

MARSHALL UNIVERSITY
JOAN C. EDWARDS SCHOOL OF MEDICINE
MEDICAL STUDENT EDUCATIONAL RECORDS POLICY

I. Introduction

It is the policy of the Marshall University Joan C. Edwards School of Medicine (JCESOM) based upon recommendations of the Liaison Committee on Medical Education (LCME) that all enrolled medical students are provided information regarding how to obtain access to their educational records and that the educational records are confidential and only available to faculty and administration with a need to know.

II. Definitions

From the LCME Structures and Functions of a Medical School, the following standard has been provided:

Standard 11: Medical Student Academic Support, Career Advising, and Education Records: A medical school provides effective academic support and career advising to all medical students to assist them in achieving their career goals and the school's medical education program objectives. All medical students have the same rights and receive comparable services.

Element 11.5: At a medical school, medical student educational records are confidential and available only to those members of the faculty and administration with a need to know, unless released by the student or as otherwise governed by laws concerning confidentiality.

Element 11.6 A medical school has policies and procedures in place that permit a medical student to review and to challenge his or her educational records, including the Medical Student Performance Evaluation, if he or she considers the information contained therein to be inaccurate, misleading, or inappropriate.

III. Policy Statement and Procedure

1. Policy Statement

- a. The Marshall University Joan C. Edwards School of Medicine adheres to the rights of students granted by the Family Educational Rights and Privacy Act (FERPA). FERPA is a Federal law that is administered by the Family Policy Compliance Office of the U.S. Department of Education (20 U.S.C. § 1232g; 34 CFR Part 99.). FERPA applies to all educational organizations and institutions that received federal funding under any program administered by the Department of Education.
- b. In compliance with FERPA, JCESOM does not disclose any personally identifiable information contained in students educational records, except when authorized by law. Information about FERPA and JCESOM execution of FERPA is set forth below.

2. Student Rights under FERPA

- a. A student has the right under FERPA to:
 - i. Inspect his or her educational records
 - ii. Require the educational institution obtain his or her prior written permission before disclosing personally identifiable information from their educational records
 - iii. Request corrections to be made to their educational records if the student believes the record is inaccurate, misrepresenting or otherwise in violation of the students right to privacy under FERPA

3. Definition of Terms

- a. For the purposes of his policy, the Marshall University Joan C. Edwards School of Medicine (JCESOM) use the following definition of terms:
 - i. **Student:** Any person who attends or has attended JCESOM. Any person admitted but not enrolled in courses at JCESOM is not considered a student
 - ii. **Educational Records:** Any information maintained by JCESOM directly relating to a student. Records means any information recorded in any way, including, but not limited to, hand writing, print, computer media, video or audio tape, film, microfilm, and microfiche which contains information related directly to students and which students can be individually identified.

A permanent educational record of an enrolled student of JCESOM shall consist of the following types of documents:

- Admissions Materials – including, but not limited to, application for admission (AMCAS), test scores, transcripts and any other application correspondence
 - Official JCESOM Academic Information – including, but not limited to: a copy of the students’ academic record while at JCESOM; Evaluations from clinical rotations/courses; Academic & Professional Standards Committee decisions; copies of grade changes; documentation of grade appeals; institutional policy statements relating to technical and professional standards; copy of MSPE; Change in status forms/letters related to leaves of absence, academic remediation, name change, etc.; copy of medical school diploma
- iii. **Identifiable Information:** Any data or information which includes:
 1. Name of the student, students parent, or other family members
 2. Students campus or home address
 3. Personal identifier such as
 - a. Student ID number; Social Security Number; USMLE ID
 4. Personal characteristics or information which would make the student’s identity known with a “reasonable certainty”.

- iv. **Directory Information:** Marshall University and JCESOM define directory information as follows: name, address, email addresses, telephone numbers (permanent and campus), photograph, date and place of birth, major field of study, dates of attendance, degree and honors and awards received and classification. MUBOG Policy No. SA-5
4. Privacy Preferences
 - a. At any time, unless restricted, JCESOM may release any of the items of directory information with a student's consent of release. This includes releasing the information in response to requests made pursuant to the West Virginia Freedom of Information Act. Students may restrict the disclosure of any item of directory information by indicating this restriction on the "Information Release" page in the Marshall University Information Liaison Online (MILO/MyMU) system.
 - b. The right to restrict disclosure of directory information does not include the right to remain unidentified in class and may not be used to impede classroom communications.
5. Inspection of Educational Records
 - a. Students may request to have access to their educational record at any time. If possible, immediate access will be granted, however if immediate access is not available a student should have to wait no more than 45 days to gain access to their educational record. If a student is required to wait, the Office of Medical Education will inform the student of when the record will be available. Students will be required to establish their identity with a picture ID prior to viewing their record.
6. Information Which a Student Does Not Have the Right to Inspect
 - a. Under FERPA, a student does not have the right to inspect information that is not an educational record, such as follows, but not limited to:
 - i. Medical treatment records: Records maintained by a physician, psychiatrist, psychologist, or other recognized professional or para-professional, which are used only for treatment purposes (such records may, however, be reviewed by a physician or other appropriate professional of the student's choice);
 - ii. Financial information submitted by the student's parents (these records are kept in the Financial Aid Office);
 - iii. Confidential letters and statements of recommendation which were placed in the files before January 1, 1975, and which were used only for the purpose(s) for which they were intended;
 - iv. Confidential recommendations concerning admission and any other materials for which the student has specifically and in writing waived his/her right to access.
 - v. Admissions records for a student who did not officially attend the program of admission. If the student completed a course at the University but never officially attended as a degree candidate in the program of admission, then the student has FERPA rights with respect to that course but does not have rights in respect to the admissions records for that program.
 - vi. Records of a student that contain information on other students.

7. Authorizing another Person to Inspect or Receive Copies of Your Records
 - a. Both current and former students who wish to permit another person to inspect or receive copies of the student's education records must provide a signed and dated written consent which must:
 - i. Specify the records that may be disclosed;
 - ii. State the purpose of the disclosure;
 - iii. Identify the person or class of parties to whom the disclosure can be made.
 - b. In addition, current students who wish to give permission to parents or others to view their records may do so electronically by going through MyMU to MILO and completing the Proxy forms under the "Information Release" tab. A proxy can be defined as a person who represents someone else. In this case, the person a student identifies as proxy, will have access to the academic records that the student specifies in our proxy system. This person will receive an email which will allow them to set up their own account to track the student's records, and they can speak with a representative of the university about the student as long as they have a passphrase (established by the student and shared with the proxy). Students can change/delete a proxy at any time.
8. Disclosure of Student Information without Student Consent
 - a. In general, the JCESOM will not disclose personal information from a student's education records without the student's prior consent. However, JCESOM, in compliance with the law, may disclose personal information without the student's prior consent under these conditions:
 - i. To JCESOM officials, staff, and others engaged in endeavors on behalf of JCESOM with a legitimate educational interest.
 1. JCESOM may disclose information to JCESOM School officials, staff, and others whom the JCESOM has determined to have a legitimate educational interest. A person has a legitimate educational interest if the person needs to review an education record in order to fulfill his or her professional responsibilities to the JCESOM. Such individuals include officers of the University, faculty, administrative staff, law enforcement and medical and legal personnel, and may include contractors, consultants and professionals engaged by JCESOM where disclosure of the information is necessary for such individuals to fulfill their duties and responsibilities to JCESOM. In addition, these individuals may include JCESOM students, individuals from outside the School of Medicine, and volunteers, who are requested to serve on an authorized committee or board of JCESOM (such as the Academic & Professionalism Standards Committee or the Board of Trustees) or to otherwise perform authorized tasks for JCESOM.
 - ii. Any information that is designated as directory information.
 1. Name

2. Address
3. Email addresses
4. Telephone numbers (permanent and campus)
5. Photograph
6. Birthdate and place of birth
7. Major field of study
8. Dates of attendance
9. Degree and honors
10. Awards received

iii. In Health or Safety Emergency Situations.

1. In the event of an emergency, JCESOM discloses information from education records to the appropriate parties, including parents, if JCESOM deems that knowledge of the information is necessary to protect the health, safety, or well-being of the student or other individuals. This disclosure may include any disciplinary action previously taken against the student for conduct that posed a significant risk to the safety and well-being of that student, other students, or members of the JCESOM community.

iv. In compliance with a subpoena

1. JCESOM will make a reasonable effort to notify the student of the subpoena before complying. In the case of a subpoena issued for law enforcement purposes, the University is not required to notify the student of the existence or the contents of the subpoena, or of the information furnished in response to the subpoena, if the court or other issuing agency has ordered that such information not be disclosed.

v. Officials of Other Institutions or Organizations

1. Information can be disclosed to officials of other institutions or organizations which the student seeks or intends to transfer or in which the student is already enrolled, provided a disclosure for purposes related to the student's enrollment or transfer. In connection with the student's placement or participation in internships, practicum, affiliations or other programs related to the student's courses or programs at JCESOM. When a student has applied for or he/she has received financial aid to support the student's education, in cases where the information is related to (1) determining the eligibility for, amount of, or conditions of the aid, or (2) enforcing the terms and conditions of the aid.

vi. Parties Who Provided or Created a Record

1. JCESOM may send education records back to the creator or sender of such records for confirmation of the authenticity of the record (e.g. transcript or letter).

vii. Legal Actions Involving the Student and JCESOM

1. If a student or parent initiates legal action or brings complaints against JCESOM, the School of Medicine may disclose education records relevant to the response to the complaint without a court order or subpoena. In the event that JCESOM initiates legal action against a parent or student, JCESOM may disclose education records relevant to the action without a court order or subpoena.

viii. To Accrediting Bodies

1. JCESOM may release information to organizations that accredit colleges and universities for in assistance for their accrediting purposes.

9. Students Right to Request Amendment to Record

- a. If a student believes their education records contain information that is inaccurate, misleading, or in violation of the student's rights of privacy, he or she may ask the JCESOM to amend the record. The student must follow the following procedures.

- i. Informal Request: The student should request an informal meeting with the Office of the JCESOM Registrar (Registrar) to review the questionable item with the Registrar, who may or may not honor the request.
- ii. Written Request: Should the Registrar deny the request or the meeting outcome was not to the student's satisfaction and the student still wishes to pursue to have the record corrected, the student should submit a written request to the JCESOM Office of Academic Affairs. The request shall clearly identify the part of the record the student believes should be changed and specify why it should be changed. The JCESOM Assistant Dean of Academic Affairs (Assistant Dean) will review the written request from the student and then request the Registrar provide a written statement of why the request was denied at the informal stage. After careful review of the written statement from the student and the Registrar of JCESOM, the Assistant Dean will notify the student in writing of their decision. Should the request be denied at this level, instruction will be given to the student to their right for a hearing to challenge the information believed by the student to be inaccurate, misleading or in violation of the students privacy rights.

1. Note: Students grades or evaluations is not within the purview of the right to seek an amendment of education records under this section of policy. Grade appeal and grievance procedures are outlined in the Marshall University Joan C. Edwards School of Medicine Honor System & Policy Regarding Academic and Professionalism Standards, Leaves and Appeals Policy.

- iii. Hearing Procedures: Upon receiving a written request from the student for a hearing, the Assistant Dean shall arrange a meeting with the JCESOM Vice Dean of Medical Education and provide notice to the student within a reasonable timeframe.
- iv. The hearing will be conducted by the JCESOM Vice Dean of Medical Education or an approved third party if the JCESOM Vice Dean of Medical Education is unavailable or is found to have a conflict of interest. Designee(s) for the hearing must have no direct interest in the outcome of the case and may decline to serve if a conflict of interest exists with either the student or subsequent parties involved.
- v. All pertinent documents should be submitted within five days prior to the meeting to the JCESOM Vice Dean of Medical Education. The student, at his or her own expense, may be assisted or represented by one or more individuals of their choice, including an attorney. Any additional information submitted will be given to the student at the time of notification of the hearing.
- vi. At the hearing the student will have the opportunity to present evidence to support his or her position that the educational record should be amended due to violation of the student's privacy rights.
- vii. Notification of the decision of the JCESOM Vice Dean of Medical Education shall be no more than 15 JCESOM business days after the conclusion of the hearing. The notification to the student will be written and submitted by the Vice Dean of Medical Education to the student, JCESOM Assistant Dean of Academic Affairs and the JCESOM Registrar. The decision must include a summary of the evidence presented during the hearing and the reasoning behind the decision.
 - 1. If the result of the hearing determines that the information in the student's educational record is not inaccurate, misleading, or otherwise in violation of the privacy rights of the student, the student will be notified of the right to place a statement in the record contesting the information in the record or stating why the Student disagrees with the decision of JCESOM. The student's statement shall be maintained with the contested portion of the record for as long as the record is maintained. In the event the contested portion of the record is later requested, the statement shall be disclosed with the record to the extent it pertains to the contested portion.
 - 2. If the result of the hearing determines that the information in the student's educational record is inaccurate, misleading, or otherwise in violation of the privacy rights of the student, the student will be notified of and a statement will be placed in the student's record

pertaining to the information being removed. The inaccurate information will be removed from the students file

10. Complaint Procedure

- a. A student has the right to file a complaint with the Family Policy Compliance Office at the U.S. Department of Education concerning alleged failures by JCESOM to comply with the requirements of FERPA. A complaint must be submitted to the Office within 180 days of the date of the alleged violation or of the date that the student knew or reasonably should have known of the alleged violation. The complaint must contain specific factual allegations giving reasonable cause to believe that a violation of the Act has occurred, and it should be forwarded to:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-8520

Approved August 10, 2018 – LCME Accreditation Committee