



Memorandum

To: Department Managers and Divisions Heads

Cc: Faculty Senate President

From: Thomas V. Flynn
General Counsel

Date: August 9, 2017

Re: Responding to Requests for Information

Colleagues,

Recently my office was asked to provide clarification on the College's processes when outside parties request information or ask to speak with a student or employee. The College's general position is that we consider the privacy of all students and all employees as paramount in all situations and we only release non-directory information (as defined within our policies) with the permission of the individual effected or to the extent required by applicable law.

Subpoenas and Judicial Orders

All subpoenas and judicial orders delivered to the College must be reviewed by the General Counsel's office. As an initial step the General Counsel's office will ascertain the validity of the subpoena or judicial order. If the subpoena or judicial order does not pertain to the College (*i.e.* Stonehill College, Inc.), but instead pertains to an individual student or employee, Stonehill will make a reasonable effort to notify the student or employee of the subpoena or judicial order before complying with it so as to allow the student or employee the opportunity to challenge it unless the law requires that we do not disclose the existence of the subpoena or the judicial order. For example, a federal grand jury subpoena or other subpoena issued for a law enforcement purpose can include an order not to disclose its existence. In such cases the court or issuing agency will have specifically ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed. Also, an *ex parte* order obtained by the United States Attorney General concerning investigations or prosecutions of an act of terrorism or other specified offenses may require us to comply without disclosure.

Inquiries from Government Agencies Conducting Employment Background Checks

If an investigator requests information pertaining to a student or employee in connection with a pre-employment background check the investigator should first be sent to the Office of the General Counsel who will review and confirm the investigator's credentials before authorizing the investigator to speak with a student or employee or before any information is released. The College will also require a signed release from the individual who is the subject of the background check and the Office of the General Counsel will confirm that the release remains in effect by independently contacting the student or employee prior to the release of information.

Signed Authorization for Release of Information

College officials may release private education or personnel records of students or employees if presented with a release that is signed and dated by the individual whose records are at issue. The release should specify the records that are authorized to be released and to whom the release is authorized. A copy (including fax copy) of a release is acceptable. Where feasible, the identity of the requesting party and authenticity of the releaser's signature should be verified in an appropriate manner before complying. Questions regarding the validity of any release may be submitted to the Office of the General Counsel for review prior to the release of information.

Requests to Interview a Student or Employee

All such requests must be submitted to the Office of the General Counsel for review. The College may permit law enforcement officials to utilize space on campus to interview a student or employee. If the request is to interview a student, law enforcement shall not be provided with information about the student's location unless law enforcement presents information that a health or safety emergency exists that requires immediate access or the request is accompanied by a valid judicial order requiring the College to provide the student's location. In the case of a student interview, the Dean of Students or designee should meet the student at his/her classroom/residence hall room and inform him or her of the law enforcement request. In the case of an employee, a designated representative of the Human Resources Office should contact the employee to inform him/her of the interview request. Students and employees should be advised that participation in the interview is not a College requirement and that the College providing a space on campus is only a convenience for all parties. College officials should not attend or participate in any law enforcement interview. If law enforcement wishes to interview an employee or student worker, the College should remind him/her that they may not disclose college data including, but not limited to, private education or personnel information without authorization.

Written or Verbal Requests

A state or federal agency that requests non-directory information verbally or in writing (with no subpoena or judicial order) should be advised that prior legal authority to release such information must be established and such prior legal authority must be review by the College's Office of the General Counsel. Legal authority may be established by citation to a federal or state law that requires disclosure of the information to the requesting agency (verified by the Office of General Counsel) or by presenting a valid subpoena or judicial order, as described above.

Search Warrants

If a law enforcement agency presents a search warrant, the College must immediately comply by providing access to the information described in the warrant. The College, including College employees who possess special state police powers, will not hold, detain, question, or arrest any student or employee upon the order of a state or federal agency without first verifying the validity of the order.

When any College official is presented with a search warrant, the College's Chief of Police or designee shall be notified. The Chief of Police or designee will request identification of the law enforcement official(s) executing the warrant, request a copy of the search warrant, and request an opportunity to copy any documents seized. The Chief of Police will contact the Office of General Counsel to advise them of the execution of the search warrant as soon as practicable.