This document provides a brief, general overview of various privacy laws impacting the Fairleigh Dickinson University community. It does not constitute legal advice and does not represent the official policy of Fairleigh Dickinson University. Any questions you have regarding the information below should be referred to the Office of General Counsel.

**Health Information Portability and Accountability Act (HIPAA)**

Congress enacted HIPAA to protect the confidentiality, integrity and privacy of individuals’ health information (“Protected Health Information”) by requiring health care providers, health plans and health care clearing houses which are subject to the law to secure authorizations before disclosing Protected Health Information, in identifiable form, to third parties, subject to certain specified exceptions.

Health information is any information which is created or received by a health care provider, health plan, health care clearing house, public health authority, employer, life insurer, school or university concerning the past, present or future physical or mental health or condition of a person or past, present or future payment for provision of medical care. Any health care provider which transmits Protected Health Information electronically is covered by HIPAA, as is any health plan or health care clearing house which maintains records of Protected Health Information (“Covered Entities”).

A Covered Entity is obligated to provide privacy notices to patients and subscribers which inform them of their rights and the Covered Entity’s duties under HIPAA. A Covered Entity is also required to implement measures to safeguard Protected Health Information against unauthorized access and reasonably foreseeable threats and hazards. The University is covered by HIPAA because it has an employee health care plan and transmits Protected Health Information electronically to the health plan administrator, but only as to employees subscribing to that health plan. Fines and penalties can be assessed against the University for violating HIPAA.

The University is not covered by HIPAA as a result of providing clinical affiliations for students or in providing health services to students.
Family Educational Rights and Privacy Act (FERPA)

Below is a very brief overview of FERPA. Nothing contained below is intended to confer a right on any University personnel to disclose student information, without first consulting, and obtaining the approval of the division head responsible for the data in question.

In adopting FERPA, Congress sought to respond to a growing public awareness of and concern about the public dissemination by schools of information commonly considered private in nature, the students lack of access to their records, and recordkeeping practices in general.

In very general terms, then, FERPA gives college students, regardless of the student's age, the right to:
- Control the disclosure of their "education records" to others;
- Inspect and review their own "education records;" and
- Seek amendment of their "education records."

“Education records” are those records:
- Directly related to a student; and
- Maintained by an educational agency or institution or by a party acting for the agency or institution.

FERPA protects the privacy of the educational records of students by generally requiring the consent of students before releasing identifiable information from students' records to third parties. (There are sixteen exceptions to this obligation.) An educational record is any record, file, document or other material maintained by an educational institution, in any format or medium, which contains information directly related to a student.

The following records are excluded from the definition of educational record:
- students’ directory information (name, address, telephone number, physical and email addresses, dates of attendance, field of study and enrollment status), although the student must have first been given the ability to opt-out of directory information disclosure;
- campus law enforcement records which are maintained for law enforcement purposes;
- records which are made by physicians, psychiatrists, psychologists and other health care professionals and paraprofessionals; and
- ancillary records which are maintained by instructors and administrators if such records remain exclusively in the custody of the maker and are used only as personal memory aids.

Finally, students' right to review and seek amendment of their educational record is intended to be a mechanism to correct, what the courts have called, "scrivener's errors". This right is not to provide a means by which a student may challenge substantive decisions, such as grades, or obtain information on how a particular grade was assigned.

The University is covered by FERPA because it receives Federal funding. Violation of FERPA can result in the University’s loss of Federal funds.
Financial Services Modernization Act
(Graham-Leach-Bliley Act or “GLB”)

Congress enacted GLB to protect the confidentiality and security of consumer financial information. (“Non-public Financial Information”). Non-public Financial Information is information such as payment histories and account balances, and information found in applications for credit cards and loans. A Financial Institution is an organization that engages in specified financial activities, such as lending money, extending credit and collecting debts. GLB is divided into two parts: the privacy rule and the information-safeguarding rule.

The privacy rule requires Financial Institutions which want to disclose consumers' Non-Public Financial Information to unaffiliated third parties for marketing and other purposes to notify consumers and give them an opportunity to opt out of such disclosures. The information-safeguarding rule requires Financial Institutions to implement security programs to safeguard Non-public Financial Information from unauthorized access, threats & hazards.

The University is covered by GLB because it makes student loans, extends credit to students and collects delinquent student debts. The University is therefore required to comply with the information-safeguarding rule but may be exempted from compliance with privacy rule to the extent it can demonstrate compliance with the privacy requirements of FERPA. Fines and penalties can be assessed against the University for violating GLB.