TO: College Presidents

FROM: Pamela S. Silverblatt  
Interim General Counsel and Senior Vice Chancellor for Legal Affairs  
Senior Vice Chancellor for Labor Relations

DATE: July 1, 2019

SUBJECT: Family Educational Rights and Privacy Act ("FERPA") – Revised Guidelines

The Office of the General Counsel has revised the University’s Guidelines for the Implementation of the Student Records Access Policy and the Family Educational Rights and Privacy Act ("FERPA"), which are effective immediately. A copy of the new Guidelines is attached. These revised Guidelines supersede the FERPA Guidelines promulgated by the Office of the General Counsel ("OGC") in February 2009 and all of OGC’s prior memoranda on this subject. The Guidelines were drafted following consultation with a number of University offices, including the Office of Student Affairs, the Office of Internal Audit and Management Systems, the University Registrar, and the University Chief Information Security Officer.

As you know, FERPA requires that a student’s personally identifiable education records not be disclosed without the student’s written consent, except for directory information and specific exemptions permitted by FERPA. The Board’s Student Records Access Policy (Board Minutes, January 25, 1998, Cal. No. 7A) authorizes the Office of the General Counsel to issue FERPA Guidelines to implement the statute and the Board’s policy. The new Guidelines reflect the current law and what OGC has determined to be the best practices in complying with FERPA.

While it is not possible to summarize all the changes OGC has made from the 2009 Guidelines, these are some of the most important ones:

- The Guidelines clarify that a student must have actually attended a class (rather than having just been admitted) to meet the definition of a student with FERPA rights at CUNY.

- Directory information no longer includes a student’s date of birth, but does include the student’s 8-digit student ID number (EMPLID), so long as no other information is provided that would allow someone to access the student’s records. In addition, a
student’s address, e-mail address and telephone number are directory information only if
that the information is being provided to employees of the University (either at the same
college or a different college) for legitimate business purposes. This information cannot
be provided to third parties unless a different FERPA exception applies.

- The New York State Comptroller, and his/her agents and representatives, are included in
the definition of “School Official” to the extent they need to review student education
records when auditing CUNY’s educational programs. This addition is based on a
January 25, 2016 resolution of the CUNY Board of Trustees.

- The Guidelines make clear that School Officials from one CUNY college have a
legitimate educational interest in student records from another CUNY college in
connection with the investigation or potential discipline of a student for alleged
misconduct.

- A student who wishes not to have directory information disclosed will now be opting out
of all categories and will not be given the option of selecting the particular directory
information categories that will not be disclosed.

If you have any questions about these Guidelines or any other issues relating to FERPA,
please contact Katherine.raymond@cuny.edu or Bridget Barbera at bridget.barbera@cuny.edu.
The Guidelines as well as the referenced forms (which are not included in the attachment here)
will shortly be available in electronic format on the OGC website,
https://www2.cuny.edu/about/administration/offices/legal-affairs/

c: Chancellor’s Cabinet
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