STUDENT ADVISORY MEMORANDUM

April 5, 2005

To: College Presidents

From: Vice Chancellor Frederick P. Schaffer

Re: Student Records Access Policy and the Family Educational Rights and Privacy Act ("FERPA") and USA Patriot Act

This memorandum provides guidance on the requirements of federal and state law and Board of Trustees policy on access to student records, and supersedes Student Advisory Memoranda 2000-4, 2000-3, as well as the April 29, 2002 memorandum on the USA Patriot Act. The Board's Student Records Access Policy requires the University and its colleges to be in full compliance with the Federal Education Rights and Privacy Act ("FERPA," also known as the Buckley amendment), and provides for a student appeal procedure to the General Counsel and Vice Chancellor for Legal Affairs, subject to the approval of the Board Committee on Student Affairs and Special Programs. FERPA provides that a student's personally identifiable education records may not be disclosed without the student's written consent, except for directory information and specific exceptions permitted by FERPA. The purpose of this memorandum is to review recent changes and court decisions affecting FERPA, as well as to again circulate the "Guidelines for the Implementation of the CUNY Student Records Access Policy and FERPA," a copy of which is enclosed. The important aspects of FERPA, including directory information and emergencies will also be reviewed.
As a result of the events of September 11, 2001, and the subsequent adoption by Congress of anti-terrorism legislation (USA Patriot Act), questions have arisen about requests from law enforcement authorities for the education records of CUNY college students. We have been dealing with such requests on a case by case basis to protect the individual rights of privacy of our students and faculty, while continuing to help the nation in these times of great concern for national security. In 1970, even before FERPA was enacted, the Board adopted “Guidelines for Access to Student and Faculty Records by Non-College Authorities,” providing that student records, “by their very nature, carry with them an assumption by the students that academic and non-academic records accumulated during their attendance will be treated with the utmost circumspection and prudence.” (Board Minutes, February 24, 1970, Cal. No. 3b) The Board policy provides that before the release of student or faculty records, notification should be provided to the student or faculty member, the President, and the General Counsel, of the receipt of the subpoena. It is important that the University continue to examine each request carefully to insure consistency and compliance with FERPA, as well as with University policies. Accordingly, if you receive any such requests for student, faculty, or staff records, please contact me, Michael Solomon, or Lisa Ortiz at this office.

The United States Supreme Court recently decided two major FERPA cases, the first such cases since the law’s adoption in 1974. In Ossasso Independent School District v. Falvo, 122 S. Ct. 934 (2002), the Court decided that peer grading (papers exchanged among students for purpose of grading) does not violate FERPA, because at least at that point of time the grades and papers are not being maintained by the school as educational records, and in Doe v. Gonzaga, 122 S. Ct. 2268 (2002), the Court decided that FERPA does not create a private right of action which can be maintained by an individual. As a result, the only penalty for a FERPA violation may be a loss of federal funds.

On the legislative side, FERPA was amended by the Campus Sex Crimes Prevention Act which requires registered sex offenders to report to the state authorities each college at which they are a student or employee, and requires colleges to notify the campus community where they can find information on requested sex offenders. The law amends FERPA to allow for the release of information related to the conviction of sex offenders who are students, and is dealt with in more detail in a separate advisory on that subject.

**Disclosure to City University and College Officials**

A college may disclose personally identifiable information from an education record of a student without prior consent if the disclosure is to a college, Central Office or Board of Trustees official, employee or agent, whom the college has determined to have a legitimate educational interest in that student’s record.

**USA Patriot Act**

The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (“USA Patriot”) Act of 2001, added a provision to FERPA which empowers the United States Attorney General (or any federal employee of the rank of
assistant attorney general or higher, designated by the U.S. Attorney General) to obtain a court order for the production of education records, relevant to an investigation of terrorism, by certifying to the court that there are “specific and articulable facts” giving reason to believe that the education records are likely to contain information relevant to the investigation and prosecution of terrorism. Furthermore, under the USA Patriot Act, the U.S. Attorney General may obtain a court order for the confidential production of student records, which could be applicable to one or more campuses. Such an order supersedes the usual FERPA requirements regarding record keeping and student notification. If you receive any court order pursuant to the USA Patriot Act, please call this office immediately. This statute, however, did not eliminate the CUNY requirement for student notification. A student must still be notified unless there is also a non-disclosure order.

Emergency Exception to FERPA

Under the emergency provision of FERPA, a college may disclose a student’s personally identifiable information in connection with an emergency if such disclosure is necessary to protect health or safety. The FERPA regulations require that this exception be “strictly construed.” The factors to be considered include: (a) the seriousness of the threat to health or safety; (b) the need for the information to meet the emergency; (c) whether those to whom the information is disclosed are in a position to deal with the emergency; and (d) the extent to which time is of the essence. If you receive such a request, please call my office immediately. When such a request is made, the college should obtain a written statement from a law enforcement officer that the information is needed because of a serious threat to health or safety, and that time is of the essence. A record must then be maintained of the disclosure, but notice need not be given to the student.

Subpoenas

Law enforcement authorities may also seek student information through lawfully issued subpoenas. When information is to be disclosed pursuant to a subpoena, the college must notify the student by mail five days in advance of compliance, unless a shorter notification period is authorized by this office. Sometimes, for law enforcement purposes, subpoenas will direct that their contents not be disclosed to the student. (See below regarding Non-Disclosure Order.) Such subpoenas may also be directed to more than one college on the same matter. Subpoenas for records which are served upon CUNY or its colleges must be signed by a judge (i.e., so ordered), in accordance with Section 2307 of the New York State Civil Practice Law and Rules (CPLR). While there are certain exemptions to the requirement (e.g., grand jury subpoenas), you should contact this office whenever you receive a subpoena. When college officials receive routine subpoenas (e.g., negligence or matrimonial matters), they should be faxed to Lisa Ortiz in this office for guidance. Any subpoenas which may relate to investigations into terrorism or other criminal activities, or to immigration matters should be faxed to Michael Solomon.

Non-Disclosure Order (Subpoenas)

The University’s “Guidelines for the Implementation of the [Board’s] Student Records Access Policy” (Attached, Section I(E)(6)), provide that where there is a judicial order or court-
ordered subpoena, the college must notify the student by mail of the subpoena five days in advance of compliance, except a shorter period may be authorized by the General Counsel. Generally, the only exception is when a court has ordered that the existence or the contents of the subpoena not be disclosed. If you receive a request not to disclose a subpoena, whether or not there is also a non-disclosure order, you should contact Michael Solomon of this office before taking any action to turn over documents or to notify the student.

**Directory Information**

Some categories of student data constitute "directory information" and may be provided to persons with a legitimate interest in such information, without an emergency determination, court order, or subpoena. Directory information includes: a student's name, attendance dates (not daily records), address, telephone number, date and place of birth, photograph, e-mail address, full or part-time status, enrollment status (undergraduate, graduate, etc.), level of education (credits) completed, major field of study, degree enrolled for, participation in recognized activities and sports (teams), previous schools attended, and degrees, honors and awards received. Directory information does not include: a student's social security number, identification number, class schedule, race or ethnicity, or a class roster (register or list). Prior to releasing any directory information, the college should check with the registrar whether the student has filed a Directory Information Non-Disclosure Form prohibiting the release of such information. If so, the college must follow the non-disclosure directive.

**Non-Disclosure Form for Directory Information**

Since directory information records are not protected from disclosure by federal law, these records are also subject to being released pursuant to the State Freedom of Information Law (FOIL). It is therefore important to notify students about directory information and of their right to file a request with the Registrar not to have any part of, or all, directory information released. If a student files such a request, the directory information will also not be released pursuant to FOIL because it is then protected by federal law. Attachment D to the Guidelines is a Directory Information Non-Disclosure Form which should be made available to students at the Registrar's office. Attachment E is the Notification Under FERPA of Student Rights Concerning Education Records and Directory Information which must be provided to students in an annual publication or other notification. Emphasis has been given in the FERPA notification to the student's right to object to the disclosure of directory information. I also recommend that the college print a copy of Attachment D in a registration booklet and post it on your website.

**Litigation By or Against a Student**

A student's records may be used in litigation brought by the student against CUNY, or litigation commenced by CUNY against the student. FERPA also permits CUNY to provide information to a third party where the student has complained about his treatment by CUNY (e.g., student writes to a legislator complaining about a grade or dismissal).
Social Security Numbers

State Education Law Section 2-b, which became effective July 11, 2001, prohibits the use of student social security numbers for any public identification purpose, and itemizes four common uses of social security numbers as meeting that definition: (1) the posting or public listing of grades; (2) placement on class rosters or other lists provided to teachers; (3) placement on student identification cards; and (4) use in student directories or similar listings. With the exception of class rosters which are not publicly circulated, all of the enumerated uses are also prohibited by FERPA. The statute does not prohibit use of a student’s social security number to identify the student for internal record keeping purposes. Colleges may continue to use a student’s social security number to identify the student for internal purposes such as admissions, financial aid and other functions where the social security number is used to track students or to match the student’s records with those of other schools, colleges or governmental agencies.

Disclosure to Parents

Records may not be released to a parent unless the student is a dependent of the parent as defined in the Internal Revenue Code (Section 152). A dependent student is: (a) one who will not have attained the age of 19 by the end of the calendar year or (b) one for whom the parent(s) provides more than one-half of the student’s support, not taking into account scholarship monies, provided that the student is full-time for at least five months of the calendar year. A copy of the parent’s latest tax return may by requested as documentation.

Sole Possession of the Maker Records

This category of records is not required to be disclosed to a student requesting the same. Such records are defined to be 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 a temporary substitute for the maker of the records. These personal notes or “memory aids” are the only records maintained by faculty members or administrators which do not have to be shown to students upon request. Other limited exceptions such as letters of reference are discussed in the Guidelines.

FERPA Appeals Officer

The College President designates a FERPA Appeals Officer, who may be the college’s Legal Affairs Designee. The FERPA Appeals Officer will hear student appeals from the denial of access to records, requests to correct records, or the denial of other rights under FERPA. You need to inform me of your designee as FERPA Appeals Officer only if it is someone other that your Legal Affairs Designee.

Federal Inquiries on Computer, Library, Voicemail, E-mail, Network Information, Etc.

The USA Patriot Act is a long statute (more than 100 pages) with many provisions regarding access by law enforcement agencies to different types of stored electronic information. Many of the provisions are amendments to statutes and are very technical in nature. Call this office immediately if you receive any requests for such information.
Faculty and Staff Records

Safeguards for privacy are also accorded to faculty and staff pursuant to Board and University policy. Subpoenas should be forwarded to this office; they should be ordered by a court; and five days notice should be given to the employee prior to compliance, unless the court has issued a non-disclosure order.

Any questions about the implementation of FERPA in specific situations should be addressed to this office.

Encls.

c:  Chancellor's Cabinet
    Chief Academic Officers
    Chief Administrative Officers
    Chief Student Affairs Officers
    Legal Affairs Designees
    Registrars
    Chief Librarians
    Chief Information Officers
    Deputy Chief Operating Officer
    University Chief Information Officer
    University Dean for Institutional Research
    University Director of Public Safety
    University Librarian

The Student Records Access Policy of the Board of Trustees of The City University of New York (CUNY) provides that the University and its colleges shall be in full compliance with the Federal Family Educational Rights and Privacy Act (FERPA) and its implementing regulations. These Guidelines contain four sections which set forth the: (I) Requirements of FERPA; (II) Components of directory information which may be released without prior consent; (III) Annual notification of students' rights concerning educational records and directory information; (IV) Rights of appeal to the Office of the General Counsel and Vice Chancellor for Legal Affairs.

Student Consent Required. A student's written consent is required to disclose personally identifiable information contained in education records, with the exception of directory information (Section II) and the other exceptions noted in these Guidelines (Section I(E)). The student's written consent must: (1) specify the records that may be disclosed; (2) state the purpose of the disclosure; and (3) identify the party or class of parties to whom the disclosure may be made.

At the end of these Guidelines, five forms are attached which are necessary for the College's compliance with FERPA, as follows:

A. FERPA Computer Data Base Access Notice.

B. College Denial of Appeal for Access to Records (with notice of right to appeal to the Office of the General Counsel and Vice Chancellor for Legal Affairs).

C. FERPA Appeal to the General Counsel and Vice Chancellor for Legal Affairs.

D. Directory Information Non-Disclosure Form (informing students of the categories of directory information and giving them the right to object to the disclosure of all or any of the categories).

E. Notification Under FERPA of Student Rights Concerning Education Records and Directory Information (required to be published in the college's catalogues and posted in the registrar's office).
CUNY Office of General Counsel
October 19, 2000

I. **REQUIREMENTS OF FERPA.**

A. **DEFINITIONS:**

1. **Student.** With respect to education records, a student is a current or former student at a college. An applicant is not a student until he/she attends a college.

2. **Education records.** Any data or information recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche, which directly relates to a student and is maintained by a college or the Central Office, constitutes an education record. Information about a student that is maintained by an educational institution on a computer data base is part of a student’s education record and thus protected by FERPA. Access to such information should be limited to those individuals who are college officials with a legitimate educational interest in the information. A FERPA computer data base access notice is annexed to this memo (Attachment A).

3. **Personally identifiable information.** Information that makes an education record “personally identifiable” to a particular student includes:

   a. The student’s name;
   b. The name of the student’s parent or other family member;
   c. The address of the student or other family member;
   d. A personal identifier, such as the student’s social security number or student number;
   e. A list of personal characteristics that would make the student’s identity easily traceable; or
   f. Other information that would make the student’s identity easily traceable.

4. **Legitimate Educational Interest.** A person has a legitimate educational interest in obtaining access to a particular record if access is reasonably necessary in order to perform his/her instructional, research, administrative or other duties or responsibilities.

5. **FERPA Appeals Officer.** Official or employee designated by the College President to hear student appeals from denials of access to records, requests to correct records, or other rights under FERPA, generally the Legal Affairs Designee.
B. PROCEDURES TO REVIEW AND INSPECT RECORDS.

FERPA requires that a student’s education records be provided within 45 days of the college’s receipt of a request for access. (Note that a student is not entitled to the records listed in Section C.) A student should submit to the appropriate official a written request that identifies the records the student wishes to inspect. Although a request may be oral, the college should require requests to be in writing, especially if the request cannot be immediately fulfilled to the satisfaction of the student. A college official may be present when the student inspects and reviews his/her education records.

A request should be granted or denied in writing within 15 days or, if longer is required, a reasonable time from receipt of the request. If the request for access is denied or not responded to within 45 days of receipt, the student may appeal to the College FERPA Appeals Officer. The appeal must be in writing and should identify the particular records to which access was requested, the date of the original request for access, the person to whom the request was made, and the reasons why the student believes he/she has a right of access to the record. A decision on the appeal shall be rendered by the FERPA Appeals Officer no later than 30 days after the receipt of the appeal.

A denial of an appeal for access must be in writing and contain the reasons for the denial and a statement that the student has a further right of appeal to the General Counsel and Vice Chancellor for Legal Affairs within 30 days of the date of the denial. (A suggested form for a college’s denial of an appeal is annexed hereto as Attachment B.) The student may thereafter send an appeal to the Office of the General Counsel and Vice Chancellor for Legal Affairs of The City University of New York at 535 East 80th Street, New York, New York, 10021, a form for which is annexed hereto as Attachment C.

C. RECORDS NOT MANDATORILY ACCESSIBLE.

A student has no right to, and a college need not permit, inspection and review of the following types of records:

1. Confidential letters and confidential statements of recommendations placed in the education records before 1975, or after January 1, 1975, if the student has waived his or her right to inspect and review those letters and statements, and those letters and statements are related to the student’s: (a) admission to an educational institution; (b) application for employment; or (c) receipt of an honor or honorary recognition;
and the waiver is not required as a condition of admission to or receipt of another service or benefit from the college.

2. Financial records of his or her parents, and any information those records contain.

3. Records pertaining to the student of instructional or administrative staff which are in the sole possession of the maker, are used as a personal memory aid and are not accessible or revealed to another person except a temporary substitute.

4. Records pertaining to the student, which are maintained on behalf of a college by college security personnel (i.e., law enforcement unit) or by a contract guard service, provided that such records are: (a) maintained apart from other records pertaining to the student; (b) maintained solely for law enforcement purposes; (c) only made available to local law enforcement officials; and (d) security personnel and the contract guard service do not have access to other records pertaining to the student. Security records are not education records and their disclosure is governed by the State Freedom of Information Law (FOIL) and federal law on campus security.

5. Employment records of a college employee who may be a student provided that: (a) such records are normally maintained by the college; (b) relate exclusively to the individual’s employment; (c) are used only for employment purposes; and (d) such employment is not the result of student status.

6. Records pertaining to the student which are made by a physician, psychiatrist, psychologist, or other recognized professional/paraprofessional acting or assisting in his or her professional or paraprofessional capacity, which: (a) are created, maintained, or used only in connection with the provision of treatment of the student; and (b) are not disclosed to anyone other than the individuals providing the treatment.

7. Records which pertain to a student generated after he/she is no longer an enrolled student at the college.

8. Any other record, which, pursuant to any other law or regulation, is privileged, or which is otherwise inaccessible to the student.

D. PROCEDURES FOR AMENDING OR CORRECTING RECORDS.

Under FERPA, if a student believes that his/her education records contain information that is inaccurate, misleading, or in
violation of the student’s rights of privacy, he or she may ask the college to amend the record. The college shall decide whether to amend within a reasonable time after receiving the request. If the college denies the student's request, it shall inform the student of its decision and of the student’s right to appeal to the college’s FERPA Appeals Officer to challenge the content of the student’s education records on the grounds that the information contained in the education record is inaccurate, misleading, or in violation of the privacy rights of the student. A student may not contest the assignment of a grade through this procedure, but may contest whether the assigned grade was recorded accurately.

The college’s FERPA Appeals Officer shall hold a hearing within a reasonable time after receipt of the appeal; reasonable notice of the date, time and place of the hearing shall be given to the student. The student shall be given a full and fair opportunity to present relevant evidence. He/she may be assisted or represented by one or more individuals of his/her choice. The decision must be based solely on the evidence presented at the hearing. The college’s FERPA Appeals Officer shall within a reasonable time after the hearing issue a decision in writing and include a summary of the evidence and the reasons for the decision.

If as a result of the hearing, the FERPA Appeals Officer decides that the information is inaccurate, misleading or otherwise in violation of the student’s privacy rights, the college shall: (a) amend the record accordingly; and (b) inform the student of the amendment in writing. If, on the other hand, the college decides that the information is correct and not in violation of the student’s privacy rights, it shall inform the student of his/her right to place a statement in the record commenting on the contested information or stating why he or she disagrees with the decision of the college. If a statement is placed in the education records of the student, the college shall maintain the statement with the contested part of the record for as long as the record is maintained and disclose the statement whenever it discloses the portion of the record to which the statement relates.

E. DISCLOSURE OF EDUCATION RECORDS WITHOUT PRIOR CONSENT.

A college may disclose personally identifiable information from an education record of a student without prior consent under the following circumstances:

1. A college may disclose personally identifiable information from an education record to appropriate parties in an
emergency if the information is necessary to protect health or safety. The factors to be considered include: (a) the seriousness of the threat to health or safety; (b) the need for the information to meet the emergency; (c) whether the parties to whom the information is disclosed are in a position to deal with the emergency; and (d) the extent to which time is of the essence. The Office of the General Counsel and Vice Chancellor for Legal Affairs should be consulted, if possible, prior to the release of information under this emergency provision.

2. The disclosure is to a college, Central Office or Board of Trustees official, employee, or agent, such as an attorney representing the college, whom the college has determined to have a legitimate educational interest in the particular student’s records.

3. The disclosure is to an official or employee of another college, or other institution of postsecondary education, who indicates that the student seeks or intends to enroll, provided that the college also gives the student written notice of such disclosure, and upon request, a copy of the record that was disclosed.

4. The disclosure is to authorized representatives of the Comptroller General of the United States; the Secretary of Education of the United States; the Attorney General of the United States; or State and local educational authorities, where access to the education records is in connection with an audit or evaluation of Federal or State supported education programs or for the enforcement of or compliance with Federal legal requirements which relate to those programs.

5. The disclosure is in connection with financial aid for which the student has applied or which the student has received, if the information is necessary for purposes such as the determination of eligibility, and the amount thereof, and enforcement of the terms and conditions of the aid.

6. The disclosure is to comply with a judicial order or court-ordered subpoena. In such instances, the college must notify the student by mail of the subpoena five days in advance of compliance, except a shorter period may be authorized by the General Counsel and Vice Chancellor for Legal Affairs, unless the disclosure is in compliance with a subpoena issued for law enforcement purpose where the court has ordered that the existence or the contents of the subpoena or the information furnished in response not be disclosed. The Office of the General Counsel and Vice Chancellor for Legal Affairs should be contacted if a law enforcement agency such as a District
Attorney, United States Attorney, or Grand Jury issues a subpoena for a student's records, and wants the records released without a court order, or if there is a notice of production in a federal case.

7. The disclosure is information in a student's education records concerning disciplinary action taken against the student, to administrators, faculty and staff who have a legitimate educational interest in the behavior of the student. Such disciplinary action includes charges, investigation and adjudication. FERPA also permits this type of disclosure to officials in other colleges who have a legitimate educational interest in the behavior of the student, where the disciplinary action is taken against the student for conduct that posed a significant risk to the safety or well-being of that student, other students or other members of the college community. Such disciplinary records are otherwise education records which may not be disclosed except as otherwise specifically permitted by law.

8. The disclosure is to an alleged victim of any crime of violence, or a nonforcible sex offense, of the results of any disciplinary proceeding against the alleged perpetrator. Such crimes include the use, attempted use, or threatened use of physical force against the person or property of another or any other offense that is a felony and involves a substantial risk of such physical force, as well as any sex offense. In addition, in cases involving any sex offense under the State Penal Law, including any sexual assault, the accuser has the right to be present at the disciplinary hearing, be accompanied by someone of his/her choice, and be informed of the outcome of the hearing.

9. A college may release the final results of any disciplinary proceeding where the accused student is determined to have committed any crime of violence or a nonforcible sex offense. The final results which may be released are the disciplined student's name, the violation committed, and the sanction imposed. The violation committed includes the rules violated and the essential findings of fact supporting the determination. This only applies to disciplinary proceedings in which the final results were reached after October 6, 1998. The information released may not include the name of any other student, such as a victim or witness, absent the consent of that student.

10. A college may disclose records to a parent if the student is a dependent of the parent as defined in the Internal Revenue Code (Section 152). A dependent student is: (a) one who
will not have attained age 19 by the end of the calendar year or (b) one for whom the parent(s) provides more than one-half of the support provided that the student is full-time for at least five months of the calendar year, not taking into account scholarship moneys. A copy of the parent's latest tax return may be requested as documentation.

11. If a college determines that a student under the age of 21 has committed a disciplinary violation with respect to the use or possession of alcohol or a controlled substance, the parent or legal guardian may be informed. The determination may be made other than through a disciplinary proceeding. The student must be under 21 at the time of the disclosure.

12. A student's records may be used in litigation brought by the student against CUNY, or litigation commenced by CUNY against the student. Information may also be provided to a third party when the student has complained about his treatment by the college (e.g., student writes to a legislator complaining about grades or dismissal).

F. RECORD KEEPING REQUIREMENTS.

The Registrar's office of each college shall maintain a record of each request for and disclosure of a student education record, other than directory information. For each disclosure, the record must include the parties who have requested and received personally identifiable information from the education records and the basis for obtaining the information.

G. REDISCLOSURE OF INFORMATION.

A college may disclose personally identifiable information from the education records of a student, except for directory information, only on the condition that the party to whom the information is disclosed will not disclose the information to any other party without the prior consent of the student or the college's authorization. Personally identifiable information which is disclosed to an institution, agency or organization, however, may be used by its officers, employees and agents, but only for the purposes for which the disclosure was made. The party to whom the disclosure is made shall be informed in writing of this requirement.
II. DIRECTORY INFORMATION.

A college may disclose directory information to persons with a legitimate interest in such information. Directory information consists of a student’s name, attendance dates (not daily records), address, telephone number, date and place of birth, photograph, e-mail address, full or part-time status, enrollment status (undergraduate, graduate, etc.), level of education (credits) completed, major field of study, degree enrolled for, participation in officially recognized activities and sports (teams), the height and weight of members of athletic teams, previous school attended, and degrees, honors and awards received. Dates of attendance are the years or dates (semesters, sessions) the student has been enrolled, not daily records of attendance. Directory information does not include a student’s social security number, identification number, race, ethnicity or gender. However, each college must inform its students about directory information and allow them to request that the college not disclose such information. A student may request that any part of, or all, directory information not be released without prior written consent by completing a form to be made available in the registrar’s office of each college during regular business hours. A copy of a Directory Information Non-Disclosure Form is annexed (Attachment D).

III. NOTIFICATION OF RIGHTS.

Each college shall inform its current students of their rights under FERPA at least annually, by publishing a notice in the college’s catalogues and posting it in the Registrar’s office. If the college catalog is not published every year, the notice should also be in a publication distributed to all students at least once a year. Colleges must include in the notification: (1) a statement of the procedures for inspection and review and amendment of education records; (2) the procedure for requesting amendment of records, the criteria for determining who is a college official, and what is a legitimate educational interest; (3) rights of appeal; and (4) directory information and how to request non-disclosure. A Notification Under FERPA of Student Rights Concerning Education Records and Directory Information is annexed to this memorandum (Attachment E).

IV. RIGHTS OF APPEAL FROM COLLEGE DECISION.

Student appeals of alleged failures by any college to comply with the requirements of FERPA may be made to the college FERPA Appeals Officer, and then the General Counsel and Vice Chancellor for Legal Affairs within 30 days of the decision of the college’s
FERPA Appeals Officer. Decisions of the General Counsel and Vice Chancellor for Legal Affairs shall be submitted to the Board Committee on Student Affairs and Special Programs for its approval, and the student may submit a response. Annexed hereto is a form for appeals to the Office of the General Counsel and Vice Chancellor for Legal Affairs (Attachment C), which must be in writing, and include a copy of the determination of the college's FERPA Appeals Officer and the reasons why the student disagrees with the determination. If the college FERPA Appeals Officer does not issue a decision within 30 days of an appeal or the holding of a hearing thereon, whichever is later, the student may then also file with the Office of the General Counsel and Vice Chancellor for Legal Affairs.

The Vice Chancellor for Legal Affairs shall render a decision no later than 30 days after the receipt of the appeal. This appeal shall be made prior to a student exercising his/her statutory right of appeal to the Family Policy Compliance Office of the U.S. Department of Education, 600 Independence Avenue, SW, Washington, D.C., 20202-4604.
FERPA COMPUTER DATA BASE ACCESS NOTICE

YOU ARE ATTEMPTING TO ACCESS INFORMATION THAT IS PROTECTED BY FEDERAL STUDENT PRIVACY LAW. DISCLOSURE TO UNAUTHORIZED PARTIES VIOLATES THE FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA). YOU SHOULD NOT ATTEMPT TO PROCEED UNLESS YOU ARE SPECIFICALLY AUTHORIZED TO DO SO. WHEN ACCESSING THE SYSTEM, YOU MUST ACCESS ONLY THAT INFORMATION NEEDED TO COMPLETE YOUR ASSIGNED OR AUTHORIZED TASK. YOU MAY COMMUNICATE THE INFORMATION ONLY TO OTHER PARTIES AUTHORIZED TO HAVE ACCESS IN ACCORDANCE WITH THE PROVISIONS OF FERPA. IF YOU HAVE ANY QUESTIONS ABOUT THOSE PROVISIONS, PLEASE CONTACT ______________

PLEASE ENTER YOUR NAME, TODAY’S DATE, THE NAME OF THE FILE YOU ARE ACCESSING, AND THE PURPOSE.

CUNY Office of General Counsel
April 19, 1999
COLLEGE DENIAL OF APPEAL FOR ACCESS TO RECORDS

Date:______________

Dear Student:

Your appeal for access to student records has been denied. You requested access to (state specific or general category of records).

The reason for the denial of your appeal is that (provide reasons, such as the records do not exist, the records have been discarded, you are not entitled to access because, e.g., cite exception such as confidential letters of reference, psychologist’s records, etc.).

You may appeal within 30 days of the date of this letter to the:

Office of the General Counsel and
Vice Chancellor for Legal Affairs
The City University of New York
535 East 80th Street
New York, New York 10021

A form for appealing to the General Counsel and Vice Chancellor for Legal Affairs is attached (See Attachment C).

Yours truly,

FERPA Appeals Officer

CUNY Office of General Counsel
April 19, 1999
FERPA APPEAL TO THE GENERAL COUNSEL AND
VICE CHANCELLOR FOR LEGAL AFFAIRS

Use this form to appeal the denial of your college appeal for
access to student records or other alleged denial of FERPA
rights. You must appeal within 30 days of the date of the
college's denial. Send this form to the address indicated below.

To: General Counsel and Vice Chancellor for Legal Affairs
    The City University of New York
    535 East 80th Street
    New York, New York 10021

Name:___________________________________________.
Address:________________________________________.
Phone:__________________________________________.
College:_________________________________________.

I write to appeal the College's denial of my appeal in a
letter dated _____________.
I enclose the following documents.
_____ College's denial of my appeal.
_____ My appeal to the college.
_____ College's initial denial of access
_____ My initial request for access to records.
_____ Additional documents (please itemize):

________________________________________________

________________________________________________

Please provide the basis for your appeal (you may attach
additional pages):
________________________________________________

________________________________________________

________________________________________________

________________________________________________

Dated:_________________ Signed:_________________

CUNY Office of General Counsel
April 19, 1999
DIRECTORY INFORMATION NON-DISCLOSURE FORM

This form must be filed with the Registrar's Office if you do not wish any or all directory information disclosed without your prior consent. Directory information otherwise may be made available to any parties deemed to have a legitimate interest in the information. The instructions on this form may be changed at any time by filing a new form with the Registrar's Office. You should initial the appropriate spaces.

Name of student: ____________________________________________

Student ID number: _________________________________________

A. ______ I DO NOT WANT ANY DIRECTORY INFORMATION DISCLOSED WITHOUT MY PRIOR CONSENT. (If you initial this space you do not have to fill out the rest of this form, but must date and sign below.)

B. ______ I do not want the following categories of directory information disclosed without my prior consent. (Initial those items which you do not want released.)

   ______ Name.
   ______ Attendance dates (periods of enrollment).
   ______ Address.
   ______ Telephone number.
   ______ Date of birth.
   ______ Place of birth.
   ______ Photograph.
   ______ E-mail address.
   ______ Full or part-time status.
   ______ Enrollment status (undergraduate, graduate, etc.).
   ______ Level of education (credits) completed.
   ______ Major field of study.
   ______ Degree enrolled for.
   ______ Participation in officially recognized activities other than sports.
   ______ Participation in sports (teams).
   ______ Height if member of athletic team.
   ______ Weight if member of athletic team.
   ______ Previous school attended.
   ______ Degrees received.
   ______ Honors and awards received.

C. ______ I want my prior instructions not to release directory information withdrawn. I now authorize the college to release all of my directory information to parties with a legitimate interest.

Dated:__________ Signed:____________________

CUNY Office of General Counsel
October 11, 2000
NOTIFICATION UNDER FERPA OF STUDENT RIGHTS
CONCERNING EDUCATION RECORDS AND DIRECTORY INFORMATION

The Family Educational Rights and Privacy Act (FERPA) affords students certain rights with respect to their education records. See Section "6" below on your right to prevent the disclosure of directory information. The FERPA rights of students are:

(1) The right to inspect and review your education records.

Students should submit to the registrar, dean, head of the academic department, or other appropriate official, written requests that identify the record(s) they wish to inspect. If the records are not maintained by the college official to whom the request was submitted, that official shall advise the student of the correct official to whom the request should be addressed.

All requests shall be granted or denied in writing within 45 days of receipt. If the request is granted, you will be notified of the time and place where the records may be inspected. If the request is denied or not responded to within 45 days, you may appeal to the college’s FERPA appeals officer. Additional information regarding the appeal procedures will be provided to you if a request is denied.

(2) The right to request the amendment of the student’s education records that the student believes are inaccurate or misleading.

You may ask the college to amend a record that you believe is inaccurate or misleading. You should write to the college official responsible for the record, clearly identify the part of the record you want changed, and specify why it is inaccurate or misleading.

If the college decides not to amend the record as requested by you, the college will notify you of the decision and advise you of your right to a hearing before the college’s FERPA appeals officer regarding the request for amendment. Additional information regarding the hearing procedures will be provided to you when notified of your right to a hearing.

(3) The right to consent to disclosure of personally identifiable information contained in your education records, except to the extent that FERPA authorizes disclosure without consent.

One exception which permits disclosure without consent is disclosure to college officials with legitimate educational interests. A college official is a person employed by the university in an administrative, supervisory, academic or research, or support staff position; a person or company with whom the University has contracted; a person serving on the Board
of Trustees; or a student serving on an official committee, such as a disciplinary or grievance committee, or assisting another college official in performing his or her tasks.

A college official has a legitimate educational interest if access is reasonably necessary in order to perform his/her instructional, research, administrative or other duties and responsibilities.

Upon request, the college discloses education records without consent to officials of another college or school in which a student seeks or intends to enroll.

(4) You may appeal the alleged denial of FERPA rights to the:

General Counsel and Vice Chancellor for Legal Affairs
The City University of New York
535 East 80th Street
New York, NY 10021.

(5) The right to file a complaint with the U.S. Department of Education concerning alleged failures by the college to comply with the requirements of FERPA. The name and address of the Office that administers FERPA are:

Family Policy Compliance Office
U.S. Department of Education
600 Independence Avenue, SW
Washington, D.C. 20202-4605.

(6) The college will make the following "directory information" concerning current and former students available to those parties having a legitimate interest in the information: name, attendance dates (periods of enrollment), address, telephone number, date and place of birth, photograph, e-mail address, full or part-time status, enrollment status (undergraduate, graduate, etc.), level of education (credits) completed, major field of study, degree enrolled for, participation in officially recognized activities and sports, height and weight of athletic team members, previous school attended, and degrees, honors and awards received. By filing a form with the Registrar's Office, you may request that any or all of this directory information not be released without your prior written consent. This form is available in the Registrar's Office and may be filed, withdrawn, or modified at any time.

CUNY Office of General Counsel
October 17, 2000

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