

## **University Policy 4.01.01**

## **FERPA and Learner Directory Information**

**Policy Revision Approval Date: January 11, 2007**

**Policy Revision Effective Date: April 1, 2007**

**Procedure Approval Date: July 8, 2020**

**Procedure Effective Date: September 1, 2020**

### **POLICY STATEMENT**

Capella University complies with the provisions of the 1974 Family Educational Rights and Privacy Act (FERPA) which regulates the confidentiality of data in learner education records and the terms for its disclosure. A copy of the act is on file in the Admissions & Records Operations department. The Registrar and the legal department are the officials responsible for ensuring compliance with the act and creating relevant policies and procedures regarding the release of learner education records and related information under the act.

### **RATIONALE**

As an institution of higher education receiving federal funds, Capella University is required to adhere to the provisions of the Family Educational Rights and Privacy Act (FERPA). This policy identifies learners' rights to inspect and review their educational records under FERPA, to request amendments of their records, to expect protection of their records under the regulation, and to file a complaint against the university alleging failure to comply with FERPA requirements. Further, the policy defines directory information and the process for granting or denying requests for the release of that information.

The policy also establishes the Registrar and the legal department as responsible for enforcing compliance with this regulation and for communicating to learners the annual notification of their privacy rights.

### **DEFINITIONS**

#### Education Records

Education records as defined by Section 99.3 of FERPA are "(1) directly related to a student; and (2) maintained by an educational agency or institution or by a party acting for the agency or institution."

#### Officially Recognized Activities

Officially recognized activities are university-sponsored extracurricular clubs, organizations, and activities outside a learner's academic coursework. These may include but are not limited to honor societies, professional organizations, and committees. University-recognized activities do not include registered courses, such as residencies and fieldwork.

### **PROCEDURES**

## I. Policy Scope

- A. The scope of FERPA as outlined in Section 99.3 of FERPA is “any individual who is or has been in attendance at an educational agency or institution and regarding whom the agency or institution maintains education records.”
- B. For purposes of Capella University, this policy pertains to all individuals who have been admitted to Capella University or have otherwise engaged in academic or professional development coursework offered by Capella University, including those enrolled as non-degree learners or within non-credit continuing education offerings.

## II. Education Records

- A. At Capella University, education records include records that are directly related to a learner which are maintained by Capella University, including but not limited to the following documents, whether in electronic or any other format:
  - 1. Documents collected or created during the application process, including but not limited to the university application, professional history, and transcripts.
  - 2. Documents collected or created during the course of an academic program, including but not limited to transcripts, test scores, grades, university advising records, financial aid information, academic dishonesty records, learner conduct files, and records of educational services provided to the learner.
  - 3. Official correspondence to or from a learner pertaining to their academic progress, advising, financial status, learning disability records, physical disability records, academic dishonesty records, and disciplinary and learner conduct records.
- B. Education records do not include the following:
  - 1. 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.
  - 2. Records related to individuals employed by the institution that are made and maintained in the normal course of business, related to individuals exclusively in their capacity as employees, and not used for any other purpose.
  - 3. Records relating to a learner that are 1) originated or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in their professional capacity or assisting in a paraprofessional capacity; 2) made, maintained, or used solely in connection with providing treatment to the learner; and 3) not disclosed to anyone other than individuals providing such treatment. “Treatment” in this context does not include remedial educational activities or activities that are part of the program of instruction at the institution.
  - 4. Records created or received by Capella University after a learner is no longer a learner and that are not directly related to the former learner’s attendance as a learner.
  - 5. Records such as course syllabi which are intended for general use and hold no personal learner information.

## III. Notification of Rights under the Family Educational Rights and Privacy Act (FERPA)

FERPA provides learners certain rights with respect to their education records. The rights include:

- A. The right to inspect and review the learner's education records within 45 days of the university receiving a request for access. Learners must submit a written request to the

Admissions & Records Operations department identifying the record(s) they wish to review. The Admissions & Records Operations department will make arrangements for access and notify the learner of procedures for records access and inspection.

- B. The right to request the amendment of the learner's education records where the learner believes information is inaccurate or misleading. Learners may ask the university to amend a record they believe is inaccurate or misleading. To do so, learners must submit a written request to the Admissions & Records Operations department clearly identifying the part of the record they want changed, specifying why the record is inaccurate or misleading. If the university decides not to amend the record as requested by the learner, the university will notify the learner of the decision and advise the learner of their right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the learner when they are notified of the right to a hearing.
- C. The right to provide written consent before the university discloses personally identifiable information contained in education records, except to the extent that FERPA authorizes disclosure without consent. The university discloses education records without a student's prior consent under the FERPA exception for disclosure to school officials with legitimate educational interests. A school official is a person employed by the university in an administrative, supervisory, academic or research, or support staff position (including law enforcement personnel and health staff); a person or company with whom the university has contracted (such as an attorney, auditor, or collection agent); a person serving on the Capella University Board of Trustees; or a learner serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing their tasks. A school official has a legitimate educational interest if an education record must be reviewed in order to fulfill their professional responsibility. Upon request, the university may disclose education records without consent to officials of another school in which a learner seeks or intends to enroll.
- D. The right to file a complaint with the U.S. Department of Education alleging failures by the university to comply with the requirements of FERPA. The name and address of the office that administers FERPA is:  
Family Policy Compliance Office  
U.S. Department of Education  
400 Maryland Ave. SW  
Washington, DC 20202-4605  
Phone: 202.260.3887  
Fax: 202.260.9001

Learners receive notification of their rights under FERPA annually.

#### IV. Right to Withhold Copies of Official Documents

The university reserves the right to deny copies of official transcripts or other records (not including records required to be made available under FERPA) if the learner has past-due financial obligations to the university, or references for which the learner has waived their right of review, or if there is an unresolved disciplinary or academic dishonesty action against the learner.

## V. Disclosure of Learner Information

- A. Information contained in a learner's education record that generally would not be considered harmful or an invasion of privacy if disclosed to outside organizations is considered directory information. Directory information may be released without prior learner consent upon request by any individual or agency.

At Capella University, directory information is defined as the following:

1. Learner name
  2. State or country of residence
  3. Address
  4. Month and day of birth
  5. Email address
  6. Primary phone number
  7. School affiliation
  8. Program
  9. Field of study
  10. Class level (freshman, sophomore, junior, senior, graduate, or year in program)
  11. Enrollment status
  12. Certificates or degrees received, and dates conferred
  13. Prior educational agency or institution attended
  14. Dates of attendance
  15. Photographs (individual photographs posted by learners in the courseroom or group photographs taken at public events; this does not include photographs to be used for marketing materials)
  16. Anticipated graduation date
  17. Honors and awards
  18. Participation in officially recognized activities
- B. Capella University reserves the right to not release pieces of directory information through phone, email, or Campus.
- C. Withholding Consent for Disclosure
1. FERPA provides learners the right to withhold disclosure of their directory information. Learners are encouraged to carefully consider the ramifications of withholding directory information. Without subsequent written consent from the learner, withholding the disclosure of directory information will prohibit the university from publishing the learner's name in commencement programs, completing employer verifications, and complying with other common requests for directory information.
  2. Learners who want to withhold consent for the disclosure of their directory information may do so on Campus. Admissions & Records Operations staff will identify the records of these learners, and their directory information will not be released.
- D. FERPA generally requires prior written consent from the learner before an educational agency or institution may disclose personally identifiable, non-directory information from education records to a third party. However, the law contains exceptions to this general rule. Exceptions that permit the release of personally identifiable information without the learner's prior written consent are set forth in federal regulations at [34 CFR. 99.31](#).

VI. All procedures in this policy apply to learners in GuidedPath and FlexPath programs.

**POLICY OWNERS**

Academic Owner: Registrar

Operations Owner: Registrar, University General Counsel

**RELATED DOCUMENTS**

University policy 4.01.02 Retention of Learner Records and Work Products

University policy 4.01.03 Retaining Learner Work Products and Grading Records

**REVISION HISTORY**

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Revision Dates: 4-1-07; 2-3-12; 8-11-16; 7-8-20

Administrative edits as result of ongoing review: 12-20-07; 10-1-08; 5-27-09; 10-8-09; 11-18-09; 1-13-10; 2-17-10; 5-13-10; 7-8-10; 8-11-10; 1-25-11; 5-17-11; 5-26-11; 7-28-11; 4-24-13; 12-14-16; 4-1-18; 7-1-18; 1-1-19; 8-14-19; 4-1-20; 3-26-21