not to amend the record as requested, the student will be so notified and will also be advised of the right to a hearing.
  - C. Right to a Hearing
    1. Upon request by a student, the College will provide an opportunity for a hearing to challenge the content of the student's record(s).
      - a. A request for hearing should be in writing and submitted to the Director of Enrollment Services and College Registrar.
    2. Within a reasonable period of time of receipt of the request, the student will receive written notification of the date, place and time reasonably in advance of the hearing.
    3. Conduct of the Hearing
      - a. The hearing will be conducted by a College official who does not have a direct interest in the outcome.
      - b. The student will have a full and fair opportunity to present evidence relevant to the issues raised and may be assisted or represented by individuals of the student's choice at their own expense, including an attorney.
    4. Decision
      - a. Within a reasonable period of time after the conclusion of the hearing, the College will notify the student in writing of its decision. The decision will be based solely upon evidence presented at the hearing and will include a summary of the evidence and the reasons for the decision.
      - b. If the College decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, the College will amend the records accordingly.
    5. Right to Place an Explanation in Education Record
      - a. If, as a result of the hearing, the College determines that the information is not inaccurate, misleading, or otherwise in violation of the student's rights, the College will inform the student of the right to place in their record a statement



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commenting on the information and/or explaining any reasons for disagreeing with the College's decision. Any such explanation will be kept as part of the student's record as long as the contested portion of the record is kept and will be disclosed whenever the contested portion of the record is disclosed.

V. Disclosure of Records

A. Prior Consent

1. In general, the College will not disclose a student's education records or personally identifiable information therefrom without the student's prior written consent.
2. The written consent must:
  - a. specify the records that may be disclosed;
  - b. state the purpose of the disclosure; and
  - c. identify the party or class of parties to who the disclosure may be made.
3. A student may request that the College provide a copy of the records disclosed pursuant to such consent.

B. Prior Consent Not Required

1. The College *may* make disclosures of a student's personally identifiable information and/or education records, without obtaining prior written consent, if the disclosure meets one or more of the following conditions:
  - a. When the information is directory information as defined in Section I. (A).
    - (1) While disclosure of directory information about a student is not generally considered harmful or an invasion of privacy under FERPA, FERPA does not require the College to disclose directory information to outside parties. The College exercises discretion in responding to requests for directory information and may or may not provide such information when requested, depending on the intended purpose of the request. Where the College does decide to disclose directory information, it typically releases only names, terms enrolled, major field of study, and degrees and awards received. Requests for addresses and e-mail addresses may be released, at the College's sole discretion and provided such requests have been reviewed and approved by appropriate College personnel, in response to requests from law enforcement agencies and /or accredited educational institutions seeking to provide information to MC students regarding educational opportunities.

- (a) Requests from educational institutions shall be reviewed by the Senior Vice President for Academic Affairs, or designee, in consultation with the Director of Enrollment Services and College Registrar.
  - (b) Requests from law enforcement agencies shall be reviewed by the Director of Public Safety, or designee, with notice provided to the Director of Enrollment Services and College Registrar.
  - (c) All other requests shall be reviewed by the Director of Enrollment Services and College Registrar or designee.
- (2) The College will not knowingly release directory information to any outside entity for commercial, political, or solicitation purposes. The College does not rent or sell student information for a fee.
  - (3) The College will give annual notice to students of the categories of information designated as directory information. A student may choose to have this information withheld and not disclosed by filing a request with the Director of Enrollment Services and College Registrar, within three weeks of the first day of the semester in which the student begins each school year. This notice must be filed annually within the above allotted time to avoid automatic disclosure of directory information. All requests for non-disclosure of directory information will be implemented as soon as publication schedules reasonably will permit.
  - (4) The College will use its best efforts to maintain the confidentiality of those categories of directory information that a student properly requests not be publicly disclosed.
    - b. When the information is disclosed to College officials who have legitimate educational interests.
    - c. When the disclosure is to officials at another institution of post-secondary education where the student seeks or intends to enroll. Upon request, a student will be given a copy of any records disclosed.
    - d. When the information is disclosed to organizations conducting studies for or on behalf of the College or an education agency, to develop, validate, or administer predictive tests, administer student aid programs, or improve instruction.
      - (1) Information will only be disclosed under this exception if the study is conducted in a manner that does not permit personal identification of students by individuals outside the research organization, and the information is

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- destroyed when no longer needed for the purposes of the study.
- e. When the disclosure is to an accrediting organization, to carry out their accrediting functions.
  - f. When the information is disclosed in response to a judicial order or lawfully issued subpoena.
    - (1) If a court order or subpoena shall be served on the College requesting the release of records, the Director of Enrollment Services and College Registrar will take the necessary steps to notify the student of such a subpoena, unless the order or subpoena specifically states that the student must not receive prior notice.
  - g. When the information is disclosed because of health and/or safety emergency.
    - (1) Subject to the approval from the Director of Enrollment Services and College Registrar, or Campus Registrar, information contained in a student's cumulative record may be released to appropriate persons in connection with an emergency if the knowledge of such information is necessary to protect the health or safety of the student or other persons. Factors to be considered in making a decision to release such information in these situations are
      - (a) the severity of the threat to the health or safety of those involved;
      - (b) the need for the information;
      - (c) the time required to deal with the emergency; and
      - (d) the ability of the parties to whom the information is to be given to deal with the emergency.
  - h. When the information is disclosed to parents of dependent students.
    - (1) Parents of dependent students who request access to the records of their student dependent age 18 or older, without the student's consent, must substantiate the dependent status of the student as defined in Section 152 of the Internal Revenue Code.
    - (2) The College may disclose information to either parent, regardless of which one claims the student as a dependent.

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- (3) Parents' access to student records under this exception will be recorded in the record of disclosures.
- i. When the information is disclosed in connection with financial aid for which the student has applied or received and such information is necessary to determine eligibility for the amount of, or conditions related to such financial aid, or to enforce the terms and conditions of the aid.
- j. When the disclosure is to a victim of an alleged perpetrator of a crime of violence or a non-forcible sex offense. The disclosure may only include the final results of the disciplinary proceeding conducted by the College with respect to that alleged crime or offense. The College may disclose the final results of the disciplinary proceeding regardless of whether the College concludes that a violation was committed.
- k. When the information is disclosed as the result of a disciplinary proceeding conducted by the College against the alleged perpetrator of a crime of violence or a non-forcible sex offense, and the College determines, as a result of the proceeding, that the alleged perpetrator committed a violation of the College's rules or policies with regard to that crime.
- (1) Only the final results of the disciplinary proceeding may be disclosed.
- (2) The College may not disclose the name of any other student, such as a victim or a witness, without the prior written consent of such student.
- (3) This section applies only to disciplinary proceedings in which the final results were reached on or after October 7, 1998.
- l. When the information is disclosed to a parent or legal guardian of a student at the College regarding the student's violation of any Federal, State, or local law, or any rule or policy of the College governing the use or possession of alcohol or a controlled substance if:
- (1) the student is under the age of 21; and
- (2) the College determines that the student has committed a disciplinary violation with respect to that use or possession.
- m. If a parent or a student initiates legal action against the College, the College may disclose to the court, without a court order or subpoena, the student's education records that are relevant for the College to defend itself.

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- n. If the College initiates legal action against a parent or a student, it may disclose education records to the court without a court order or subpoena, that are relevant for the College to proceed with the legal action.
- o. When the information is disclosed to State and Federal authorities as prescribed by law, including but not limited to
- (1) The Comptroller General of the United States, the Secretary of Education, authorized representatives of the Attorney General of the United States and state education authorities.
  - (2) Authorized representatives of the State and Federal governments may have access to those student records which may be related to the audit and evaluation of Federally-supported educational programs, or in connection with the enforcement of or compliance with federal legal requirements relating to these programs.
  - (3) The IRS pursuant to the reporting requirements of the Hope Scholarship Credit and Lifetime Learning Credit provisions of the Taxpayers Relief Act of 1997.
  - (4) The military service, in accordance with the Department of Defense Rules and Regulations, 32 C.F.R. § 216 *et seq.* ("The Solomon Amendment"), seeking access to information on students for military recruiting purposes.
    - (a) The military service refers to the Army, Navy, Marine Corps, Air Force and Coast Guard, including their Reserve or National Guard components.
    - (b) Each branch of the military service can ask for student recruiting information during one semester.
    - (c) Student recruiting information is the student's name, local address, telephone listing, age (or year of birth), level of education or degree awarded for recent graduate, and major. The College's definition of directory information includes all these items of student recruiting information.
      - (i) The College will provide student recruiting information on enrolled individuals who are 17 years of age or older.
        - a) Enrolled students are students registered for at least one credit

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hour of academic credit during the most recent term, the current term or the next term.

- (ii) The College will not provide student recruiting information requested by the military:
  - a) on enrolled individuals who are not yet 17;
  - b) if the College does not maintain the information;
  - c) if the College has already provided the information to the military service for that semester;
  - d) if the student has formally requested the College to withhold directory information from third parties.

C. Limitations on Redisclosure of Information

1. Where information is released without the prior consent of the student pursuant to one of the exceptions set forth in subsection B above, the College shall inform the third party to whom disclosure is being made that no further release of personally identifiable information is authorized without the written consent of the student. This restriction does not apply to disclosures made to parents of dependent students, to disclosures made to parents pursuant to Section IV(B)(1)(l) with respect to the use or possession of alcohol or a controlled substance, to disclosures made in connection with disciplinary proceedings pursuant to Section IV(B)(1)(k), to disclosures made pursuant to court orders, lawfully issued subpoenas or litigation, to disclosures of directory information, or to disclosures to students.

D. Record of Disclosures

1. The College will maintain with the student's education records a record of each request for disclosure and each disclosure made, except for the following:
  - a. disclosures to the student him or herself;
  - b. disclosures pursuant to the written consent of the student (the consent form will suffice as a record);
  - c. disclosures to College officials;
  - d. disclosures of directory information; and

- e. disclosures made pursuant to a subpoena where the issuing court or agency has ordered that the existence of the subpoena or the information furnished in response to it not be disclosed.
- 2. This record shall include the parties who have requested and received personally identifiable information from education records and the interests of the parties requesting or obtaining the information.
- 3. This record of disclosures may be inspected by the student, the official custodian of records, and other College and governmental officials.

VI. Right to File Complaint

A student alleging the College's noncompliance with the Family Educational Rights and Privacy Act may file a written complaint with the Family Policy Compliance Office, U.S. Department of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202-0001.

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