

**Policy 2112
Student Privacy**

Date of Current Revision: February 2024

Responsible Officer: Provost and Senior Vice President for Academic Affairs

1. PURPOSE

The purpose of this policy is to outline the university's responsibility for compliance with laws concerning access to and privacy of student records and student information.

2. AUTHORITY

The Board of Visitors has been authorized by the Commonwealth of Virginia to govern James Madison University. See Code of Virginia section 23.1-1600; 23.1-1301. The board has delegated the authority to manage the university to the president.

STATE OR FEDERAL STATUTE AND/OR REGULATION

The Family Educational Rights and Privacy Act of 1974 ("FERPA," 20 USC 1232g et. seq.).

The Fair Credit Reporting Act ("FCRA," 15 USC § 1681 et seq.).

The Gramm-Leach-Bliley Act ("GLBA," 15 U.S.C. §6801 et seq.).

The Virginia Freedom of Information Act ("FOIA," Code of Virginia 42.1-76).

The Virginia Government Data Collection and Dissemination Practices Act ("Privacy Act," Code of Virginia 2.2-3803(A)).

3. DEFINITIONS

Consumer Financial Information

This information includes Social Security Numbers, financial account numbers, credit card numbers, dates of birth, names, addresses, and phone numbers when collected with financial data, and details of any financial transactions between the university and a student.

Directory Information

The following is considered Directory Information at James Madison University and may be made available to the general public unless the student notifies the Office of the Registrar in person or in writing within five days after the first day of class registration: Student's name, major and minor fields of study; college of major and year (first year, sophomore, etc.); enrollment status (full-time/part-time), including credit hours; dates of attendance; degree sought and time; degrees conferred; awards and honors conferred; participation in officially recognized activities and sports; weight and height of members of athletic teams; the most recent previous educational agency or institution attended by the student; and fraternity and/or sorority and educational societies.

Enrolled students may opt in to three additional data elements of directory information: address, email address and telephone number. By opting in to these additional data elements, the student is authorizing JMU to release this information to any third-party entities who request any directory information on JMU students. If a student wishes to opt-in to these additional three elements, they may do so by accessing the Student Privacy link in MyMadison Student Center.

This list may be amended from time to time by the university. For the current list, consult the current undergraduate catalog: Confidentiality of Educational Records.

Education Records

Records directly related to a student and maintained by the institution or a party acting for the institution related to the student's education. Under FERPA, education records are defined as records that are directly related to a student and are maintained by an education agency or institution or by a party acting for the agency or institution. Exceptions to this definition include, but are not limited to:

- Records of an instructional, supervisory, administrative and educational nature, maintained by university officials for their personal use only.
- Student employee records, other than work-study records.
- Alumni records (generated after a student is no longer enrolled at the institution).
- Treatment records.
- Records concerning a student who is deceased.
- Law enforcement records.

Hold

An administrative action taken by the university to flag a student's record, thus prohibiting the student from changing their status without clearing the administrative action by specific procedures.

Legitimate Educational Interests

A school official has a legitimate educational interest if the official needs to review an education record 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 student seeks or intends to enroll.

Personally Identifiable Information

Data or information which include:

- Name of the student, the student's parent(s), or other family members
- Student's address
- Personal identifier such as a social security number or student number
- List of personal characteristics or other information which would make the student's identity easily traceable

Privacy Act

The Virginia Government Data Collection and Dissemination Practices Act.

Privacy Flag

An indication on a student's record that they have requested that Directory Information not be disclosed.

School Official

A person employed by the university in an administrative, supervisory, academic or research, or support staff position (including law enforcement unit personnel and health staff); a person or company with whom the university has contracted or outsourced institutional services or functions (such as an attorney, auditor, food service or bookstore provider, or collection agent); a person serving on the Board of Visitors; a volunteer performing services for the institution; or a student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing their tasks.

Treatment Records

Records on a student who is 18 years of age or older, or is attending an institution of postsecondary education, that are:

- Made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in their professional capacity or assisting in a paraprofessional capacity.
- Made, maintained, or used only in connection with treatment of the student.
- 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.

4. APPLICABILITY

This policy applies to all employees, students and individuals acting on behalf of the university. It applies to all personally identifiable information maintained by the university concerning current or former students.

5. POLICY

5.1 Individuals receiving FOIA requests for student records must refer the requests to the FOIA Officer and see Policy [1103](#), Responding to External Requests for Information. Student treatment records are protected under FERPA. Student employment records are protected under the Privacy Act. Student consumer financial information is protected under the Gramm-Leach Bliley Act (GLBA) and the Fair and Accurate Credit Transactions Act of 2003 (FACTA), and includes protection against identity theft.

5.2 Students have privacy rights under FERPA in their education records, including:

- The right to inspect and review their own education records, except as noted in 5.3 below.
- The right to challenge (seek correction of) the contents of their own education records, and to have a formal hearing, if necessary, for a fair consideration of such a challenge, and the right to place an explanatory note in their own education record in the event that a challenge of contents is unsuccessful.
- The right to control, with certain exceptions listed in 6.3 below, the disclosure of the contents of education records. This includes the right to place or remove a Privacy Flag on their education records under 6.3.B below.

- The right to file a complaint with the Student Privacy Policy Office, within the U.S. Department of Education, if the student believes that their rights under FERPA have been violated.

5.3 The university is not required to permit students access to the following types of information in their own education record:

- Financial information submitted by parents.
- Confidential letters of recommendation submitted prior to January 1, 1975.
- Confidential letters and recommendations, after January 1, 1975, on which a student has waived the right of inspection.
- Any part of a record pertaining to another student.
- Information specifically excluded under FERPA's definition of "education records."

5.4 Under FERPA, employees and officials at the university are prohibited from disclosing personally identifiable information from student education records without the express written consent of the student. However, the university is allowed to release information maintained in education records concerning a student without obtaining the student's permission in certain circumstances outlined in 6.3 below.

5.5 Student health information and student employment records will not be disclosed to individuals or entities outside of the university without the student's permission. Within the university, only those individuals who have a legitimate need to know the information will be given access to such information. The university will take appropriate steps to secure student health information.

5.6 The university will safeguard student financial information and take appropriate steps to protect students against identity theft.

6. PROCEDURES

6.1 Inspection

Students who wish to inspect and review their education records may do so by submitting a written request to the custodian for the specific record desired (see section 7.0 for a list of custodians). The custodian must respond within 45 days of the request by sending the student a copy of the requested record or arranging an appointment for the student to review the requested data.

6.2 Copies

The university reserves the right to deny a copy of an education record for which a financial hold exists, or for a transcript of an original source document which exists elsewhere.

6.3 Consent

University employees who maintain education records on students generally must receive written consent from the student before releasing personally identifiable information, evidenced by a signed document. Only in the following circumstances may information be released without the written consent of the student:

- a. A student's education records may be released without consent to officials within the university having a "legitimate educational interest" in such information. Access by these officials is restricted only to students for whom they have professional responsibility and only to that portion of the student record necessary for the discharge of assigned duties.
- b. At its discretion, the university may provide directory information concerning an individual student to anyone, unless the student specifically requests in writing (which may be electronic) that this information not be released. This request for a Privacy Flag should be submitted in writing to the Office of the Registrar within five days of the first day of classes of each school year, but may be requested at any time. The request for a privacy flag may be withdrawn at any time by the student.
- c. The university may also release personally identifiable information contained in a student's record to:
 - Officials of other institutions in which a student seeks to enroll.
 - Government officials in connection with the audit and evaluation of federal and state-supported education programs.
 - Persons and organizations providing the student with financial aid.
 - Persons or organizations conducting research, studies or data collection on behalf of the university for the development of tests, administration of financial aid, or the improvement of instruction.
 - Accrediting agencies.
 - Parents of dependent students as defined by the United States Internal Revenue Code of 1954. Under Virginia law, the university will release information to parents of dependent students at the parent's request. Dependency must be established by the student's signing a dependency form in the Registrar's Office or by the parent's providing to the university the most recent year's federal tax return.
 - Appropriate persons in an emergency in order to protect the health and safety of the student or of others.
 - Parents of dependent students when the student has received mental health treatment at the health center or counseling center, if in the opinion of the treating health care provider the student is likely to be a danger to themselves or others, unless the treating health care provider determines that notification will result in harm to the student, according to the Virginia Privacy Act.
 - Courts, agencies or individuals in compliance with a validly issued judicial order or subpoena. In this case, the student will be notified in advance of disclosing the records (generally with two-week's notice), unless the subpoena specifically mandates that no notice be given.
 - Parents of a dependent student when the student has violated university rules or criminal laws concerning alcohol or drugs.

6.4 Challenging the Contents

Students may challenge the contents of an education record that they consider to be inaccurate, misleading or otherwise in violation of their privacy rights. Students may initiate a challenge by submitting a written request to the custodian of the particular record in question who shall attempt to resolve the problem through informal discussions. If a challenge to a record is not satisfactorily resolved by this procedure, students will be informed of their right to a formal hearing, the procedures to be followed concerning such a hearing, and the composition of the

hearing panel. Students requesting a hearing will be notified in writing of the date, place, and time of their hearing. At the hearing, students may present evidence in support of their request and may be assisted by an advisor or attorney.

Decisions of the hearing panel are final. If decisions of the hearing board are unsatisfactory to students, they may place in the education records their own statement commenting on the information contained in the record and setting forth any reason for disagreeing with the decision of the hearing panel.

6.5 Waivers/permission

Students may waive any of their FERPA rights including the release of their education records by providing written consent (which may be electronic). Such permission must be signed and dated by the student and specify the exact records to be released and the individual to whom the records should be released.

6.6 Student Employment Records

A student wishing to see their employment records may request them from the office that maintains the records.

6.7 Student Treatment Records

A student wishing to see their treatment records may request them from the office that maintains the records, but the health care provider may decline to provide access to the student in appropriate circumstances.

6.8 Education Records

The university offices maintaining education records shall keep a record of all parties obtaining access to the contents of student records (except in case of requests by students for access to their own record; by school officials with legitimate educational interests; by parties with specific written consent of the student; or by parties requesting directory information). This record of requests must identify the person(s) seeking and obtaining information contained in a record, the nature of the information disclosed, the date of the disclosure, and the notice to the student of the disclosure, if any. The record of disclosures is available for inspection by the student identified by the record.

7. RESPONSIBILITIES

It is the responsibility of university health providers maintaining student treatment information to safeguard the privacy of student health records.

It is the responsibility of university officials maintaining student employment records to safeguard the privacy of those records. It is also the responsibility of these officials to arrange for access by the student to their own employment records.

It is the responsibility of custodians of education records to comply with this policy and safeguard the privacy of student records. It is also the responsibility of these officials to arrange for access by the student to their own education records.

| RECORD | OFFICE | CUSTODIAN | WEBSITE |
|-----------------------|--|--|---|
| Permanent Academic | Office of the Registrar | University Registrar | http://www.jmu.edu/registrar/ |
| Academic (transcript) | Office of the Registrar | University Registrar | http://www.jmu.edu/registrar/transcripts.shtml |
| Disciplinary | Office of Student Accountability and Restorative Practices | Director of OSARP | https://www.jmu.edu/osarp/index.shtml |
| Financial Aid | Financial Aid & Scholarships | Director of Financial Aid & Scholarships | http://www.jmu.edu/finaid/ |
| Financial Accounts | University Business Office | Director of UBO | https://www.jmu.edu/ubo/index.shtml |

It is the responsibility of university officials who receive requests for information concerning students to consult with the appropriate offices concerning responses to those requests. See Policy [1103](#), Responding to External Requests for Information.

All departments, offices and employees that generate, receive, or maintain public records under the terms of this policy are also responsible for compliance with Policy [1109](#) – Records Management.

8. SANCTIONS

Sanctions will be commensurate with the severity and/or frequency of the offense and may include termination of employment.

9. EXCLUSIONS

The following records are not covered by this policy:

- Records of an instructional, supervisory, administrative and educational nature maintained by university officials for their personal use only.
- Alumni records (generated after a student is no longer enrolled at the institution).

- Records concerning a student who is deceased.
- Law enforcement records.

10. INTERPRETATION

The authority to interpret this policy rests with the President, and is generally delegated to the provost and senior vice president for academic affairs.

Previous Version: April 2014

Approved by the president: May 2014