

Q and A about the Recent Amendments to FERPA

HEALTH/SAFETY EMERGENCY DISCLOSURES:

- 1. What impact do the amendments have on when may W&L disclose information if a student presents a health or safety risk to self or others?**

A: The amendments specifically allow disclosure when there is an “articulable and significant threat” to the health or safety of a student or other individuals. This is consistent with W&L’s existing practice, so no changes are needed.

- 2. To whom may information be disclosed in a health/safety emergency?**

A: The amendments allow disclosure to those persons “whose knowledge of the information is necessary” to protect the health or safety of the student or other individuals – including the student’s parents (regardless of whether the student is a dependent for tax purposes). This is consistent with W&L’s existing practice, so no changes are needed.

- 3. If I’m a faculty or staff member, how should I handle health/safety emergency situations where I am asked to disclose information about a student?**

A: If a faculty or staff member becomes aware of information about a student that might present a health or safety risk to the student or others, s/he should communicate that information to the Office of the Dean of Students, the Director of Student Health and Counseling, or the Director of Public Safety, as appropriate. The amendments expressly require that a record be kept of the particular threat involved, and the parties to whom information was disclosed in response to the emergency and those offices can coordinate the appropriate response and recordkeeping.

- 4. What if it turns out to be a false alarm? Will my decision to disclose information be second-guessed?**

A: The Department of Education has specifically said that it will not substitute its judgment for that of University personnel where they have a documented basis for a health or safety emergency as outlined above. W&L will continue its existing practice of making all disclosures necessary and appropriate, in its judgment, to protect the health and safety of its students and campus community.

OTHER NOTABLE CHANGES

- 5. What do the amendments say about providing personally identifiable student information to vendors and/or consultants?**

A: The amendments specifically allow for disclosure of such information to third-party vendors and/or consultants, as long as the information is used solely for the purpose for which the third-party was engaged. In such cases, it is important that the contract contains adequate security, use, and confidentiality provisions, so please send it to the Office of General Counsel for legal review before signing.

- 6. In what new circumstances do the amendments authorize disclosure of records without the student’s consent?**

A: The amendments also authorize disclosure without the student’s consent when the University is returning a record (e.g. a transcript or letter) to the apparent creator in order to verify the record’s authenticity.