

6.2 Educational Rights and Privacy Act

The Family Educational Rights and Privacy Act of 1974, as amended, (the “Act”), is a federal law which states (a) that a written institutional policy must be established and (b) that a statement of adopted procedures covering the privacy rights of students must be made available. Each KCTCS college shall maintain the confidentiality of student educational records in accordance with the provisions of the Act and shall accord all the rights under the Act to students who are declared independent and who are or have been in attendance at a KCTCS college. This policy shall apply to all applicable students, regardless of mode of course delivery.

6.2.1 Rights of Inspection

The Act provides students with the right to inspect and review information contained in their education records; to challenge the contents of those records which students consider to be inaccurate, misleading, or otherwise in violation of their privacy or other rights; to have a hearing if the outcome of the challenge is unsatisfactory; and to submit explanatory statements for inclusion in their files if the decision of the hearing panels is unacceptable. The Registrar at each KCTCS college is assigned to coordinate the inspection and review procedures for student education records, which include admissions, personal, academic, and financial files; and academic cooperative education and placement records.

6.2.2 Education Records: Definition

Education records are records directly related to a student which are maintained by each applicable KCTCS college. Education records do not include the following:

1. Records of instructional, supervisory, and administrative personnel, and ancillary educational personnel in the sole possession of the creator and are not accessible or revealed to any other individual except a substitute who may temporarily perform the duties of the creator;
2. Records of a law enforcement unit of KCTCS which are maintained separate from education records, are maintained solely for law enforcement purposes, and are not disclosed to individuals other than law enforcement officers of the same jurisdiction;
3. Records relating to individuals who are employed by a KCTCS college or the System Office and are made exclusively with regard to such individuals in their capacity as employees and are not available for another purpose; (records of persons who are employed solely as a consequence of college attendance, e.g., work-study students, however, are education records);
4. Records created and maintained by a physician, a psychiatrist, a psychologist, or other recognized professional or paraprofessional, such as student health records to be used solely in connection with the provision of treatment to the student and not disclosed to anyone other than for treatment purposes, provided that records

may be disclosed to physicians or professionals of student's choice. Treatment in this context, however, does not include remedial education activities or other activities which are part of the program of instruction at KCTCS colleges; and

5. Records of an institution which contain only information relating to a person after that person is no longer a student at the institution; e.g., accomplishments of alumni.

6.2.3 Request for Review

Students wishing to review their education records must make a written request to the Registrar of the applicable KCTCS college who has custody of the record, listing the item or items to be reviewed. Only those records covered by the Act will be available for review. The items requested shall be made available no later than 45 calendar days following receipt of the written request. Students have the right to a copy of their education records when failure to provide a copy of the record would prevent the student from inspecting and reviewing the record. A copy of the academic record may be refused if a "hold" for non-payment of financial obligation exists. The copies shall be made at the student's expense. The fee for making copies of the education record is set by each institution and must be paid at the time the copy is requested.

6.2.4 Limitations on Students Rights

There are some limitations on the rights of students to inspect records. The students shall have no right of inspection or review of:

1. Financial information submitted by their parents;
2. Confidential letters or recommendations in the student file prior to January 1, 1975, if such documents were intended to be confidential and were used only for the purpose intended;
3. Confidential letters or recommendations in the file subsequent to January 1, 1975, associated with admissions, employment, or job placement; or the receipt of an honor or honorary recognition if the student has waived the student's right to inspect such document(s); and
4. Education records containing information about more than one (1) student, in which case the applicable KCTCS college will permit access only to that part of the record pertaining to the inquiring student.

6.2.5 Waiver of Student's Rights

Students may waive any or all of their rights under the Act. KCTCS does not require waivers and no institutional service shall be denied students who fail to supply waivers. All waivers must be in writing and signed by the student. Students may waive their rights to inspect and review either an individual document (e.g., a letter of recommendation) or classes of documents

(e.g., an admissions file). The items or documents to which students have waived the right of access shall be used only for the purpose(s) for which they are collected. If used for other purposes, the waivers shall be void and the documents may be inspected by the student. The student may revoke the waiver in writing, but by revoking it, they do not regain the right to inspect and review documents collected while the waiver was in force.

6.2.6 Consent Provisions

No person outside KCTCS shall have access to nor shall KCTCS disclose any personally identifiable information from students' education records without the written consent of the student. The consent must specify the records to be released, the purpose of the disclosure, the party or class of parties to whom disclosure may be made; and must be signed and dated by the student. There are, however, exceptions to the consent policy and KCTCS reserves the right, as allowed under the Act, to disclose education records or components thereof without written consent to:

1. Personnel within the KCTCS who demonstrate a need to know and who act in the student's educational interest including faculty, administration, and professional employees and other persons who manage student records;
2. Officials of other institutions at which the student seeks to enroll, on the condition that the applicable KCTCS college or the System Office makes a reasonable attempt to inform the student of the disclosure at the student's last known address, unless the student initiated the request to transfer;
3. Officials of other schools at which the student is currently enrolled;
4. Persons or organizations providing the student financial aid in order to determine the amount of, eligibility for, and conditions of an award, and to enforce the terms of the award;
5. Accrediting organizations carrying out their accrediting functions;
6. Authorized representatives of the Controller General of the United States, the Secretary of the Department of Education, and state educational authorities only if the information is necessary for audit and evaluation of federal or state supported programs;
7. State and federal officials to whom disclosure is required by state statute adopted prior to November 19, 1974;
8. Organizations conducting studies to develop, validate, and administer predictive tests, to administer student aid programs, or to improve instruction, so long as there is no further external disclosure of personally identifiable information and the information is destroyed when no longer necessary for the projects;

9. Parents of dependent students who have established the student's status as a dependent according to Internal Revenue Code of 1954, Section 152 (as amended). This requires a certified copy of the parent's most recent Federal Income Tax Form;
10. Persons in compliance with a judicial order or a lawfully issued subpoena if reasonable effort is made to notify the student; and
11. Appropriate persons in a health or safety emergency, so long as (1) there is a serious threat to the student or others, (2) the knowledge of the information is necessary to meet the emergency, (3) time is of the essence, and (4) the persons to whom the information is disclosed are in a position to deal with the emergency.

6.2.7 Institutional Record of Disclosure

KCTCS shall keep a written record of all such exceptional disclosures and the student shall have the right to inspect that record. The record shall include the names of parties or agencies to whom disclosure is made, the legitimate reasons for the disclosure, and the date of the disclosure. No record of disclosure shall be required for those requests made by students for their own use, those disclosures made with the written consent of the students, those made to officials, or those specified as Directory Information as described below in paragraph 6.2.8.

6.2.8 Disclosure of Education Record Information

With the exception of the exceptions to disclosure of education records noted in paragraph 6.2.6, the KCTCS shall obtain written consent from students before disclosing any personally identifiable information from their education record. Such written consent for disclosure must: a) specify the records to be released; b) state the purpose of the disclosure; c) identify the party or class of parties to whom disclosure may be made; and d) be signed and dated by the student. All such consents shall be maintained in the education record file of the student.

6.2.9 Directory Information

In its discretion, a KCTCS college or the System Office, as appropriate, may provide Directory Information in accordance with the provisions of the Act to include: student name, address, telephone number, date and place of birth, major field of study, dates of attendance, degrees and awards received, the most recent previous educational agency or institution attended by the student, participation in officially recognized activities and sports, and weight and height of members of athletic teams. Students may withhold Directory Information by notifying designated officials in writing within ten (10) calendar days from the first scheduled day of class of the fall term. All written requests for non-disclosure will be honored by the KCTCS college for one (1) academic year. Requests to withhold Directory Information must be filed annually thereafter.

6.2.10 Challenge of Contents of Education Records

Students who believe that their education records contain information that is inaccurate or misleading or is otherwise in violation of their privacy or other rights may discuss their concerns informally with a designated official. If the decision of that person is in agreement with the student's request, the appropriate records shall be amended and the student shall be notified in writing of the amendment(s). If the decision is not in agreement, the student shall be notified within fifteen (15) calendar days that the records will not be amended and the student shall be notified by the official of the student's right to a hearing. Student requests for a formal hearing must be made in writing within thirty (30) calendar days from the mailing of notice to the designated official who, within thirty (30) days of receipt of the written request, shall inform the student of the date, time, and place of the hearing. The student shall be afforded a full and fair opportunity to present evidence relevant to the issue(s) raised. If desired, the student may be assisted or represented, at their own expense, at the hearing by one (1) or more persons of their choice, including an attorney. The hearing may be conducted by any party, including an official of the applicable KCTCS college, so long as the person does not have a direct interest in the outcome of the hearing. The hearing which will adjudicate such challenges will be held by the committee appointed by the college president/chief executive officer. The decision of the hearing panel shall be final, shall be based solely on the evidence presented at the hearing, shall be in writing, and shall summarize the evidence and state the reasons for the decision. The written report shall be mailed to the student and any concerned party within thirty (30) calendar days of the date of the hearing.

- A. If the hearing panel determines that the information at issue is inaccurate, misleading, or a violation of privacy or other rights, the student's record shall be amended in accordance with the decision and the student shall be so informed in writing.
- B. If the hearing panel decision is unsatisfactory to the student, the student may place with the education record a statement(s) commenting on the information in the record, or statement setting forth any reasons for disagreeing with the decision of the hearing panel. The statement(s) shall be placed in the education record and shall be maintained as part of the record and shall be released whenever the records in question are disclosed to an authorized party. Such rights of challenge, however, cannot be used to question substantive educational judgments which are correctly recorded (e.g., course grades with which the student disagrees).

Students who believe that the adjudications of their challenges were unfair or not in keeping with the provisions of the Act may request, in writing, assistance from the college president/chief executive officer of the applicable KCTCS college to aid them in filing a complaint with the Family Educational Rights and Privacy Act Office, Department of Education, Room 40784, Switzer Building, Washington, DC 20202.

6.2.11 Destruction of Records

Once a student has requested access to their records, such student’s record shall not be destroyed until inspection and review have been provided. The following items shall not be destroyed or removed from the record: a) “explanations” placed in the record by the student and b) records of disclosure and requests for disclosures. Each KCTCS college and the System Office reserves the right to destroy information contained in student records and files when information on file is no longer valid or useful, such as letters of recommendation once they have been used for their original purpose.

6.2.12 Housing of Student Records

Student records are maintained in the KCTCS Enterprise Content Management System in accordance with KCTCS Administrative Policy (2.4.2) governing document imaging and capture processes.

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Recommended by	Date	President, KCTCS	Date