



Statement on Forms Granting Parents Access to Student Records

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This statement is intended to be informational and is not legal advice. The Office of the General Counsel represents Stonehill College in legal matters and cannot personally represent students.

When a child goes to college, especially if they are living away from home, parents may seek to maintain a degree of involvement in their child's affairs, particularly in emergencies or for important decisions. As a result, parents often ask the College if they should have a Power of Attorney, a Health Care Proxy, or a FERPA release completed and signed by their child. Basic definitions of those documents are provided here. If you have specific questions about what may be appropriate for your child and your family, please seek legal advice.

Power of Attorney (POA):

Legal and Financial Decisions: A Power of Attorney allows a parent to make legal and financial decisions on behalf of their child if the child is unable to do so.

Health Care Proxy:

Medical Decisions: A Health Care Proxy designates a parent to make medical decisions if the child is unable to do so due to illness or injury.

FERPA Release:

Access to Educational Records: The Family Educational Rights and Privacy Act (FERPA) protects the privacy of student education records. Generally, once a student turns 18 or enters a postsecondary institution, parents no longer have the right to access their child's educational records without the student's consent. A student may sign a FERPA release, which allows parents access to certain education records.

It is natural to want to ensure your child's safety and well-being, especially as they transition to college life. While the documents you may ask your child to sign, such as a Power of Attorney, Health Care Proxy, and FERPA release, can allow you to step in when necessary, it is important to remember that the primary purpose of these documents is to provide support in emergencies, not to maintain control over these aspects of your child's life.

College is a crucial time for students to grow, develop independence, and learn to make decisions for themselves. This period of self-discovery and responsibility is a fundamental part of the college experience. While it may be difficult to step back, allowing your child to navigate challenges, make mistakes, and learn from them is essential to their development into a capable and confident adult.

It is important to have a conversation with your child about the intent behind these documents, emphasizing that they are there for emergencies or when the student genuinely needs help. Encouraging your child to make their own decisions, seek advice when needed, and take responsibility for their actions will better prepare them for the realities of adult life.

In essence, while these documents provide a safety net, they should not be used to undermine the independence your child is striving to achieve. Trusting your child to make their own decisions, while being available to support them when necessary, strikes the right balance between protection and independence, ultimately helping them to thrive in their new environment.

In many cases these documents are not needed in order for the College to provide you information as a parent. For example, FERPA allows educational institutions to disclose educational records to parents

without the student's consent if the student is considered a Dependent for tax purposes. If the student is claimed as a Dependent on the parents' federal income tax return, the College has the discretion to provide the parents with access to the student's educational records. If a student is experiencing a medical emergency or if there is an imminent threat to the health or safety of the student or others, FERPA allows schools to disclose information from the student's education records without prior consent. Federal law also allows schools to notify a student's designated emergency contacts without the student's prior consent if the student is missing and cannot be located on campus.

Document Requirements

General Requirements for a Power of Attorney:

- **Written Document:** The POA must be in writing. Oral powers of attorney are not recognized in Massachusetts.
- **Capacity:** The principal (the person granting the authority) must be of sound mind when signing the POA. This means they must fully understand the nature and consequences of the document.
- **Signature:** The POA must be signed by the principal. If the principal is physically unable to sign, they may direct another person to sign on their behalf, but that person must sign in the presence of the principal.
- **Notarization:** The principal's signature on the POA must be notarized. This is a critical step to ensure the document's validity.
- **Durability Clause:** To make a POA "durable," it must include specific language indicating that the authority granted to the agent (the person who is given the power) will continue even if the principal becomes incapacitated. This is typically done by including a clause stating that the POA "shall not be affected by the subsequent disability or incapacity of the principal" or similar wording.

General Requirements for a Health Care Proxy:

- **Written Document:** The Health Care Proxy must be in writing. Massachusetts law does not recognize oral health care proxies.
- **Age and Capacity:** The principal must be at least 18 years old and mentally competent at the time of creating the Health Care Proxy. This means the principal must understand the nature and consequences of the document they are signing.
- **Selecting an Agent:** The principal designates an agent (or proxy) who will have the authority to make health care decisions if the principal is incapacitated. The agent must be someone the principal trusts to make decisions that align with their wishes and values.
- **Effective Upon Incapacity:** The Health Care Proxy only takes effect if the principal is determined by a physician to be incapacitated and unable to make or communicate their own health care decisions.
- **Signature:** The Health Care Proxy must be signed by the principal. If the principal is unable to sign, they may direct someone else to sign on their behalf, but that person must sign in the presence of the principal.
- **Witnesses:** The signature of the principal must be witnessed by two adults. The witnesses must affirm that the principal appeared to be of sound mind and acted voluntarily. Neither of the witnesses can be the agent or alternate agent.

- **Compliance with Massachusetts Law:** The Health Care Proxy must comply with Massachusetts General Laws Chapter 201D. It is advisable to use a form that adheres to state guidelines to ensure the document's validity.

General Requirements for a FERPA Release:

A FERPA release generally requires that the student provides written consent before an educational institution can disclose their education records to third parties, including parents or guardians. The consent must be signed and dated by the student and must:

1. **Specify the Records:** Identify the particular records that are to be disclosed.
2. **Identify the Parties:** Specify the individuals or entities to whom the records may be disclosed.

The requirements for a FERPA release are outlined in the Family Educational Rights and Privacy Act, specifically under 34 CFR § 99.30, which details the conditions under which consent must be obtained from the student for the disclosure of educational records.

Third Party Form Providers Offering Forms for Sale

In all cases, Stonehill recommends that parents considering the creation of these documents consult with a qualified attorney. Stonehill cautions the use of online companies which charge a fee for the creation of these documents as in many cases, the documents do not meet the requirements of the law and cannot be accepted by the College.

With respect to FERPA releases the College strongly recommends that the student use the [College's internal form which is available online](#) to avoid the possibility of your release being rejected.

With respect to Health Care Proxies and Durable Powers of Attorney, while the College cannot offer legal advice, it should be noted that many reputable non-profit organizations offer free forms online which meet the legal requirements of Massachusetts. The Commonwealth of Massachusetts also provides information pertaining to Health Care Proxies and Durable Powers of Attorney on the official governmental websites.

Information Specific to Stonehill's Guidelines

At Stonehill, while we recognize the important role parents play in supporting their students, there are specific situations where the College will not allow parents to make decisions on behalf of their students unless required by court order. These policies are designed to respect the autonomy and privacy of students as they navigate their College experience and begin to take greater responsibility for their own lives.

1. Opting Out or Opting Back In to Releasing Directory Information under FERPA:

Under FERPA, students have the right to control the disclosure of their "Directory Information," such as their name, address, and email. The College allows students to opt out of or opt back into the release of this information. However, this decision is solely the student's to make. Parents cannot opt out or opt back in on behalf of their child.

2. Notification Regarding Voluntary Medical or Mental Health Services:

If a student voluntarily seeks medical or mental health services, whether on or off campus, and the situation is not an emergency, Stonehill College will not notify parents. The confidentiality of health services is protected, and the decision to involve parents rests with the student unless a serious safety concern arises. This policy is in place to encourage students to take initiative in managing their health and to seek care without the fear that their privacy will be compromised.

3. Notification Regarding Academic Assessments and Grades:

The College will not disclose a student's academic assessments, grades, or other related information to parents without the student's explicit consent and faculty are not required to discuss grades or assessments directly with parents.

These policies reflect Stonehill College's commitment to supporting the growth and independence of its students while also adhering to legal standards that protect student privacy. Parents are encouraged to respect these boundaries, understanding that they are in place to help students mature and develop the skills necessary for success in their academic and personal lives.

4. Accommodations:

At Stonehill, the right to accept or refuse academic, housing, or other accommodations based on a disability belongs solely to the student. Parents are not permitted to make these decisions on behalf of their child. The student's autonomy in this area is protected to ensure that they have full control over their own educational experience and personal needs

5. Billing Information:

Stonehill College allows additional users, as authorized by a student to view and receive student's billing information. This authorization is specific to billing information and does not extend to any other information.

Submitting Forms

Forms may be submitted [here](#).