This document informs students, faculty, and staff about FERPA protections and requirements for accessing and disclosing student education records. This document also addresses the role of the Office of Student and Trainee Services’ Wellness Intervention Team (WIT) in investigating wellness concerns, and describes how to report concerns about a student’s wellness.
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What is a Wellness Concern?

*Wellness Concern is defined as any situation that would cause a reasonable person to believe that a Baylor College of Medicine (BCM) student is in distress or experiencing a physical, emotional, or psychological health condition that may affect the student’s equilibrium or ability to continue their chosen program of study.*

BCM students are likely to experience significant stress during their school experience that may arise from a variety of sources, such as:

- The demands of their education program;
- Personal experiences unrelated to the education program;
- An emergency medical condition; or
- Major life events.

While some students develop adequate coping strategies others feel overwhelmed by their stressors and have difficulty keeping up with the academic and professional requirements of their chosen course of study, and may experience physical, mental, or emotional distress as a result.

How do I report a Wellness Concern about a student?

If any member of the College community observes a student behavior or speech leading to a Wellness Concern, it should be promptly reported to the appropriate School Dean or Designee (SDD). If the identity of the student is unknown, the concerned community member may contact the Security Office. Security Office personnel will work collaboratively with other administrators to attempt to identify the student and contact the proper Dean or Designee.

I am a student, how do I report my own Wellness Concern?

If a student recognizes that he or she is experiencing distress (i.e., unmanageable stress) and needs to take a leave of absence, request medical accommodation, or to learn more effective coping strategies, the student should report the same to their School Dean or Designee.
Who receives the Wellness Concern report?  
When a Wellness Concern about a student is reported (by the student or another person), the report is sent directly to the student’s School Dean or an academic administrator whom the Dean has designated to receive and review these reports. The Designee is typically the student’s Program Director or Dean of Student Affairs.

What happens after the School Dean or Designee (SDD) is notified of a Wellness Concern? What is the SDD’s role in managing student wellness?

On a case-by-case basis, the SDD has authority and discretion to take any of the following actions upon notice of a Wellness Concern, based on the available information and circumstances of the Concern:

1. Approve & Process an Administrative Leave,
2. Approve & Process Short-Term LOA, or
3. Activate the Wellness Intervention (WIT).

The SDD is responsible for overseeing the investigation and resolution of Wellness Concerns. For more information on the scope of the SDD’s wellness management authority, see below.
What is Administrative Leave for students?

Administrative Leave refers to a period in which the student’s enrollment is involuntarily and temporarily suspended by the School Dean for the express purposes of:

- Investigation and adjudication (if necessary) of an allegation of serious misconduct, except as provided in the Title IX Misconduct and Grievance Policy (02.2.20);
- Investigation of an alleged Wellness Concern, and Administrative Response by the Wellness Intervention Team if necessary; or
- Investigation into a student’s failure to satisfy specific expectations or requirements of their school or program (e.g., unexcused absences beyond 72 hours; deviation from an academic remediation plan).

At the discretion of the SDD, a student may be placed on an Administrative Leave at any time based on documentation or observations of inappropriate, unprofessional, or peculiar conduct.

What is a Short-Term Leave of Absence (LOA)?

A Short-term LOA has a requested or projected maximum duration of 72 hours or less, can be processed directly through the Office of the School Dean or Designee (SDD). The SDD may approve a student’s short-term LOA request, which has the effect of excusing an absence that is due to a medical illness (which does not qualify as a disability under the Americans with Disabilities Act), personal event, or temporary impairment. LOAs that have an actual or projected duration greater than 72 hours will be forwarded to the Wellness Intervention Team (WIT) or other appropriate administrators (e.g., Director of Title IX & Disability Services) for further evaluation and processing. The burden for establishing eligibility for a short-term LOA rests with the student. For more information, refer to Procedures for Requesting Short-Term Accommodations (below).
Student Education Records

How does the Wellness Intervention Team (WIT) get involved in leave of absence and medical issues (like doctor's notes)? What kinds of short term accommodations can School Deans/Designees (SDDs) approve and make on their own?

SDDs activate the WIT. Based on the information contained in the report, the SDD may activate the BCM Wellness Intervention Team in the Office of Student and Trainee Services. The WIT was created by the Office of the Provost to effectuate a coordinated institutional response to each Wellness Concern identified by a SDD, who will activate and direct the WIT activity on a case-by-case basis. For more information on WIT’s role regarding students in distress, see below. At the learner’s request, the WIT can also help process doctor’s notes (which are needed for approval of short-term accommodations).

SDDs Approve & Process Short-Term Accommodations. The School Dean or Designee (SDD) may approve reasonable requests for short-term accommodations related to mild medical illnesses, which are related to medical illnesses that have a projected and actual duration of less than six months (i.e., transitory illness), as well as temporary impairments, and personal events. Short-term accommodations may include excusing a student from a test or assignment, extending an assignment deadline, etc. Refer to procedures for requesting, evaluating, and notifying the student and essential personnel of a short-term accommodation for more information. Long-term accommodations for medical illnesses with a projected duration greater than six months will be processed by the Director of Title IX & Disability Services in the Office of Student Services, as required by the Accommodations for Learners and Program Applicants with Disabilities (23.1.07). In the event that a student’s underlying illness extends beyond six-months, the student will be referred to the Director of Title IX & Disability Services (disability@bcm.edu) for further assessment and/or services, as the SDD does not evaluate or process disability accommodation requests.
What does the Wellness Intervention Team do?
The Wellness Intervention Team (WIT) has three primary administrative functions (which are directed at the discretion of the appropriate School Dean or Designee) and makes recommendations for resolution of Wellness Concerns as provided below.

Acute Care & Threat Assessment. The WIT serves as a coordinating hub of existing resources focused on early identification and intervention for students who are in distress, in-crisis, and/or at risk of harm to themselves or others. School Deans and the WIT acknowledge that not every good faith report of a wellness concern will result in an identifiable concern. If the student is actually in distress, the WIT will facilitate the performance of a threat assessment to determine whether the student is in-crisis, at-risk for self-harm, poses a risk of harm to others, or if it is necessary refer the student for additional consultation (i.e., to Student and Housestaff Mental Health Services or third-party provider) to determine if crisis or significant risk of harm exists. When appropriate under the circumstances, threat assessment will include a Fitness for Duty Evaluation. Regarding acute care assessment, WIT assists the Dean or Designee in facilitating access to BCM resources and/or coordinating short-term treatment (by third-parties) in the event of student’s severe injury, illness, or emergency medical condition. Consult the FAQ on WIT’s threat assessment activities for more information.

Facilitate Access to Academic and Non-Academic Support Resources. Acute Care or Threat Assessment may not be warranted under the circumstances. When appropriate, WIT may refer the student for academic (e.g., academic counseling, instructional support) or non-academic support services (e.g., referrals to health and mental health providers; stress management education). When appropriate, the School Dean or Designee will engage WIT to facilitate access to resources that are subsidized by BCM and/or at the student’s own expense, depending on the nature of the student’s needs.

Facilitate Processing of Leave of Absence (LOA) Requests & Returns from LOA. In the event that student requests a voluntary leave of absence for personal (e.g., family emergency) or medical reasons to exceed 72 hours, or is placed on an involuntary medical leave of absence, the School Dean or Designee will engage WIT to acquire and process required documentation as appropriate to implement a LOA and/or a return from LOA pursuant to approval by the School Dean or Designee.

Makes Recommendations for Resolution of Wellness Concerns. WIT concludes School Dean or Designee directed activities by submitting a list of recommendations to resolve identified problems and/or mitigate anticipated impact(s) of assessments, resources, and/or leave of absence to the student. The School Dean or Designee is responsible for reviewing, weighing, and implementing the
WIT’s recommendations in a manner consistent with all applicable laws, regulations, and accreditation standards. If the School Dean or Designee determines that WIT recommendations conflict with any applicable standard or present unique implementation challenges, the Dean/Designee must propose an alternative plan, and work collaboratively with the WIT to determine a consensus solution. In the event of an impasse between WIT and the SDD, a final review by the Provost is appropriate.
Why does the Wellness Intervention Team (WIT) determine if a health or safety emergency exists? How does the WIT make the determination?

Threat Assessment Team: WIT. FERPA defines a threat assessment team as a group of officials that convenes to identify, evaluate, and address threats or potential threats to College security, which includes the review and assessment of alleged incidents of aggressive or threatening behavior by students. The WIT is BCM’s mechanism to facilitate a threat assessment, and has authority and responsibility to determine whether an emergency exists that requires a medical response or other crisis intervention effort on behalf of the College. The WIT may interview and facilitate the assessment of any student alleged to be in distress, or refer the student to internal entities (e.g., SHMHS) or external entities (e.g., WellConnect; third party healthcare providers and organizations) for assessment and/or consultation for the purpose of collecting information necessary to make a determination on threat or crisis level and effectuating the required institutional response. The WIT may also interview faculty, staff, student, or trainee reporters with knowledge relevant to assist with the determination of crisis existence and/or whether the crisis poses a threat (i.e., an articulable and significant risk of harm).

- For example, if an observer is worried that a student is in distress based on personal observations, those observations may be disclosed to the student’s School Dean (or Designee) using a paper or electronic report form. The completed and shared form is subject to FERPA confidentiality protections, and will only be shared with the WIT and Security Office unless another exception applies that warrants broader disclosure.

For more information on WIT membership, please consult the Wellness Intervention Team Charge.

If there is an Articulable and Significant Risk of Harm, then a health or safety emergency exists. This determination is made on a case-by-case basis, after individualized assessment of the student that takes into account the totality of the circumstances related to a threat to the health or safety of the student or others. The WIT determines whether this threshold has been met, and if so, may disclose information to appropriate parties in accordance with FERPA requirements.

Requirements for Disclosure of Student Records Based on a Health or Safety Emergency:

- Disclosure may be made to appropriate parties, including a student’s parents, in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals.

- Bases.
  - Disclosures made under the health/safety emergency exception must be based on an actual, impending, or imminent emergency such as a natural disaster, a terrorist attack, a campus shooting, or the outbreak of an epidemic disease.
  - Other safety concerns warranting disclosure include but are not limited to: a student’s suicidal statements or ideations; observation of unusual, erratic, and aggressive
behaviors; cognitive changes (as apparent in the student’s work or behavior); other statements or conduct that would lead a reasonable person to believe there is an actual, impending, or imminent risk of serious harm (i.e., threat) to the student or others.

- This exception permits limited disclosure of education records to a limited number of people, made on the basis of a good-faith determination and in light of the facts available at the time. If there is an articulable and significant threat to the health or safety of a student or others, information may be disclosed to any person whose knowledge of the information is necessary to protect the health or safety of the student or others. In general, and when reasonably possible, the initial disclosure should be made to professionals trained to evaluate and handle such emergencies, who will then determine whether further and/or broader disclosures are appropriate.

- Documentation of Health & Safety Disclosures. Whenever nonconsensual disclosures of information are made under this exception, BCM is required to document the articulable and significant threat to the health or safety of a student or others (i.e., risk of harm) that formed the basis for the disclosure, and the parties to whom the disclosure was made. This information must be reflected in the student’s Education Records.

WIT does not share Treatment Records. The WIT will not re-disclose or share Treatment Records (i.e., student mental health information, and work product of SHMHS, other health care providers, and WIT members generated for assessment or consultation purposes) with school officials outside of the WIT. The WIT and is committed to preserving student privacy by creating summary reports stripped of specific diagnosis, treatment, and other information deemed unnecessary to convey WIT’s findings or recommendations to the student and relevant school officials.

WIT may share information from Education Records. Summary reports created by the WIT (or by SHMHS or third party providers pursuant to a referral for consultation or assessment performed on behalf of the WIT) are Education Records. Medical information about the student’s physical health is also protected from re-disclosure/sharing outside the WIT. WIT will only disclose specific details about a student’s health or wellness to school officials if the student consents and/or knowledge of such information is necessary for a school official with a legitimate interest.

- For example, if a student sends an e-mail to a professor declaring that she has just been diagnosed with a highly contagious disease (e.g., Tuberculosis, COVID-19). The email is an Education Record, which the professor could disclose to the School Dean (or Designee, such as the Occupational Health Program), who will alert/activate the WIT, and any persons with whom the student has come in close contact and urge them to seek appropriate testing and treatment.
What should students do when concerned about the health or wellness of a peer/other learner?

- After Hours: Call 911
- During the business day, students may choose from any of the following options:
  - contact School Dean or Designee’s Office to make an informal report,
  - anonymously report a Wellness Concern through the Integrity Hotline,
  - contact the Security Office at 8811.

What well-being resources does the Office of Student and Trainee Services make available to learners?

Resources for emotional and mental health wellness (including access to Student and House Staff Mental Health Services and WellConnect) are provided through the Office of Student and Trainee Services to all residents, clinical fellows, and students in all schools and programs. Anyone who thinks they may benefit from any of these services is strongly encouraged to contact the preferred resource at their earliest convenience.

The Office of Student and Trainee Services also provides resources regarding physical wellness, social wellness, financial wellness, and spiritual wellness. For more information or assistance accessing these resources, contact studentservices@bcm.edu.
Instructions for Faculty and Staff: What to Do if You Are Concerned that a Student Poses a Threat to Self or Others

A faculty or staff member concerned that a student’s statements or behavior evidence a potential health, wellness, or safety crisis, or that such crisis poses a threat to the health or safety of the student or others, may and should share relevant information with officials designated by the College to handle these issues, primarily the appropriate School Dean (or Designee), who activates the Wellness Intervention Team (which is responsible for implementing Crisis Intervention Protocols).

Reporting Options for School Deans (and their Designees). Contact the WIT via phone. Follow recommendations for triage of mental and other health services provided by the Office Diversity, Equity, Inclusion & Student and Trainee Services.

Reporting Options for Faculty & Staff.

- **School Dean or Designee.** Faculty and staff must report personal observations and verbal statements by students that lead them to believe a student is in distress to the School Dean or Designee, who will activate the WIT if the report describes alleged objective behaviors or verbal statements that would lead a reasonable person to believe the student is in distress.

- **Security Office.** If you are concerned that a student may engage in violent or aggressive behavior toward self or others, and the threat appears to be imminent, contact the Security Office immediately at 8111. Otherwise, contact the School Dean before contacting anyone else.

- **Off-Campus or After-Hours: Call Houston EMS.** If a student contacts a faculty or staff member while off-campus and/or after-hours (i.e., after the conclusion of the business day), and communicates any statements consistent with distress or shares information about a personal experience or life event that causes the student to report feeling “unsafe,” call 911 immediately.

Student Engagement: Permitted and Prohibited Activities

Permitted Activities:

- **Observe and report only, unless death or serious bodily injury is imminent.** Further engagement is optional. The Texas Good Samaritan Law (see Subchapter D, § 74.151) limits the civil liability of persons administering emergency care in good faith unless their actions are willfully and wantonly negligent. In the event that a student sustains very serious or life-threatening injuries, BCM faculty and staff are strongly encouraged to intervene and provide life-saving treatment that is reasonable under the circumstances (e.g., CPR, apply pressure to bleeding wound).

- **Provide Notice to Student of Duty to Report Alleged Title IX Misconduct/Sexual Misconduct or Violence.** If the student reports that the cause of distress is harassment or discrimination related to sexual activity or sex (including gender, sexual orientation, or gender-identity), tell the student that you also need to notify the Director of Title IX & Disability Services (title-
Prohibited Activities. Although some BCM faculty and staff members possess the clinical training and expertise to diagnose and treat a multiplicity of health conditions, individual faculty and staff persons who have not been nominated to serve on the WIT do not have delegated authority to investigate, assess, diagnose, or treat any BCM student who may be in distress, and therefore are not authorized by BCM to carry out such actions on behalf of the institution. In order to preserve student privacy, individual faculty and staff members who believe a student is in distress are prohibited from engaging in the following activities:

- **Public Sharing** – faculty and staff will not hold conversations about their concerns for a particular student while in public spaces (e.g., hallways, elevators).
- **Requesting Protected Health Information (PHI) or Access to PHI** – faculty and staff will not request or require any student to share medical records or PHI (in any format) for the purpose of personal investigation into potential sources of distress, diagnosis, treatment, or verification that a diagnosed health condition or disability exists, unless the faculty/staff member is a member of the WIT.
- **Providing Diagnosis, Treatment, or Other Professional Opinion or Service** – outside the confines of a pre-existing physician-patient relationship, faculty and staff will not offer or discuss any professional opinions regarding the diagnosis or treatment of possible conditions causing student distress, nor provide any services related to diagnosis and/or treatment of such condition(s) to the student, even at the student’s request. As provided in the Educator Conflicts of Interest Policy (23.2.04), Educators who also serve as healthcare providers may not participate in the academic assessment or promotion of any student to whom the educator currently provides, helps provide, or has provided past healthcare services (see 23.2.04, Section IV.B.3).
- **Requiring a Fitness for Duty Evaluation** – Individual faculty and staff are not authorized to order any student to undergo a Fitness for Duty Evaluation, or to refer students for the same, as that authority is vested in the School Dean (or Designee).

Further Engagement of Students in Distress is Optional. Depending on a faculty/staff member’s personal style of communication, comfort level approaching or being approached by students who may be in distress, and degree of familiarity with a particular student, the faculty/staff member has discretion to engage the student as follows:

- **Request a Private Audience** – If appropriate, ask to speak with the student in private and speak respectfully and honestly about observed behaviors, taking care to avoid judgmental statements (e.g., “I’ve noticed you haven’t been attending class lately, and I’m concerned”).
- **Listen Actively** – Listen to the student, and demonstrate understanding and concern by repeating the essence of what the student has told you, including statements of feeling and the
reported cause of distress (e.g., “It sounds like you’re having a tough time mastering this skill and you’re worried about failing”).

- **Inquire About Support System** – Ask the student if they are talking to anyone else (e.g., family) about their distress, whether the student feels “safe” or confident in doing so, and encourage them to activate their personal support network if appropriate.

- **Emphasize Available Resources** – remind the student that BCM provides access to free resources on and off campus (e.g., provide the List of Wellness Resources approved by the Office of the Provost), and emphasize your concern that he/she seek help from an appropriate source.
  - For example, if the student reports that the cause of distress is related to a diagnosed health condition, encourage the student to contact the Director of Title IX & Disability Services (disability@bcm.edu) if academic support is needed.

- **Respect the Student’s Value System** – avoid offering opinions about the student’s behavior, choices, or experiences. Even if the student asks you to share your opinions, the focus of the conversation should be on the student’s opinions and feelings.

- **Report Concerns to the School Dean or Designee**.
How do students request Short-term accommodations from their School Dean or Designee?

Procedures for Requesting Short-Term Accommodations for Academic Requirements: Excused Absences, Assignment Extensions, Etc. If a student is aware of a temporary situation (e.g., medical, personal) that will cause the student to be absent or unable to meet the demands of their school and program of study for a period not to exceed 72 hours, then the student may request an excused absence, assignment extension, or other short term academic accommodation by contacting the Office of the School Dean or Designee (SDD) and providing reasonable documentation justifying the student absence or noncompliance with program requirements. Refer to the purpose of the accommodation request (see below) for specific documentation requirements, which vary.

- **Short-Term Accommodation: Medical Illness.** Students may seek a reasonable short-term accommodation for medical illnesses that have a projected and actual duration of less than six months, i.e., transitory illness (such as mild test-taking anxiety, common-cold virus). A request that is not rationally related to the student’s illness, conflicts with applicable length of training requirements established by BCM accreditors, and/or would be unduly burdensome for the school or program to effectuate is not considered reasonable. Medical accommodations for illnesses with a projected duration greater than six months will be processed by the Director of Title IX & Disability Services in the Office of Student Services, as required by to the Accommodations for Learners and Program Applicants with Disabilities (23.1.07).

  - **Request by Licensed Clinician’s Letter – Submit to the SDD or WIT.** Learners seeking short-term accommodations related to academic requirements must submit a signed letter from the licensed treating medical professional (e.g., M.D.; A.P.R.N.; P.A.). Students may submit this “doctor’s note” directly to the SDD or, if greater privacy is desired, to the Wellness Intervention Team (WIT), which will review the information and inform the SDD whether the need for a specific short-term accommodation is confirmed and the recommended duration of the accommodation.

  - **Contents of Licensed Clinician’s Letter.** The licensed professional’s letter should not include any information that would violate the student’s HIPAA privacy rights or the professional’s duty of confidentiality (e.g., diagnosis). In order to provide the necessary context for exemption(s) from specific academic requirement(s) and determine the appropriate duration of such exemption(s), the physician/clinician’s letter must include:
    1. A statement that the student has been seen by the physician/clinician,
    2. Date of the last office visit, and
    3. A description or list of limitations on the student’s ability to perform or complete specific academic tasks, or the need for an exemption based on a medical reason; and
    4. Time period for such limitations.
• For example, a professional’s letter might read: “I am writing this letter at the request and on behalf of John Doe. Mr. Doe is currently a patient under my care, and was last seen on [date]. Based on my assessment, Mr. Doe currently appears stable and able to return to his education program. His continued ability to remain at school with respect to his medical condition requires restrictions on the following activities [e.g., standing for longer than 30 minutes at a time] or delay engaging in the following academic tasks or activities [e.g., exam, note-taking] for approximately [duration, e.g., six weeks].”

- **Letters Received Directly from the Licensed Clinician.** The licensed professional’s office must submit the letter directly, via email, fax, or U.S. mail, to the WIT or the SDD. For Resident and Fellow Physicians, Research Postdoctoral Scholars, and other trainees that are in hybrid learning and employment roles, the SDD’s Designee is the Occupational Health Program (OHP). **Letters delivered by learners will not be accepted.** WIT will review each letter on the School Dean/Designee’s behalf to verify that the Learner is currently under the physician’s care and the projected duration of the requested accommodation is 6 months or less. OHP processes letters pertaining to Resident and Fellow Physicians, Research Postdoctoral Scholars, and other trainees that are in hybrid learning and employment roles. WIT/OHP will prioritize maximizing learner privacy, and communicate its determinations (along with the requested accommodations) to the School Dean/Designee without sharing a copy of the letter or the physician’s name or specialty.

- **Evaluation by SDD/WIT/OHP.** A School Dean or their Designee (WIT, OHP) will grant a request for short-term accommodation so long as:
  - the physician/clinician’s letter indicates that the accommodation is medically necessary,
  - the requested accommodation has an actual or expected duration of 6 months or less, and
  - is reasonable under the circumstances, i.e., consistent with the available medical documentation, accreditation requirements (e.g., length of training), and does not pose undue hardship to the program.

- **Notice of Decision.** The School Dean/Designee will provide written notice of the decision to the student via email, and will ensure that any faculty and/or staff responsible for implementing the accommodations are notified. Any implementation issues should be reported to the office of the Dean/Designee immediately.

- **Short-Term Accommodation: Personal Event.**
  - **Contact the School Dean or Designee to Report the Event.** While Learners are not required to divulge irrelevant personal information, they may be required to share personal information relevant to the basis of the request (e.g., housing issues). The
Learner must contact the Dean or Designee by email or phone to clearly indicate the basis for the requested accommodation and describe the scope of the request (e.g., reschedule a specific exam).

- **Provide Necessary Documentation.** The School Dean or Designee will respond to the request as soon as practicable, and has discretion to request any relevant documentation needed to verify the nature of the personal event upon which the Learner has based the accommodation request. The School Dean or Designee will indicate what (if any) documentation is necessary in the initial response to the Learner’s request, whether via email or phone. For example, a Learner requesting accommodation based on an alleged car accident may need to provide a copy of the accident report or insurance claim, while a Learner requesting accommodation for a housing issue like eviction would be asked to provide a copy (or photo) of the eviction notice.

- **Schedule a Follow-up Meeting with School Dean/Designee.** The purpose of this meeting is to establish reasonable scheduling and/or deadlines for completion of any missed work or academic requirements. If the Learner fails to complete missed work or requirements according to the agreed upon schedule or deadline, he/she may be subject to a Lapse in Professionalism.

**Short-Term Accommodation: Temporary Impairments.** As defined in the Professional & Respectful Learning Environment Policy (23.2.01), a Temporary Impairment is a medical condition that results in short-term physical incapacitation or significant limits on the mobility/ability of a learner to navigate the campus or complete physical tasks required by their education program for a definite period. **Temporary Impairments are limited to the following conditions only: bone fracture; ligament or muscle sprain, strain, or tear; and pregnancy-related complications.** Learners must immediately report Temporary Impairments to the School Dean or Designee who will refer the matter to the Director of Title IX & Disability Services (disability@bcm.edu) for processing. The Director of Title IX & Disability Services (or designee) has a need to access the learner’s HIPAA-protected health information in order to determine what accommodations are due to the Learner and/or to justify provision of specific accommodations as medically necessary. This procedure typically involves direct communication with the learner and any licensed medical professionals treating the student, but the Director of Title IX & Disability Services/Designee has discretion to determine necessary steps on a case-by-case basis, and has further discretion to determine the duration of the accommodation based on available information and documentation. The Director of Title IX & Disability Services/Designee may interview the learner, request that the learner provide additional medical information and/or request documentation of the Temporary Impairment from one or more licensed professionals.

**Long-Term Illness/Accommodation: Disability.** Learners seeking accommodations based on a documented disability (i.e., a physical or mental impairment that lasts longer than six
months and substantially limits one or more major life activities) must contact the Director of Title IX & Disability Services or Designee (disability@bcm.edu) to make a formal request for disability accommodation AND produce supporting documentation as provided in the Accommodations for Learners and Program Applicants with Disabilities Policy (see 23.1.07, Section IV.B). Enrolled Learners should initiate a disability-related request for reasonable accommodation or modification as soon as possible and preferably before the start of the course for which accommodation is requested. Requests received less than 30 days before the course begins will be reviewed in line with other requests, which may delay implementation of any approved accommodation or modification.
What role does the Student and Housestaff Mental Health Services (SHMHS) play with respect to Wellness Concerns?

**Role & Function of SHMHS, Generally.** Residents, clinical fellows, and students in all BCM schools and programs are eligible to receive care through the BCM SHMHS. Services offered include time-limited individual therapy, couples therapy, and medication management. Common issues addressed include relationship conflict, burnout, depression, and anxiety. Records produced by the SHMHS are considered Treatment Records, which are not subject to FERPA requirements. The SHMHS and its associated providers operate separately and independently of all BCM schools, programs, and administrative offices. Occasionally the Office of Student Services’ Wellness Intervention Team (WIT) may contact SHMHS and refer students who appear to be in distress for consultation or assessment. With the student’s written consent this referral entails some limited information sharing (as described below), but as described in the College’s [Uses & Disclosures of PHI: Process Notes & Psychological Test Materials (31.4.05)](https://www.bcm.edu/health-center/student-services/documents/policies-and-procedures/), SHMHS work product such as psychotherapy process notes and test materials are not part of BCM’s designated record set and can be withheld from access, use, disclosure or exchange (electronically or on paper) in compliance with HIPAA. Treatment Records created by the SHMHS will never be disclosed to the student or the WIT, even if the student consents to the disclosure.

**Disclosures: how and when can SHMHS and other health care providers share student health information?**

**With Student Consent: Summary Reports.** When a student consents in writing to limited disclosure of information from the SHMHS or another healthcare provider to third parties (e.g., WIT; parent), this disclosure will occur in the form of a Summary Report. Providers place an extremely high value on confidentiality, and will honor the trust students place in them by limiting Summary Report disclosures to the minimum amount of information necessary to convey professional findings to WIT regarding a student’s present wellbeing, abilities, or challenges. This means providers will only include information relevant to the purpose of the assessment or consultation, which is to gather adequate factual information to enable the WIT to make a determination regarding the student’s present and future ability to continue the program of study. Details deemed irrelevant or unnecessary will not be included in Summary Reports or shared with WIT. If the SHMHS assessment or consultation does not yield adequate information for WIT to make the determination, WIT may refer the student to a third party provider or organization for further evaluation, i.e., a Fitness for Duty Assessment.
Nonconsensual Disclosures. Treating providers do not need the student’s consent to disclose student health information when the disclosure is otherwise permitted by law.

1. **Disclosures Outside of BCM.** When appropriate under the circumstances, Texas Law permits nonconsensual disclosure of limited confidential information to the following organizations and individuals outside of BCM, provided that the health care provider includes a re-disclosure notice to the effect that the recipient will protect the information and not use or re-disclose the information for any other purposes:
   - *Government and Accreditation Agencies*, if the disclosure is required to comply with statutory, licensing, or accreditation requirements or is otherwise authorized by state/federal law;
   - *Law Enforcement and/or Medical Personnel*, if a health or safety emergency exists;
   - *Organizations Involved in Paying or Collecting Fees for SHMHS or Third-Party Providers*, such as for reimbursement purposes;
   - *Other Professionals and Personnel under WIT direction*, if they participate in the diagnosis, evaluation, or treatment of the student.

2. **Health or Safety Emergency.** An emergency exists if the health care provider determines that there is a possibility of imminent physical injury to the student or others, or a possibility of immediate mental or emotional injury to the student. In such cases, the SHMHS/third-party provider has discretion to make nonconsensual disclosures of information that is relevant and essential for BCM to effectuate a coordinated institutional response to a potential health, safety, or wellness crisis. Disclosures may be made to internal and external law enforcement or medical personnel, including but not limited to the BCM Security Office, WIT, Texas Medical Center (TMCPD) and Houston Police Department (HPD), and third-party providers. Providers will still adhere to HIPAA’s minimum necessary principle when sharing mental health information (described above), as appropriate.

3. **Others Involved in Student Evaluation or Care.** SHMHS/third-party providers may also disclose information to agents, such as members of the WIT or the Director of Title IX & Disability Services or designee, as necessary to provide notice of particular student health needs that give rise to corresponding statutory or other obligations of the College (e.g., the need to accommodate a student pursuant to the 2008 Amendments to the Americans With Disabilities Act), and/or to ensure continuity of care.
If BCM pays for a student’s Fitness for Duty Evaluation, who “owns” the Evaluation Report?

BCM owns the final Fitness for Duty Evaluation Report.

Who will see a student’s Fitness for Duty Evaluation Report?

As a general rule, the Wellness Intervention Team (WIT) does not release copies of a student’s Fitness for Duty (FFD) Evaluation Reports to the student, other school officials, or third parties outside of BCM. (Please note that the FFD evaluation is a different report than a WIT Summary Report, which is provided to the student and their referring Dean or the Dean’s Designee.) There are two exceptions to this rule: the FFD Evaluation Report may be disclosed in response to 1) a lawful subpoena, or 2) a student’s written request to send a copy of the Report to a licensing agency.

Do students receive a copy of the Fitness for Duty (FFD) Evaluation Report?

The Wellness Intervention Team does not share FFD Evaluation Reports with students because they are considered Treatment Records. However students may access the FFD Evaluation Report by directly contacting the evaluator to request a copy. The Wellness Intervention Team requests that the FFD evaluator meet with the student to review assessment results. If the evaluator believes, in their professional judgement, that the report is reasonably likely to endanger the life or physical safety of the student or another person, then the evaluator may withhold some or all of the information. Consult the Policy Against Information Blocking of Electronic Health Information (see 31.5.01, Section IV.B) for more information on permissible delay or withholding of health information.

Does the Wellness Intervention Team pay for a student’s neuropsychological testing?

When a student’s Fitness for Duty Evaluation needs to include neuropsychological testing (e.g., learning, processing, Attention-Deficit Disorder), the Wellness Intervention Team pays for the assessments as they are incorporated as part of the FFD evaluation.
Who should students contact to get evaluated for a learning, processing, or attention disorder?

Contact the Director of Title IX & Disability Services or designee (disability@bcm.edu) in the Office of Student and Trainee Services, as required by the Accommodations for Learners and Program Applicants with Disabilities (23.1.07), for information about neuropsychological testing and help with other disability-related assessment and/or services.

The Wellness Intervention Team (WIT) does not evaluate or process disability accommodation requests. Students may elect to receive neuropsychological testing on their own, regardless of whether they have been referred to the WIT. When a student is referred to the WIT by a School Dean or their Designee, the WIT does not pay for a student’s neuropsychological testing unless the testing is necessary as part of a larger FFD evaluation.
What is the Family Educational Rights and Privacy Act (FERPA)? What does it cover?

**Education Records, Generally.** FERPA limits the disclosure of information from student Education Records. FERPA broadly defines Education Records to include most College records that identify a student by name, and records containing descriptive or other information that would allow a person to deduce the student’s identity (either alone or in combination with other publicly available information), regardless of format (e.g., paper, electronic). However, FERPA does not apply to records that are kept in the sole possession of the maker of the records and are not accessible or revealed to any other person except a temporary substitute for the maker of the records, i.e., Treatment Records.

**BCM Education Records.** Practically speaking, Education Records at Baylor College of Medicine (BCM) include academic information kept by the Office of the Registrar (e.g., records, transcripts, papers, exams) as well as non-academic student information kept in various institutional offices (e.g., Student Account Services, Student and Trainee Services) such as: demographic information; database systems; class schedules; financial aid records; financial account records; disability accommodation records; health immunization records; disciplinary records; unofficial BCM files, including photographs, e-mail, voicemail messages, resumes, correspondence, and hand-written notes (subject to the limitations listed in 34 CFR § 99.3, “Education Records” definition).

- **Admission Documents.** Refer to the Admissions Records Policy (23.1.01) for information on confidentiality, access, use, storage, disclosure, and retention of this specific type of Education Record.

- **Matriculation Documents.** If a student accepts an offer of admission, then Admission Documents and other Education Records generated after enrollment will be stored, retained, and then destroyed as provided in the College’s Record Retention Policy (08.4.05). Any student records that contain personally identifiable information (which can be used to identify a particular student) will be protected from unauthorized access or disclosure in accordance with the Student Records Policy (23.1.06).
What is excluded from the definition of “Education Records”?  

**Personal Observations & Oral Statements.** Education Records do not include personal observations made by individual faculty, staff, or students, or oral statements heard by faculty, staff, or students, provided that the observer/hearer does not look at any written Education Records to refresh their memory. Education Records do not include 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 record.

**Treatment Records.** Education Records do not include Treatment Records. Treatment Records are defined as records that are 1) created or maintained by a licensed medical or psychological professional (or paraprofessional) acting in their official capacity, 2) made, maintained, or used only in connection with the provision of treatment of the student, and 3) unavailable to anyone other than persons providing such treatment, except that such records can be personally reviewed by a physician or other appropriate professional of the student’s choice. For the purpose of this paragraph, “treatment” does not include remedial educational activities or activities that are part of the program of instruction at BCM.

- **BCM Treatment Records** – Student health records (e.g., records containing physical, mental, emotional health information) generated by the Student and Housestaff Mental Health Services (SHMHS) for SHMHS use only are considered Treatment Records. Assessment records and other work product generated by the Wellness Intervention Team (WIT) for WIT use only are also considered Treatment Records. Refer to the Uses & Disclosure of PHI: Process Notes & Psychological Test Materials Policy (31.4.05) for information on the use, disclosure, and destruction of psychotherapy process notes and psychological test materials.

- **Shared Treatment Records** – If a Treatment Record (or information therefrom) is disclosed to anyone who is either not involved in SHMHS' provision of care or WIT assessment, including the student, the Treatment Record becomes an Education Record subject to FERPA. If select content from a Treatment Record requires disclosure outside of the SHMHS or WIT, that disclosure will occur through a separate document called a Summary Report. Summary Reports created by the WIT, or by SHMHS providers pursuant to a referral for consultation or assessment on WIT’s behalf, are considered Education Records that may be shared with the student and appropriate school officials upon written consent from the student.
Does HIPAA apply to Education Records or Treatment Records?

HIPAA Does Not Apply to Education Records or Treatment Records. When a student authorizes a physician or other clinician outside of BCM to disclose HIPAA-protected health information (PHI) from the student’s medical records to the College (e.g., Occupational Health Program), then that information becomes an Education Record and is subject to the confidentiality protections of FERPA. However, if student PHI is disclosed to Student and Housestaff Mental Health Services (SHMHS) by an outside clinician, that information becomes a Treatment Record. Although HIPAA does not apply to Education Records, in light of the high value BCM places on student privacy, any information related to student mental health will receive heightened confidentiality protections as described below. Please note that HIPAA also does not apply to student health records kept by the Occupational Health Program (OHP). Records maintained by the OHP may be classified as: employment records, if the content pertains to fitness for duty evaluations of employees, residents, and clinical fellows; Worker’s Compensation records, in the event of alleged injury to an employee/resident/fellow on the BCM premises; Education Records, if the content relates to student-focused activities such as fitness for duty evaluations, drug testing, immunizations, and short-term medical accommodation requests by physician’s letter.
Texas Law Applies to Treatment Records. Texas state law (see Texas Health and Safety Code, Chapter 611 and Chapter 181) applies to Treatment Records that contain mental health information, and generally prohibits disclosure of confidential information such as identity, diagnosis, evaluation, and treatment. This means that SHMHS and third-party providers that may be engaged by the Wellness Intervention Team to provide fitness for duty assessments or other services can only disclose information from Treatment Records if a student gives written consent or an exception applies.
Can students access their own Treatment Records?

Students are generally entitled to access content from their Treatment Records (i.e., Summary Report), but may be denied access to any portion of information that the health care provider deems harmful to the student’s mental, physical, or emotional health, or that pertains to another person (e.g., student). In the event that access to a portion of a record is denied, the provider will give the student a signed written statement indicating: 1) what portion of the record will not be provided, 2) purpose of the denial (e.g., risk of mental, physical, or emotional harm), and 3) duration of the denial. However, if the student is referred to or seeks treatment from another provider (i.e., for additional assessment or treatment), that provider would be allowed to access the full Record. Within 15 business days of receipt of a student’s written request to examine or receive a copy of select mental health information, the SHMHS will either make the information available during business hours (as provided above) or inform the student that the information doesn’t exist or cannot be found.
Does FERPA require students to be notified whenever information from their Education Records is disclosed?

IN GENERAL, NO. FERPA requires institutions to annually notify eligible students of their rights under FERPA, which BCM does through its annual email notification sent by the Office of the Registrar, which is also posted on the Registrar’s website. FERPA does not require institutions to notify eligible students individually of their rights under FERPA. Rather, the school may provide the notice by any means likely to inform eligible students of their rights. Refer to the description of Annual Notification of Rights for more information.

HOWEVER, while a student’s Education Records may be released in response to a judicial order or lawfully issued subpoena, BCM must make reasonable efforts to notify the Student of an order or subpoena before complying with it, so that the Student may seek protective action, except that BCM will not notify a student of a subpoena if it is from a Federal grand jury or is issued for law enforcement purposes, and the subpoena or order provides that BCM may not disclose the existence or contents of the subpoena or any information furnished in response to the subpoena. In addition, Education Records may be disclosed to the U.S. Attorney General or his or her designee in response to an ex parte order concerning an authorized investigation or prosecution of domestic or international terrorism, without prior notice to the student. See below for more information.
What student rights are created by FERPA? What information about FERPA must the College include in its Annual Notification of Rights?

The College’s Annual FERPA Notification, sent via email to students in all schools and programs by the Office of the Registrar, advises students of the rights described below and establishes how BCM defines the terms "school official" and "legitimate educational interest." The Office of the Registrar also ensures that this notice is also made available through the Registrar’s website. FERPA gives eligible students the right to voluntarily engage in any of the following activities:

1. **Examine their Education Records.**
   - Students must complete the Request to Inspect and Review Educational Records Form and submit to the Office of the Registrar in order to examine their Records.
   - BCM will respond to student requests for examination within a reasonable period of time, but not more than 45 business days of receipt. In the event of public health or safety concerns (e.g., COVID-19) or other circumstances that prevent a student from entering the campus to examine their education records, the Registrar has discretion to make other arrangements for the parent or eligible student to inspect and review the requested records such as facilitating virtual review (e.g., Zoom, Microsoft Teams) in lieu of physical inspection.
   - FERPA does not require schools to maintain particular Education Records, or that such Records contain specific information, but does require schools to provide certain privacy protections for Education Records they do maintain.
   - Also, unless there is an outstanding request by an eligible student to inspect and review education records, FERPA permits schools to destroy such records without notice to the student.

2. **Request Amendment(s) to their Education Records.**
   - To amend demographic information, contact Student Account Services and/or the Office of the Registrar directly. Amendment of other student information is subject to review.
   - BCM is required to consider all requests, but is not required to grant any request. If BCM decides not to amend the record, BCM will inform the student of the right to a hearing on the matter. Students who are dissatisfied with the decision may file an administrative process grievance as described in the Student Appeals and Grievances Policy (see 23.1.08, Section VI.F).
   - While FERPA affords students the right to request that inaccurate or misleading information in their Education Records be amended, this right cannot be used to challenge a grade, an individual’s opinion (e.g., personal observations, oral statements heard), or a substantive decision made by a school about a student (e.g., WIT assessment or recommendations; Adverse Actions).
3. **Challenge the content of their Education Records at a hearing.**
   - BCM is required to give a parent or eligible student, on request, a hearing to challenge the content of the student’s Education Records on the grounds that the information contained in their Education Records is inaccurate, misleading, or in violation of the privacy rights of the student.
   - If BCM decides not to amend the Education Record as a result of the hearing, the student has the right to insert a statement in the Education Record setting forth his or her views. That statement must remain with the contested part of the student’s Education Record for as long as the Education Record is maintained.
   - Additionally, if FERPA's amendment procedures are not applicable to a student's request for amendment, i.e., request is not based on alleged inaccurate or misleading information or an alleged violation of the privacy rights of the student, FERPA does not require the school to hold a hearing on the matter.

4. **File a complaint with the U.S. Department of Education’s Student Privacy Policy Office regarding an alleged failure to comply with the requirements of FERPA.**
   - The Student Privacy Policy Office (SPPO) may investigate timely complaints (e.g., submitted to the Office within 180 days of the date that the complainant knew or reasonably should have known of the alleged violation) that contain specific allegations of fact giving reasonable cause to believe that a school has violated FERPA. Complaints that do not meet FERPA's threshold requirement for timeliness are not investigated.
   - For more information on SPPO’s complaint procedure or to obtain a complaint form, consult the Department of Education’s [SPPO Website](#).
Can BCM Faculty and Staff share Personal Knowledge or Personal Opinions about a student and still comply with FERPA?

**Verbal Disclosure of Direct Observation or Experience.** Because FERPA applies only to information derived from a student’s Education Records, personal knowledge or opinions derived from direct personal experience with a student can therefore be disclosed verbally by faculty, staff, and others (e.g., student peers) without the student’s consent. This includes good faith, verbal disclosure of behaviors observed when in the student’s presence and verbal statements made by the student. For example, a faculty/staff member who personally observes a student engaging in erratic or threatening behavior is not prohibited by FERPA from sharing that observation with appropriate parties (i.e., School Dean or designee; WIT). The same holds true if a student has personal knowledge or opinions derived from direct personal experience with a peer, provided that the good faith disclosure is made to an appropriate party (e.g., School Dean or designee).

**Written Disclosure of Direct Observation or Experience.** Unshared personal notes, diaries, or other documents generated by faculty, staff, or other College officials are not considered Education Records. If at some point the observer describes the student’s behavior in a written record and shares that record, that record would become an Education Record subject to FERPA protections. The observer would still be permitted to disclose the observation verbally (from memory only) but would not be permitted to disclose the record of the observation without the student’s consent unless an exception applies.
When can information from Education Records be disclosed?

Generally: Student Consent Required. FERPA permits disclosure of information from a student’s Education Records when the student gives written consent to the disclosure, or when an exception permits disclosure without the student’s consent.

Exceptions to the Consent Requirement. Under limited circumstances explained more fully below, FERPA permits the disclosure of information from Education Records without the student’s consent when the disclosure is made...

- of directory information;
- to other school officials;
- in a health or safety emergency;
- to parents in certain situations;
- in response to subpoenas;
- to officials at another school to which a BCM student has applied;
- to certain federal, state and local government representatives;
- in connection with financial aid;
- to organizations conducting studies for educational agencies or institutions;
- to accrediting organizations; and
- of certain student disciplinary records.

Questions about FERPA. Questions regarding permissible disclosures under FERPA should be directed to the Office of Risk Management at (713) 798-4509.
What is Directory Information?
Directory information may be released to anyone without a student’s consent. As provided in the BCM Student Records Policy (23.1.06), directory information includes but is not limited to: the student’s name; local address; telephone and pager number; date of birth; major field(s) of study; photographs or information relative to participation in officially recognized activities (e.g., Match results, graduation programs); enrollment status (e.g., full-time or part-time), dates of attendance; any degrees and awards/honors received, including dates; most recent educational institution attended; and group or individual photos with or without identification.

Can students prevent sharing of Directory Information?
Students have the option to request non-disclosure of their directory information. Students who wish to opt-out must follow the procedure specified in the Annual FERPA Notification (sent by the Office of the Registrar), which includes general notice that directory information will be shared unless the student makes a written request to opt-out. Even if a student requests non-disclosure, on a case-by-case basis the College may still disclose directory information under any other applicable exception (described above) or with student’s written consent to a particular disclosure.

When Are College Administrators (such as faculty and staff) permitted to share information from student Education Records with other College Administrators?
College Administrators can share information from Education Records with (1) any school official at BCM with a legitimate educational interest; (2) the Wellness Intervention Team, if there is a report of a Wellness Concern or a possible health or safety emergency; (3) parents or legal guardians, if certain circumstances exist; (4) law enforcement, in the event of a possible health or safety emergency (e.g., wellness check, risk of harm); (5) school officials at other institutions that have a legitimate educational interest; and (6) other legally authorized parties, including where there is a court order or valid subpoena. Note that legitimate educational interests include, but are not limited to, adverse academic and disciplinary action.
Who are “School Officials” with a “Legitimate Educational Interest”?  
FERPA allows the nonconsensual disclosure of Education Records, including medical records, to school officials provided the institution has determined that those officials have a legitimate educational interest in the records. ix

FERPA vests institutions with significant discretion to define school official and what constitutes a legitimate educational interest – significant Dept. of Education Guidance x states that a school official would have a legitimate educational interest if the official needed to review an Education Record in order to fulfill his or her professional responsibility.

BCM’s Annual Notification defines school officials (“BCM Officials”) to include any person employed by BCM in a faculty or staff position, or as temporary substitute for a faculty or staff member; representatives from state and federal agencies responsible for FERPA enforcement; and persons or entities with whom BCM contracts to conduct business or perform services on the College’s behalf. Before making a disclosure to school official without student consent, BCM will examine the official’s function and professional responsibilities to determine whether he or she has a legitimate educational interest in a particular Education Record.

BCM’s Annual Notification defines legitimate educational interest as a need to know for purposes of performing an administrative task specified in the individual’s position description; a supervisory or instructional task directly related to a student’s education; a service or benefit for the student such as health care, counseling, student financial aid, etc.

• For example, if a student makes a request to change rotations, reschedule an examination, or for a Leave of Absence, then information in the student’s Education Records may be shared between offices and associated personnel who participate in tasks required to process and implement the request, including but not limited to the Offices of Student Account Services; Student Financial Aid; Student and Trainee Services and the Wellness Intervention Team (WIT); School Dean; Security Office.
If there is a possible health or safety emergency, do College Administrators need a student's consent before sharing their Education Records with the Wellness Intervention Team (WIT)?

**NO.** *FERPA permits the nonconsensual disclosure of Education Records to appropriate parties, both within and outside of the College, in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or others on campus,*\(^{xi}\) *but disclosure is limited to the period of the emergency and generally does not allow for a blanket release of information from Education Records (only relevant information) to any person whose knowledge of the information is necessary to protect the health or safety of the student or others).*

When can College Administrators share information from a student's Education Records with a parent or legal guardian?

FERPA permits schools to disclose Education Record information to parents under the following circumstances only:

1. The student consents in writing;
2. The student qualifies as a “dependent” for tax purposes according to IRS rules; or
3. An exception to the FERPA general consent requirement applies, e.g., there is a possible health or safety emergency involving the student and knowledge of the emergency is necessary to protect the health or safety of the student or other individuals.\(^{xii}\)

*Note: FERPA treats graduate and professional students as financially dependent upon their parents or legal guardian only when financial dependence has been established. BCM will treat its students as financially independent unless there is actual notice to BCM of the student’s financial dependence on a parent or legal guardian.*
When can College Administrators disclose adverse academic information and disciplinary action from Education Records?

Disclosure is permitted if an Exception applies. Multiple exceptions to FERPA’s general consent requirements permit disclosure of disciplinary information from Education Records (i.e., documentation of adverse actions and other discipline resulting from violations of the BCM Code of Conduct, BCM policies, or school/program expectations regarding professionalism or academic progress described in handbooks). For example, disclosure may be made to:

- School officials with a legitimate educational interest (e.g., licensure purposes), and
- Appropriate parties, if there is a health or safety emergency.

Violent Crimes and Sexual Misconduct. FERPA permits nonconsensual disclosure of the final results of a disciplinary proceeding conducted against a student who is an alleged perpetrator of a crime of violence or any sex offense, if the institution determines as a result of that disciplinary proceeding that the student has committed a violation of the university’s codes or policies with respect to such crime or offense. This means that final results of proceedings conducted pursuant to an alleged violation of the Title IX Misconduct and Grievance Policy (see 02.2.20, Section IV.C.3.a-c) or the Sexual Misconduct and Other Prohibited Conduct Policy (02.2.26) in which a student is adjudicated responsible by the applicable policy’s designated decision-maker, may be disclosed to other college members without the student’s consent, including school officials with a legitimate educational interest. This also true for violations of the Code of Conduct or any other BCM policies applicable to students that would constitute a crime under Texas law, e.g., arson; robbery; kidnapping; homicide; vandalism; burglary.

- “Final results” are limited to: the name of the student who is the alleged perpetrator of a crime of violence; the policy violation found to have been committed; and any sanction imposed by the Coordinator. Final results do not include the name of the complainant or alleged victim.
- Alleged Victims. Additionally, the Director of Title IX & Disability Services or Designee (e.g., Deputy Coordinator) may inform alleged victims (e.g., persons who may have experienced criminal conduct, who may be a complainant) of final results of proceedings regardless of whether the decision-maker finds that a student/respondent violated the policy.
When can College Administrators disclose information from a student’s Education Records to other institutions?

In addition to exceptions discussed above, FERPA permits nonconsensual disclosures from a student’s Education Records to school officials with a legitimate interest at other institutions, e.g., officials at an institution where the student is seeking enrollment, intends to enroll, or is already enrolled. This includes disclosures of disciplinary or adverse action for conduct that posed an articulable and significant risk to the safety and/or wellbeing of the student or others in the BCM community. The student may request a copy of records disclosed by BCM to other institutions for enrollment purposes, unless the student waives the right of access.

For instance, if a BCM School Official knows that a student who has been disciplined for bringing a gun or knife to campus or has threatened to hurt another person in the College community is seeking enrollment at another institution, FERPA would allow that BCM School Official to notify school officials at the other institution who have been determined to have legitimate educational interests in the behavior of the student.
Are the records kept by the BCM Security Office that mention students Education Records covered by FERPA? Can students access BCM Security Office records?

NO. Law enforcement unit records, i.e., records created by a law enforcement unit at the educational agency or institution, created for law enforcement purpose, and maintained by the law enforcement unit, are not Education Records subject to the privacy protections of FERPA.

**BCM’s law enforcement unit, the Security Office, will not provide students with an opportunity to inspect or review any Security Office records related to the student.** Furthermore, the Security Office has discretion to disclose information from its records to anyone within or outside of the College when appropriate under the circumstances, including third parties such as the Texas Medical Center Police Department (TMCPD) or the City of Houston Police Department (HPD), without the student’s prior written consent. For example, FERPA would not prohibit the Security Office from disclosing an incident report, created in consultation with the Office of the General Counsel to document the Security Office’s response to student’s threatening statements or erratic behavior, to TMCPD or HPD. FERPA also does not prohibit the Security Office from complying with the Clery Act (20 U.S.C. § 1092, et al.) and sending Community Notices regarding possible emergencies or threats to the BCM community.

**A Security Office Record Shared Within BCM Becomes an Education Record.** If the Security Office shares a copy of a written record related to the student with any other College office, then the shared document becomes an Education Record even though the original is not subject to FERPA. And if any other College office provides information from student Education Records to the Security Office, the information is still classified as an Education Record—FERPA protections and associated student rights follow the Education Record, and these protections and rights are not lost simply due to sharing with the Security Office. However, any Personal Observations or Verbal Statements that School Officials may share with the Security Office do not qualify as Education Records.
Do College Administrators have to disclose Education Records based on a subpoena or court order?

**YES, AFTER TAKING REASONABLE EFFORTS TO NOTIFY THE STUDENT.** BCM must disclose Education Records in response to court orders and valid subpoenas, but BCM must make a reasonable effort to notify the student of the order or subpoena prior to the disclosure, so that the student may seek protective action, except in limited circumstances. Subpoenas and orders served on any BCM faculty or staff member regarding actions undertaken by the employee in their official capacity, or in relation to access, sharing, or reporting information from Education Records, must be referred to the **Office of Risk Management** (“ORM”) at (713) 798-4509. The ORM will review the court order or subpoena, confirm/reject its validity, and identify which Education Records (or information thereof) must be disclosed. Subpoenas related to HIPAA records must be referred to the BCM Release of Information Office at (713) 798-2108, which will consult with ORM as needed. BCM employees who comply with subpoenas or orders without consulting the ORM place the College at risk for impermissible disclosure and investigation or audit by the Family Policy Compliance Office in the U. S. Department of Education (“DOE”). College Administrators seeking more information on how to respond to BCM-related subpoenas, warrants, communications from regulatory agencies (like the DOE) and court orders should consult the [Government Investigation Response Policy](#).

When can College Administrators disclose information from a student’s Education Records to agencies and organizations that oversee the College’s activities?

**Audit or Evaluation Purposes.** BCM is permitted to make nonconsensual disclosures of or from Education Records to accrediting organizations when needed to carry out their accrediting function. BCM is also allowed to disclose Education Records without student consent to state and federal agencies (which are included in the definition of BCM Official) and other organizations performing an audit or evaluation of BCM operations, practices, or education programs, provided that the information is needed to carry out their audit or evaluation function. If required, BCM will ensure that a written agreement is in place to address the purpose of disclosure as well as use and destruction of Education Records information.

**Institutional Effectiveness or Improvement Studies.** FERPA permits BCM to make nonconsensual disclosures of information from Education Records to organizations conducting studies for, or on its behalf, provided that such studies are for the purpose of developing, validating, or administering predictive tests; administering student aid programs; or improving instruction. BCM will ensure that all contracts for services that meet these criteria will address the purposes of the study as well as use and destruction of Education Records information.
When does the College have to document disclosures of Education Records? Does the College have to advise Education Record recipients of FERPA requirements?

As a general rule, FERPA requires BCM to maintain a record of each request and resulting disclosure of Education Record information, except when the disclosure is:

- Comprised of directory information;
- To the student him/herself;
- To BCM Officials with a legitimate interest;
- In response to a valid subpoena or court order.

The record will include the name of the party making the request and the purpose for which the disclosure was made.

Notice to Recipients. When none of the above exceptions apply, BCM may only disclose Education Records to requestors with the signed consent of the student, and the requestor must make the request in person or in writing. FERPA requires that the BCM administrator or office sharing FERPA-protected information to notify the recipient of the scope of permitted use and prohibitions on re-disclosure. If the Department of Education finds that any third party recipient of BCM student Education Records has violated this rule, it can prohibit BCM from providing any more of its Records to that recipient for at least five years.

Are there any prohibitions or restrictions on the student’s right to access their own Education Records?

BCM reserves the right to refuse permission to inspect any records excluded from the FERPA definition of Education Records, including Treatment Records, medical records, and Security Office records. BCM will further prohibit students from inspecting the following records:

- Financial records, including any information those records contain, of his or her parents;
- Confidential letters and statements of recommendation to which (1) the student has waived his or her right of access and (2) are related to the student’s admission to an educational institution, application for employment, or receipt of an honor or honorary recognition;
- Applications for admission to any BCM school or program if the application was denied, or the student never enrolled or attended; or
- Portions of Education Records that contain information about other students.

BCM also reserves the right to deny provision of official transcripts in the following situations, and the denial will remain in effect until the issue is resolved:

- The student has an unpaid financial obligation to the College.
i See Addressing Emergencies on Campus for more information.
ii See § 99.32(a)(5).
iii For a definition of psychotherapy notes and test data, please consult the 31.4.05 - Uses & Disclosures of PHI: Psychotherapy Process Notes and Psychological Test Materials Policy
iv See Section 611.004 of the Texas Health and Safety Code.
v See the BCM Student Records Policy (23.1.06), which speaks solely to storage of academic records maintained by the Office of the Registrar.
vii See Section 611.0045 of the Texas Health and Safety Code for more information.
viii FERPA gives parents certain rights with respect to their children’s education records. FERPA defines eligible students as persons who have reached 18 years of age or attending a postsecondary institution, and eligible students have all rights formerly given to parents under FERPA transfer to the student.
ix See 20 U.S.C. § 1232g(b)(1)(A); also 34 CFR § 99.31(a)(10). 

x Dear Colleague Letter to School Officials at Institutions of Higher Education (August 24, 2016)

xi See 34 CFR §§ 99.31(a)(10) and 99.36.

xii See 34 CFR 99.31(a)(10).

xiii FERPA states a school may disclose education records, without parental consent (§ 99.31(a)(2)), to another school in which a student seeks or intends to enroll, subject to conditions set forth in § 99.34. This is also true for students over the age of 18 and/or who are enrolled in a postsecondary school.

xiv See § 99.36(b)(3).

xv Exceptions to the requirement of prior notification apply to: (1) a federal grand jury subpoena or other subpoena issued for a law enforcement purpose if the court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed; (2) an ex parte order obtained by the United States Attorney General (or designee not lower than Assistant Attorney General) concerning investigations or prosecutions of an act of terrorism or other specified offenses (See § 99.31(a)(9)(ii)). Examples might include a law enforcement subpoena related to a student who is suspected of committing a crime, like selling drugs, or child abuse or neglect.

xvi FERPA permits schools to disclose information from students’ education records, without consent, to authorized representatives of State and local educational authorities, the Secretary of Education, the Comptroller General of the United States, and the Attorney General of the United States for specified purposes. Disclosures may be made under this exception as necessary in connection with the audit or evaluation of Federal or State supported education programs, or in connection with the enforcement of Federal legal requirements that relate to those program. 34 CFR §§ 99.31(a)(3) and 99.35.; Source: http://familypolicy.ed.gov/faq-page?src=ferpa#t41n222

xvii See 34 CFR § 99.31(a)(6).

xviii Schools are not required to keep a record of every request, only those that result in disclosure with or without student consent.

xix i.e., use of information is limited only to the purposes the disclosure is being made.

xx i.e., the recipient may not re-disclose the information to any other party without the prior consent of the student.