

ADMINISTRATIVE REGULATION 5040

SOUTH ORANGE COUNTY
COMMUNITY COLLEGE DISTRICT

STUDENT SERVICES

STUDENT RECORDS: COMPLIANCE WITH FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA)

This regulation implements the federal Family Education Rights and Privacy Act of 1974 (FERPA) and State law.

I. STUDENT PRIVACY RIGHTS

A. Current and former students have the following rights regarding their student education records:

1. The right to be informed about their education records.
2. The right to inspect their education records.
3. The right to request amendment to their education records.
4. The right to have a formal hearing if the request for amendment is denied.
5. The right to prevent unauthorized disclosure of any or all of the information in their education records, subject to specific exceptions identified in FERPA and State law.
6. The right to lodge a complaint to the U.S. Department of Education about a violation of FERPA regarding their education record.
7. The right to waive these rights in writing, including the right to give written authorization to a third party to obtain a copy of their education records.

II. DEFINITIONS

For the purposes of this regulation, South Orange County Community College District (hereinafter “District”, or “Saddleback College” or “Irvine Valley College”) has used the following definitions of terms:

A. “*Student*” means any person who applies for admission, is admitted and has been issued a student number.

B. “*Education records*” means any records maintained by the District or an agent of the District that contain personally identifiable information related to a student. “*Record*” means any information recorded in any way, including, but not limited to, handwriting,

Adopted: 11-17-09

Revised: 02-16-17

Page 1 of 11

Revised: 05-08-14

Revised: 06-13-19

Revised: 10-13-16

Revised: 11-04-21

print, computer media, video or audio tape, film, microfilm, and microfiche. The following are *not* education records:

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 as a temporary substitute for the maker of the record.
2. Records relating to an individual who is employed by an educational agency or institution, that are made and maintained in the normal course of business, relate exclusively to the individual in that individual's capacity as an employee; and are not available for use for any other purpose. Records relating to individuals in attendance at the District, who are employed as a result of their status as students, are education records and not exempted under this paragraph.
3. Records made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional capacity or assisting in a paraprofessional capacity, which are made, maintained, or used only in connection with treatment of the student and disclosed only to individuals providing the treatment. For the purpose of this definition, "treatment" does not include remedial educational activities, or activities that are part of the program of instruction at the agency or institution. For the purposes of this definition, COVID-19 immunization and testing records are protected from disclosure except when the health or safety emergency exception applies, which may allow the District to disclose student education records to a public health agency or school official, without prior written consent in connection with an emergency if the public health agency's or school official's knowledge of the information is necessary to protect the health or safety of students or other individuals.
4. Records maintained by the District if (a) the records are maintained solely for law enforcement purposes, (b) are revealed only to law enforcement agencies of the same jurisdiction, and (c) the office holding these records does not have access to education records maintained by the college.
5. Alumni records which contain information about a student after they are no longer in attendance at the District and which do not relate to the person as a student.
6. Grades on peer-graded papers before they are collected and recorded by an instructor.

C. "*School Official*" means:

1. A person employed by the District in an administrative, supervisory, academic, research, or support staff position.

Adopted:	11-17-09	Revised:	02-16-17
Revised:	05-08-14	Revised:	06-13-19
Revised:	10-13-16	Revised:	11-04-21

2. A person elected to the Board of Trustees.
3. A person such as an attorney or auditor employed by or under contract to the District to perform a special task.

D. “*Public health official*” means a person such as law enforcement officials, firefighters, public health officials, and trained medical personnel.

E. “*Legitimate educational interest*” means an official need to review or access a student education record by an official or employee of the District in order to fulfill a professional responsibility; to perform appropriate tasks that are specified in their position description or by a contractual agreement; to perform a task related to the student’s education; to perform a task related to the discipline of a student; to protect the health or safety of students attending in-person courses or accessing services in excess of 30 minutes; or to provide a service or benefit relating to the student or student’s family, such as health care, counseling, job placement, or financial aid. School officials who use student education record information to serve their own personal needs or for purposes that are not related to their job responsibilities do *not* have a legitimate education interest in the information being used.

F. “*Personally Identifiable Information*” is defined in *AR-3726 Information Security–Data Classification*.

III. ANNUAL NOTIFICATION

Students will be notified of their rights under FERPA and State law annually by publication in the *Saddleback College Catalog* or the *Irvine Valley College Catalog*. The catalog is available on each college’s website.

IV. PROCEDURE TO INSPECT EDUCATIONAL RECORDS

A. Students may inspect and review their education records upon request to the appropriate record custodian. Students should submit to the record custodian or an appropriate college staff person a written request that identifies as precisely as possible the record or records they wish to inspect. (Forms for this request are available in the Admissions and Records Office.)

B. The record custodian or an appropriate college staff person will make the needed arrangements for access as promptly as possible and notify the student of the time and place where the records may be inspected. Access must be given in 15 workdays or fewer from the receipt of the request.

C. When a record contains information about more than one student, the student may inspect and review only the records that relate to her/him.

Adopted:	11-17-09	Revised:	02-16-17
Revised:	05-08-14	Revised:	06-13-19
Revised:	10-13-16	Revised:	11-04-21

V. RIGHT TO REFUSE ACCESS

The District reserves the right to refuse to permit a student to inspect the following records:

- A. The financial state of the student's parents.
- B. Letters and statements of recommendation for which students have waived their right of access or which were placed in their file before January 1, 1975.
- C. Records connected with an application to attend Saddleback College or Irvine Valley College if the application was denied.
- D. Those records that are excluded from the FERPA definition of education records. The records will be made available if required by State law.

VI. REFUSAL TO PROVIDE COPIES

The District reserves the right to deny copies of records not required to be made available by the FERPA or State law in any of the following situations:

- A. The student has an unpaid financial obligation to or other hold by Saddleback College or Irvine Valley College.
- B. There is an unresolved disciplinary action against the student.

VII. FEES FOR COPIES OF RECORDS

- A. The fee for copies will be \$0.25 per page.
- B. Fees charged for copies of transcripts will be identified in the college catalog.
- C. Students may obtain an unofficial copy of their transcripts at no charge from the student portal.
- D. If a request for electronic records requires data compilation, extraction, or programming, copying costs may include the cost of programming.

VIII. DISCLOSURE OF EDUCATION RECORDS

The District will disclose information from a student's education records only with the written consent of the student, except as set forth below. The District may disclose information without student consent as follows:

- A. To officials and employees of the District, if that person has a legitimate educational interest to inspect a record.

B. To authorized representatives of the Comptroller General of the United States, the Secretary of Health, Education, and Welfare, an administrative head of an education agency, state education officials, or their respective designees, or the United States Office of Civil Rights, where that information is necessary to audit or evaluate a state or federally supported education program or pursuant to a federal or state law, except that when the collection of personally identifiable information is specifically authorized by federal law, any data collected by those officials shall be protected in a manner that will not permit the personal identification of students or their parents by other than those officials, and any personally identifiable data shall be destroyed when no longer needed for that audit, evaluation, and enforcement of federal legal requirements.

C. To other state and local officials or authorities, to the extent that information is specifically required to be reported pursuant to state law adopted prior to November 19, 1974.

D. To officials of other public or private schools or school systems, including local, county, or state correctional facilities where educational programs are provided, where the student seeks or intends to enroll, or is directed to enroll.

E. To agencies or organizations in connection with a student's application for, or receipt of, financial aid, provided that information permitting the personal identification of students may be disclosed only as may be necessary for those purposes as to determine the eligibility of the student for financial aid, to determine the amount of the financial aid, to determine the conditions that will be imposed regarding the financial aid, or to enforce the terms or conditions of the financial aid.

F. To accrediting organizations in order to carry out their accrediting functions.

G. To organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, if those studies are conducted in such a manner as will not permit the personal identification of students or their parents by persons other than representatives of those organizations and the information will be destroyed when no longer needed for the purpose for which it is conducted.

H. To appropriate persons in connection with an emergency if the knowledge of that information is necessary to protect the health or safety of a student or other persons, or subject to any regulations issued by the Secretary of Health, Education, and Welfare.

I. To the alleged victim of any sexual assault or physical abuse, including rape, forced sodomy, forced oral copulation, rape by a foreign object, sexual battery, or threat or assault, or any conduct that threatens the health and safety of the alleged victim, which is the basis of any disciplinary action taken by a community college, shall be permitted access to that information. Access to student record information shall be in the form of notice of the results of any disciplinary action by the community college and the results of any appeal,

Adopted: 11-17-09 Revised: 02-16-17
Revised: 05-08-14 Revised: 06-13-19
Revised: 10-13-16 Revised: 11-04-21

which shall be provided to the alleged victim within three days following that disciplinary action or appeal. The alleged victim shall keep the results of that disciplinary action and appeal confidential.

J. In compliance with a court order or a lawfully issued subpoena, the District shall make a reasonable effort to notify the student in advance of compliance with a lawfully issued subpoena and, in the case of compliance with a court order, if lawfully possible within the requirements of the order. This notification shall take place using a standard form approved by the FERPA Compliance Officer.

K. No student information shall be disclosed for immigration enforcement purposes without a court order or judicial warrant. Without a court order or a judicial warrant, written consent must be signed and dated by the student, or (if the student is a minor) by the student's parent(s) or guardian(s), before disclosure of the information, and must specify the records that may be disclosed, the purpose of the disclosure, and the party or class of parties to whom the disclosure may be made.

If desired by the student, the District must provide a copy of the records to be released. The party to whom the information is disclosed may not re-disclose the information to any other party without the prior consent of the student or subsequent court order.

District personnel shall develop written guidelines for interactions with immigration authorities seeking to review student records.

Unless the District is served with a judicial subpoena or court order that by its terms prohibits disclosure to the student, the student must be notified of any judicial order or subpoena before the institution complies with the order in accordance with FERPA.

IX. RECORD OF REQUESTS FOR DISCLOSURE

The District will maintain a record of all requests for and/or disclosure of information from a student's education records for the appropriate record retention period. The record will indicate the name of the party making the request, any additional party to whom it may be disclosed, and the legitimate interest the party had in requesting or obtaining the information. The record may be reviewed by the eligible student.

Personal information may be transferred to a third party only on the condition that such party will not permit access by any other party without the written consent of the student. (As an example, information released to agencies for auditing purposes or for improving instruction.) In such cases, Saddleback College or Irvine Valley College will issue the following statement to accompany records released: "All student education records will be destroyed when they are no longer needed for implementation of the study. Student education records may not be released without the written consent of the student."

X. DIRECTORY INFORMATION

The District designates the following items as Directory Information:

Adopted:	11-17-09	Revised:	02-16-17
Revised:	05-08-14	Revised:	06-13-19
Revised:	10-13-16	Revised:	11-04-21

- A. Terms for which a student is enrolled.
- B. The enrollment status (full time or part time, as defined by financial aid regulations) for the term in which the student is enrolled.
- C. Declared major.
- D. Participation in officially recognized activities and sports including weight, height, and high school of graduation of athletic team members.
- E. Degrees and awards received including honors, scholarship awards, athletic awards, and Dean's List recognition.

Saddleback College and Irvine Valley College may disclose any of the above-mentioned items without prior written consent unless notified in writing to the contrary by the student. The colleges and its contracted agents may release Directory Information when the requestor has certified the student has applied for or received products, services, or employment that depends on verification of enrollment, or in college publications/press releases when the student has participated in officially recognized college/district activities.

Students have the following option in connection with the release of directory information:

- Do NOT permit the District to release Directory Information to anyone.

XI. CORRECTION OF EDUCATION RECORDS

- A. Students may file a written request with the appropriate Custodian of Records (see Section XVI. Custodians of Records below) at Saddleback College or Irvine Valley College to correct or remove information recorded in their student record which the student alleges to be: (1) inaccurate; (2) an unsubstantiated personal conclusion or inference; (3) a conclusion or inference outside of the observer's area of competence; or (4) not based on the personal observation of a named person with the time and place of the observation noted.
- B. Within 30 days of receipt of the request, the Vice President for Student Services (VPSS), or designee, shall meet with the student and the employee who recorded the information in question, if any, if the employee is presently employed by the District. The VPSS or designee shall then sustain or deny the allegations.
- C. If the VPSS or designee upholds the student's claim, the VPSS or designee shall ensure that the appropriate record be amended.
- D. If the VPSS or designee finds the records to be accurate and appropriate, the student may submit an appeal in writing to the Board within 30 days of the decision.
- E. Within 30 days of receipt of an appeal, the Board shall, in closed session with the student and the employee who recorded the information in question, if any, and if that

Adopted: 11-17-09 Revised: 02-16-17
Revised: 05-08-14 Revised: 06-13-19
Revised: 10-13-16 Revised: 11-04-21

employee is presently employed by the District, determine whether to sustain or deny the allegations.

F. If the Board upholds any or all of the claims, it shall require the Chancellor or designee to immediately ensure that the appropriate records be amended.

G. The decision of the Board shall be final.

H. Records of these administrative proceedings shall be maintained in a confidential manner and shall be destroyed one year after the decision of the Board unless the student initiates legal proceedings relative to the disputed information within the prescribed period.

I. If the final decision of the Board is unfavorable to the student or if the student accepts an unfavorable decision from the Board, the student shall have the right to submit a written statement of their objections to the information. This statement shall become a part of the student's record until the information objected to is corrected or removed.

XII. SUBPOENAS

Subpoenas for student records are to be personally served to the Office of Risk Management. The Office of Risk Management will distribute the subpoena to the Dean of Enrollment Services or the appropriate Custodian of Records.

XIII. DECEASED STUDENTS

The privacy rights of an individual expire with that individual's death. Records held by an institution for a deceased person do not raise a FERPA issue but are a matter of institutional policy. The District will exercise its own discretion in deciding whether, and under what conditions, information should be disclosed to survivors or third parties.

XIV. TRAINING FOR EMPLOYEES

Faculty and staff, as well as any other agents of the college who request access to student academic records, must complete the FERPA tutorial and submit a signed acknowledgment form. Access to student records, including the academic records database, will be denied until the tutorial has been completed and the form submitted. The tutorial is intended to ensure that anyone accessing student records understands the obligations under FERPA for proper use and protection of student records. All questions in the tutorial are supported by information found on the college's FERPA website. The training shall include answers to common questions concerning FERPA compliance issues, including, but not limited to, issues related to (a) use of student email addresses, (b) distance education classes; (c) online discussion groups; (d) rights of parents, if any, when student is a minor; and (e) procedures and forms for responding to requests for records.

XV. COMPLIANCE OFFICER

Adopted:	11-17-09	Revised:	02-16-17
Revised:	05-08-14	Revised:	06-13-19
Revised:	10-13-16	Revised:	11-04-21

The VPSS or designee is designated as the FERPA Compliance Officer for each of the colleges. The FERPA Compliance Officer for District Services is the Vice Chancellor of Human Resources (VCHR).

XVI. CUSTODIANS OF RECORDS

Custodians of Records include:

CUSTODIAN	LOCATION	RECORD TYPE
Dean of Enrollment Services	A&R	Academic/Scholastic Admission/Acceptance Assessment Scores (IVC) Placements (IVC) Awards Certificates Class Information Degrees Diplomas Dates of Attendance Enrollment
VP for College Administrative Services	SPO/Bursar	Payments Statements Veterans
Director of Financial Aid	Financial Aid	Financial Aid Records Scholarships Grants Loans Records
Dean, Counseling/Disciplinary Officer	Counseling	Disciplinary Reports Counseling Student Educational Plans Counselor Notes
Department Dean	Educational Department	Professor Comments Athletics
Dean of Wellness, Social Services and Child Development (SC) Assistant Dean, Health, Wellness and Veterans Services (IVC)	Health and Wellness Center	Medical/Nurse Notes X-rays Pathology Slides/Reports Immunization Records Physical Therapy Records EKGs/EEGs Veterans Files

Adopted: 11-17-09 Revised: 02-16-17
 Revised: 05-08-14 Revised: 06-13-19
 Revised: 10-13-16 Revised: 11-04-21

EOPS Coordinator	EOPS/CARE/Cal WORKs	CalWORKs EOPS/CARE Student Files
DSPS Coordinator	DSPS	Learning Disability Assessment Special Ed Testing IEPs Medical Information Staff Case Notes Student Files
Director, Student Development/Life	Student Development	Extra-curricular Activities Campus Events
Dean, Transfer, Career & Special Programs (SC)	Career Center	Veterans
Matriculation Coordinator (SC)	Matriculation	Assessment Scores Placements
Director, International Student Program	International Student Center	SEVIS
Vice President for Student Services	VP Student Services	Incident Reports Student Ambassador Program (IVC)
Chief of Police	Campus Safety	Incident Reports
Executive Director of Information Technology & Security <i>and</i> SC Director of Technology Services / Broadcast Systems <i>and</i> IVC Director of Technology Services	District IT	Electronic Correspondence
Executive Director, HR /Employer/Employee Relations Resources	District HR	Student-employee Records
Risk Manager	District Business Services	Student Incident Reports

References:

California Education Code Sections 66093.3 and 76200 et. seq.

California Civil Code Section 1798.85

California Code of Regulations, Title 5 Section 54600 et. seq.

20 U.S. Code Section 1232g (b)(1)(I)

20 U.S. Code Section 1232 g(j)

Adopted: 11-17-09 Revised: 02-16-17
 Revised: 05-08-14 Revised: 06-13-19
 Revised: 10-13-16 Revised: 11-04-21

*34 Code Federal Regulation Sections 99.31(a)(10) and 99.36; and
Homeland Security Act of 2002*

Adopted:	11-17-09	Revised:	02-16-17
Revised:	05-08-14	Revised:	06-13-19
Revised:	10-13-16	Revised:	11-04-21