Regulations of UNC General Administration with Respect to the Family Educational Rights and Privacy Act

On March 30, 1995, the constituent institutions were advised of the determination by the Family Policy Compliance Office, U.S. Department of Education, that UNC General Administration must establish policies and procedures under the Family Educational Rights and Privacy Act of 1974 (FERPA) to the same extent as an institution with enrolled students. Attached are the policies and procedures of UNC General Administration for the purposes of establishing students' rights under FERPA to examine their education records maintained by this office, to seek modification to those records, and to condition disclosure of those records to third parties.

Among other considerations these policies and procedures address the matter of records maintained at UNC General Administration that are the same as, or the derivative of, student records of a constituent institution. In general, a student who has accessed his or her education records at UNC General Administration will be directed to the enrolling institution for any remedy aimed at modifying or correcting those records. UNC General Administration will, in turn, then consider what, if any, change should be made to its records derived from those institutional records if the institution has deemed a change to be appropriate.

These policies and procedures place three specific duties on the constituent institutions:

1. To provide each year to students UNC General Administration's annual notification of their FERPA rights. This may be done through annual distribution of a sheet containing the statement of rights or by publication of those rights in some document of general, annual distribution (e.g., a catalog, a student newspaper, an orientation leaflet). (The annual notification text is attached to the UNC General Administration policies and procedures.)

2. To maintain for student access a copy of the UNC General Administration FERPA policies and procedures in the same place and in the same manner that the institution has established for student access to its own FERPA policies and procedures.

3. To file with UNC General Administration a copy of the institution's current FERPA policies and procedures. This is necessary, in particular, so that this office can honor the "directory information" policies of the institution and can refer to the appropriate institutional office on campus any student challenge to records reposing at UNC General Administration but originating at the institution.

These policies and procedures are effective immediately.

The University of North Carolina
General Administration

Policies and Procedures under the
Family Educational Rights and Privacy Act of 1974
(Effective May 25, 1995)

The University of North Carolina General Administration ("General Administration") has adopted these policies and procedures in accordance with the Family Educational Rights and Privacy Act of 1974 (FERPA), 20 U.S.C. Sec. 1232g (as amended). These policies and procedures pertain to the education records of students within the University of North Carolina ("the University") that General Administration maintains, whether those records were created by General Administration or by a University constituent institution and provided to General Administration.

It is the policy of General Administration that University students be accorded the full legal rights provided them under FERPA. Students currently enrolled at a constituent institution of the University of North Carolina are notified annually of these rights by means of an annual notification (which is distributed through the students' respective institutions) and by these policies and procedures (which are distributed to and maintained by all constituent institutions of the University of North Carolina and are referenced in an institutional publication of general distribution). The annual notice to students of their rights with respect to their education records at General Administration and these policies and procedures are in addition to that notice and those policies and procedures with respect to FERPA of each constituent institution. A copy of the current annual notification by General Administration to students is attached to, and made a part of, these policies and procedures.

Throughout this document the numbers cited within the brackets at various places within the text refer to federal FERPA regulations (as revised 1995). These regulations contain narrow exceptions and specific rules for certain special situations that are not always spelled out in the general policy. Therefore, in dealing with specific FERPA questions, individuals should refer to the FERPA regulations, which are provided with this document.

With respect to the education records of students at the North Carolina School of Science and Mathematics and in the High School Division of the North Carolina School of the Arts, rights afforded under these policies and procedures to a student are to be afforded, instead, to the student's parents to the extent established by FERPA.

I. The Student's Right to Inspect His or Her Education Records.

A. Any individual who is, or has been, in attendance at a constituent institution of the University is a "student" and has the right to inspect and review his or her education records. [99.3, 99.10]

"Education records" are those records directly related to a student that are maintained by an educational institution. The term does not include:

1. Records of instructional, supervisory, and administrative personnel that are in the sole possession of their maker and are not revealed to anyone else except a substitute.

2. Records created and maintained by a University law enforcement unit for law enforcement purposes.

3. Records relating solely to an employee of General Administration or of a constituent institution of the University of North Carolina in the individual's capacity as an employee that are not available for any other purposes. (However, records relating to a University student who is employed as a result of his or her status as a student are

education records.)

4. Student medical records created, maintained, and used only in connection with provision of medical treatment to the student, that are not disclosed to anyone other than the individuals providing the treatment. (While a student may not inspect his or her medical records, these records may be reviewed personally by a physician of the student's choice.)

5. Records that contain only information relating to a person after he or she is no longer a student, such as alumni records. [99.3]

B. A student is not permitted to inspect the following records:

1. Financial records and statements of his or her parents.

2. Confidential letters and confidential statements of recommendation that were placed in his or her education records before January l, 1975, and that are used only for the purposes for which they were intended.

3. Confidential letters and confidential statements of recommendation concerning (a) admission to an educational institution, (b) an application for employment, or (c) the receipt of an honor, that were placed in his or her education records after January 1, 1975, where the student has waived his or her right to inspect those letters and statements. [99.12]

C. A student who wishes to inspect his or her education records must file a written request for inspection with the individual who has custody of the records. In some cases the student will be able to review the records immediately while, in other cases, a certain amount of time will be needed to assemble the records for inspection, but the student will not be required to wait more than 45 days after receipt of the request before being allowed to inspect his or her education records. A student who exercises the right to review his or her education records is also entitled to a response from General Administration to reasonable requests for explanations and interpretations of those records. If a student has asked to inspect or review his or her education records, none of those records shall be destroyed until the student's request to inspect or review has been honored. [99.6, 99.10]

D. General Administration, upon a student's request, may provide a student with a copy of his or her education records, and General Administration will always provide a student a copy of his or her education records where failure to provide such a copy would effectively prevent exercise of the right to inspect and review education records. The office providing the copies may charge a reasonable fee for each copy but will not charge a fee to search for or retrieve the records in question. [99.6, 99.10, 99.11]

General Administration may deny a request for a copy of education records if the student is easily able to come to the office that maintains the records and inspect them in person and if the records are so voluminous that copying them would be unreasonably burdensome for General Administration employees charged with the task. [99.6]

E. Education records are maintained by several offices and officials at General Administration. Most of these records are copies or derivatives of education records created at a constituent institution of the University; some, though, may include additional education records created at General Administration. Offices at General Administration that are most likely to maintain education records are listed below:

1. Academic Affairs Division.

2. Legal Affairs Division.

3. Planning Division.

4. Research Division.

5. Student Services and Special Programs Division.

All requests to inspect education records should be directed to the secretary of The University of North Carolina, whose office can be reached through the main telephone number of General Administration in Chapel Hill, which is 919-962-1000. The secretary will determine the location of records pertinent to the inquiry and direct the student's request to the appropriate General Administration office. [99.6]

II. The Student's Right to Seek Correction or Amendment of His or Her Education Records.

A. A student who believes that information contained in his or her education records is inaccurate or misleading or violates his or her privacy rights may discuss these concerns informally with the custodian of the records in question and may request that they be amended. [99.20]

B. Requests to amend education records at General Administration whose information is identical to or derivative of education records provided from another education agency (such as a constituent institution of the University) will be referred to the originating educational agency for consideration of the student's request to amend. Notation of this referral will be placed with the pertinent education records of General Administration. Upon being informed of the disposition by the originating agency of the request to amend, the custodian will determine what action, if any, is appropriate with respect to related education records at General Administration. [99.20]

C. If the custodian finds that the request to amend relates to education records created by General Administration and if the custodian agrees with the request for amendment, the custodian will amend the records and so notify the student. If the custodian does not agree to the amendment, the custodian will notify the student within a reasonable period of time that the records will not be amended and will inform the student of his or her right to a formal hearing. All formal hearings will be conducted by the Education Records Committee of the University of North Carolina General Administration (the "committee"). The committee members shall be appointed by the President of the University from staff of General Administration in such numbers and for such terms of service as he may deem appropriate; however, no member of the committee shall participate in a hearing in whose outcome the member has any direct interest. [99.20, 99.21, 99.22]

D. Should the student and General Administration agree that an explanatory statement alone is the appropriate remedy, the student has the right, in lieu of requesting a formal hearing, to place a statement in his or her education records commenting on the information in question and/or setting forth any reasons for disagreeing with the custodian's decision not to amend. Any such statement will be maintained as part of the student's education records as long as the record, or the contested portion of the record, is maintained by General Administration, and the statement will be disclosed to any party to whom the contested portion of the student's education record is disclosed thereafter. [99.21]

E. A student request for a formal hearing must be submitted within fifteen (15) days after the student receives notice from the records custodian of his or her right to a formal hearing and must be addressed to the secretary of the University, who will promptly refer it to the appropriate person or panel for hearing. The request for hearing must be written, be signed by the student,

and contain a written statement setting forth the nature of the student's grievance and the attempts the student has made to resolve the matter with the custodian of the records in question. [99.6, 99.21]

F. A hearing will be held on the matter within a reasonable time after receipt of the student's request, and he or she will be given reasonable advance notice of the date, place, and time of the hearing. [99.22]

G. The student will be afforded a full and fair opportunity to present evidence relevant to the issues raised in the complaint and may be assisted by individuals of the student's choice at his or her own expense, including an attorney. [99.21]

H. The committee's decision will be based solely on the evidence presented at the hearing and will include a summary of the evidence and the reasons for the decision. The student will be notified in writing of the committee's findings and recommendations within a reasonable period of time after the conclusion of the hearing. If the committee decides that the challenged information within the student's education records is inaccurate, misleading, or otherwise in violation of the privacy rights of the student, it will recommend that the appropriate General Administration official amend the student's education records accordingly, and the official will inform the student in writing when the amendment has been made. [99.22]

I. If the committee decides that the challenged information from the student's education records is not inaccurate, misleading, or otherwise in violation of the privacy rights of the student, it will inform the student that he or she has the right to place a statement in his or her education records commenting on the information and/or setting forth any reasons for disagreeing with the committee's decision. Any such statement will be maintained and disclosed as set forth in section II.D., above. [99.21]

III. Disclosure of Personally Identifiable Information from a Student's Education Records.

A. "Personally identifiable information" means such information as the name of the student, his or her parent, or a member of the student's family; the address of a student or a member of the student's family; a personal identifier such as the student's social security number or student ID number; a list of personal characteristics from which the student can be easily identified; or other information from which the student can be easily identified. [99.3]

B. With certain exceptions, listed in section III.D., below, General Administration will not disclose personally identifiable information from a student's education records without the student's prior written consent. To be effective, the written consent must be signed and dated by the student and must include:

1. A specification of the records to be disclosed;

2. The purpose of the disclosure; and

3. The party or class of parties to whom the disclosure may be made. [99.30]

C. When personally identifiable information is disclosed from a student's education records pursuant to his or her written consent, the student may also, upon request, obtain a copy of the information so disclosed. [99.30(c)]

D. General Administration may disclose personally identifiable information from a student's education records without his or her prior written consent in the following situations:

1. Disclosure to other school officials, including teachers, officials, and employees of

the University who are determined to have a legitimate educational interest in the information. Such officials are deemed to have a "legitimate educational interest" in the information if it is necessary or desirable for them to obtain the information in order to carry out their official duties and/or to implement the policies of the University. [99.31(a)(1)]

2. Disclosure to officials of another school or school system in which the student seeks or intends to enroll and disclosure to officials of another school or school system in which a currently enrolled University student is contemporaneously enrolled. (Note: students are hereby notified that it is the policy of General Administration to forward education records upon request to officials of other schools or school systems in these situations without notifying the student of such transfer of records.) Upon request the student will be provided a copy of the education records so transferred. [99.31(a)(2), 99.34]

3. Disclosure to authorized representatives of the Comptroller General of the United States, the U.S. Secretary of Education, or State educational authorities in connection with the audit and evaluation of federal or State-supported education programs or in connection with enforcement of or compliance with federal legal requirements relating to such programs. (Note. Unless the collection of personally identifiable information is specifically authorized by federal law, the recipients of the personally identifiable information under this section must handle it in such a way that students and their parents cannot be identified therefrom by individuals outside the recipients' organizations, and personally identifiable data must be destroyed when it is no longer needed.) [99.31(a)(3), 99.35]

4. Disclosure in connection with financial aid for which a student has applied or which he or she has received. Information may be disclosed under this provision only to determine a student's eligibility for financial aid, to determine the amount of the aid, to determine the conditions which will be imposed regarding the aid, or to enforce the terms or conditions of the financial aid. [99.31(a)(4)]

5. Disclosure to State and local officials or authorities to whom information is specifically allowed to be disclosed pursuant to State statute adopted:

(a) before November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and that system's ability to serve effectively the student whose records are released; or,

(b) after November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and that system's ability to serve effectively, prior to adjudication, the student whose records are released, and if the officials to whom the information is disclosed certify in writing to General Administration that the information will not be disclosed to any other party without the student's consent, except as provided under State law. [99.31(a)(5)]

6. Disclosure to organizations conducting studies for, or on behalf of, General Administration, or an institution or agency of the University, for the purpose of (a) developing validating, or administering predictive tests; (b) administering student aid programs; or (c) improving instruction. The recipients of personally identifiable information under this section must handle it in such a way that students and their parents cannot be identified therefrom by individuals outside the recipients' organizations, and personally identifiable data must be destroyed when it is no longer needed for the purposes of the study. [99.31(a)(6)]

7. Disclosure to accrediting organizations in order to carry out their accrediting functions. [99.31(a)(7)]

8. Disclosure to a student's parents, if the student is their dependent for federal income tax purposes. [99.31(a)(8)]

9. Disclosure pursuant to a judicial order or lawfully issued subpoena. In some situations prior notification may not be possible; but General Administration will make a reasonable effort to notify the student of the order or subpoena before complying with it. However, in the case of a federal grand jury subpoena or any other subpoena issued for law enforcement purposes, General Administration will comply with any court or issuing agency order not to disclose to the student or anyone else the existence of or contents of the subpoena or any information furnished in response to the subpoena. [Note. General Administration will deem the filing by a student of a petition for judicial review a full and sufficient consent by the student to General Administration to release to the court any and all education records of the student responsive to the petition.] [99.31(a)(9), 99.31(b)]

10. Disclosure to appropriate parties in a health or safety emergency if the information is necessary to protect the health or safety of the student or others. [99.31(a)(10), 99.36]

11. Disclosure of "directory information" of a University constituent institution in the possession of General Administration that has been defined, authorized, and compiled, to the best knowledge of General Administration, in a manner consistent with FERPA. [99.3, 99.31(a)(11)]

12. Disclosure to the parents of a student of the North Carolina School of Science and Mathematics or of the High School Division of the North Carolina School of the Arts who has not reached age 18 nor subsequently enrolled in an institution of post-secondary education. [99.3, 99.31(a)(12)]

13. Disclosure of the results of certain disciplinary proceedings for alleged violations of institutional codes of student conduct upon which appeals therefrom have been taken pursuant to The Code and Policies of the Board of Governors of the University of North Carolina (the "Code and Policies").[1] If the alleged violation:

(a) involved the use, attempted use, or threatened use of physical force against the person or property of another; or,

(b) is a felony that, by its nature involves a substantial risk that physical force may be used against the person or property of another in the course of committing the offense.

General Administration may disclose the results of the disciplinary proceeding and its subsequent review upon appeal to the Board of Governors, to the alleged victim of the offense. [99.31(a)(13)] [Note. By reason of federal law external to FERPA, that is, the Student Right-to-Know and Campus Security Act, in tandem with the Higher Education Amendments of 1992, alleged victims of sexual assault must be permitted access to the results of related disciplinary proceedings and administrative review.]

[1] Disciplinary records from the North Carolina School of Science and Mathematics may not be disclosed under this section without appropriate consent. [99.31(a)(13)]

14. If the University Board of Governors affirms a constituent institution's disciplinary action against a student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the University community, General Administration may disclose information about that disciplinary action to teachers and school officials in other schools who have legitimate educational interests in the student's behavior. [99.31(a)(13)(b)]

15. While the foregoing provisions of this section III.D. permit certain disclosures without the subject student's prior consent, under FERPA such disclosures are permissive and can be further conditioned or even prohibited by the custodial institution or agency. Where, then, the education records considered for disclosure are the same as or derivative of education records first created at a constituent institution of the University, General Administration will seek to preserve and follow any relevant restriction to permissive disclosure. To accomplish this policy, General Administration directs that each University constituent institution maintain on file with general administration a copy of the institution's current FERPA policy. [99.31(b)]

E. When personally identifiable information from education records is disclosed to another party, that party may not further disclose the information without the student's prior written consent, unless:

1. The initial disclosure is made with the understanding that the party receiving the information may redisclose it to specified individuals or organizations who meet the requirements of section III.D., above; and,

2. The record of disclosures (as required in section III.F., below) includes the names of the additional parties to whom the information may be disclosed and the legitimate interests that each additional party has in obtaining the information. [99.31, 99.32, 9.33]

If a party to whom such information is released permits access to the information in violation of this section III.E., that party will not be allowed access to information from General Administration education records for five years. This denial of access, however, shall not be enforced against State and local educational authorities accessing education records pursuant to section III. D. 3., above, nor against the alleged victim of an offense under an institutional code of conduct, accessing education records pursuant to section III.D.13., above.

F. Custodians of education records will maintain a record of disclosures of personally identifiable information from each education record. The record of disclosures will be kept with the student's education records and will include names of parties who have requested or obtained personally identifiable information therefrom and the legitimate interest those parties had in obtaining the information. [99.32]

The record of disclosures will not include disclosures to the student, disclosures to school officials with legitimate educational interests, disclosures pursuant to the student's written consent, or disclosures of "directory information" as defined above. [99.32]

The record of disclosures may be inspected only by the student, the records custodian and his or her assistants, and school or federal officials charged with auditing the record-keeping procedures of General Administration. [99.32]

IV. Limit to FERPA Protection of Education Records

FERPA's protection of personally identifiable information in a student's education records ends at

the time of a student's death. Unless General Administration has information to the contrary, General Administration will presume that a student is deceased 75 years after the student's education records were created. Thereafter the student's education records will be open. [99.60(b)(2)]

Neither the foregoing policy concerning the duration of FERPA protection to education records that are in existence nor any other part of these policies and procedures places any obligation on General Administration to maintain specific education records for which there is no pending student request to inspect or to amend.

V. Complaints to the U.S. Department of Education.

Complaints alleging violations by General Administration of the provisions of FERPA or the regulations promulgated thereunder may be submitted in writing to Family Policy Compliance Office, U.S. Department of Education, 600 Independence Avenue, SW, Washington, D.C. 20202-4605, within 180 days of the date of the alleged violation or the date the complainant knew or reasonably should have known of the alleged violation. The office may extend the time period if the complainant has a good reason for having missed the deadline. [99.63, 99.64]

**Students' Education Records
at the University of North Carolina General Administration:
Annual Notification of Rights**

Certain personally identifiable information about students ("education records") may be maintained at the University of North Carolina General Administration, which serves the Board of Governors of the University system. This student information may be the same as, or derivative of, information maintained by a constituent institution of the University; or it may be additional information. Whatever their origins, education records maintained at General Administration are subject to the federal Family Educational Rights and Privacy Act of 1974 (FERPA).

FERPA provides that a student may inspect his or her education records. If the student finds the records to be inaccurate, misleading, or otherwise in violation of the student's privacy rights, the student may request amendment to the record. FERPA also provides that a student's personally identifiable information may not be released to someone else unless (1) the student has given a proper consent for disclosure or (2) provisions of FERPA or federal regulations issued pursuant to FERPA permit the information to be released without the student's consent.

A student may file with the U.S. Department of Education a complaint concerning failure of General Administration or an institution to comply with FERPA.

The policies of the University of North Carolina General Administration concerning FERPA may be inspected in the office at each constituent institution designated to maintain the FERPA policies of the institution. Policies of General Administration may also be accessed in the office of the secretary of the University of North Carolina, General Administration, 910 Raleigh Road, Chapel Hill, North Carolina.

Further details about FERPA and FERPA procedures at General Administration are to be found in the referenced policies. Questions about the policies may be directed to the Division of Legal Affairs, The University of North Carolina General Administration, Annex Building, 910 Raleigh Road, Chapel Hill, North Carolina (mailing address Post Office Box 2688, Chapel Hill, NC 27515-2688; telephone: 919-962-4588).

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