Ms. Patty J. Sturch
Dean of Enrollment Management
Jefferson Community College
4000 Sunset Boulevard
Steubenville, Ohio 43952-3598

JAN 27 2009

Dear Ms. Sturch:

This responds to your letter dated September 9, 2008, regarding the requirements of the Family Educational Rights and Privacy Act (FERPA) as they relate to Jefferson Community College (College) and its obligations regarding the disclosure of education records, specifically the disclosure of education records via facsimile. In this regard, you explain that the College may not have been in compliance with FERPA when the College's Director of Student Support Services received a voicemail message requesting that a copy of a transcript be faxed to a specific number. In response to the message, the director faxed the student's transcript to the number provided. As you are aware, this Office administers FERPA which addresses issues that pertain to education records.

FERPA provides that postsecondary institutions may disclose a student's education records, or personally identifiable information from such records, after an eligible student (a student who has reached the age of 18 or is attending an institution of postsecondary education at any age) has provided prior written consent. 34 CFR § 99.30. "Education records" are defined as records that are directly related to a student and maintained by an educational agency or institution or by a party acting for the agency or institution. 34 CFR § 99.3 "Education records."

As noted above, FERPA generally prohibits the nonconsensual disclosure of information derived from education records, except in certain specified circumstances. 34 CFR §§ 99.30 and 99.31. Furthermore, FERPA does not address the transmission of education records but requires that the method of transmission be secure. When information is sent via facsimile, it is not always guaranteed that the individual is physically present at the fax machine, and often times other individuals can easily gain access to the information that is being faxed. Therefore, we advise schools that prior to sending education records via facsimile to the student who has made the request, the school should have the student submit a signed request in writing asking that his or her education records be sent to the specific fax number. This will ensure that the student has

given written authorization for the education records to be sent to a place where other individuals might gain access and relieves the schools of their FERPA obligation to ensure that unauthorized individuals do not gain access to the records. In this situation, unless someone other that the student made the request to the College for the fax of his or her transcript to a specific number, the student would not have standing to file a complaint under FERPA. We suggest, however, that the College implement a policy that it will not send education records via facsimile unless the student has made their request to the College in writing.

I trust that the above information is helpful in explaining the scope and limitations of FERPA as it applies to your concern.

Sincerely,

Ellen Campbell
Acting Director
Family Policy Compliance Office