FERPA Basics

The Family Educational Records and Privacy Act
Some key FERPA terms:

An **eligible student** is a student who is currently enrolled or has previously enrolled at the College.

An **educational record** is any record that is directly related to a student and is maintained by the school. A record is directly related to a student if it contains information which is either personally identifiable, or is easily traceable to the student. (AACRAO)

A **college official** is anyone employed by the College in an administrative, supervisory, academic, research or support staff position who has a “legitimate educational interest.”

**Personally identifiable information** is any information that can be easily linked to a particular student’s identity.

**Disclosure of information** means permitting access to or releasing personally identifiable information to any party. This includes any means of communication such as oral, written or electronic.
The Family Educational Rights and Privacy Act, commonly known as FERPA, gives students

- the right to inspect and review their educational records
- the right to seek to amend educational records
- the right to have some control over the disclosure of information from their records

In general, educational records are available without specific permission to college officials with a legitimate need for access. Information may also be shared with institutions where a student seeks or intends to enroll.

In most other instances, information from a student’s educational records may not be released without the student’s permission.

However...
Certain information is designated as directory information and may be released without the student’s consent. It should not be released indiscriminately if there is any question about the appropriate use of the information.

Release of any other information normally requires the student’s written consent.

Directory information:
- Student’s name
- Current enrollment status
- Participation in officially recognized activities and sports
- Weight and height of members of athletic teams
- Degrees, honors, and awards received
- Major field of study
- Dates of attendance (not individual class sessions)
- Number of credit hours enrolled
Directory information cannot include student identification numbers or social security numbers.
Students may have a “FERPA Flag” put on their records to prevent the release of even this information.

**However . . .**

Students may not use the right to opt out of directory information to prevent disclosure or prevent requiring students to disclose their name, electronic ID number, or institutional e-mail address in a class where they are enrolled. **The right to opt out of directory information disclosure does not include a right to remain anonymous in class.**
Information may be disclosed if the institution has reason to believe that a student poses a threat to him- or herself or to others. FERPA allows the institution to take into account the totality of the circumstances at the time pertaining to the threat. If the institution determines that there is significant threat, it may disclose information to any person whose knowledge of the information is necessary to protect the health and safety of the student and other individuals.

FERPA explicitly allows that a contractor, consultant, volunteer, or other party, to whom an agency or institution has outsourced institutional services or functions, may be considered a school official.

The institution may also release information to an organization conducting a study as long as they have a written agreement with the organization that specifies the purpose of the study and any applicable restrictions on disclosure and destruction of information requirements.
Until July 1, 2008, FERPA was the only law governing the disclosure of educational records (except disability records).

FERPA regulations state that all rights of parents under FERPA transfer to the student when the student reaches age 18 or enrolls in a postsecondary institution.

Current regulations permit disclosure to parents under certain circumstances:

- If the student is claimed as a dependent on the parents’ Federal income tax return(s)
- If there is an immediate health or safety concern
- If a student under 21 has violated the institution’s alcohol or drug policy

Some schools, including NOVA, have misinterpreted the transfer of rights to prohibit any disclosure to parents without the student’s consent.
Virginia legislation, effective July 1, 2008, mandates the release of educational records to parents or court-appointed legal guardians who claim a student as a dependent on their Federal income tax return, regardless of the student’s age.

The right to access does not apply to disability records.

This right applies to both parents, even if they file separately or are separated or divorced, as long as the student is claimed by one of the parents.

The right of access does not apply to a spouse or any other individual claiming the student as a dependent for tax purposes.
Parents or legal guardians may obtain access to their student’s records by presenting a photo ID and a copy of their most recent Federal income tax return to the Campus Registrar. In the case of court-appointed legal guardians, a copy of the court document establishing the guardianship must also be presented.

Under the provisions of FERPA, the College has 45 days to respond to the request. The College is not required to provide copies unless the Campus Registrar determines that it is unreasonable to expect the parent to appear in person.

A copy of NVCC 125-111, signed and dated by the Campus Registrar, must accompany any request for access to a student’s educational records. The original document will be scanned and linked to the student’s record. The document expires on the next Federal income tax filing date.

All requests for information must be made through the Campus Registrar or Dean of Students.