

UNDERSTANDING AND COMPLYING WITH
FERPA
THE FAMILY EDUCATIONAL RIGHTS ACT OF 1974

U.S. Department of Education – Family Policy Compliance Office

WHAT IS FERPA?

- **A federal privacy law that:**
 - **Sets forth requirements regarding the protection and privacy of students' education records.**
 - **Is also known as the Buckley Amendment.**
 - **Establishes the right of students to inspect and review their education records.**
 - **Establishes the right of students to request an amendment to their record and a hearing if the request for amendment is unsatisfactory.**
 - **Provides students with the opportunity to file a complaint with the U.S. Department of Education if they feel their rights are being violated.**
 - **Assures students that their education records are kept confidential except where special provisions are made.**
 - **Provides students with the right to suppress the disclosure of directory information.**

WHAT IS FERPA?

- **FERPA affords parents the right to:**
 - **Have access to their children's education records, if the parents claim the student as a dependent for tax purposes.**
 - **Seek to have the records amended.**
 - **Consent to the disclosure of personally identifiable information from education records, except as provided by law.**
 - **Obtain directory information and non-directory information by obtaining a signed consent from their child.**

STUDENTS' RIGHT TO PRIVACY

- **Students have the right under FERPA to request that their Directory Information not be released.**
- **Students need to submit a request in writing to withhold disclosure of Directory Information.**
- **Non-disclosure will remain applicable until the student submits a written request specifying otherwise.**

WHY COMPLY WITH FERPA?

- **It's the law.**
- **This act is enforced by the Family Policy Compliance Office, U.S. Department of Education, Washington, DC.**
- **Failure to comply could result in the withholding of Federal Funds, including Student Financial Aid.**
- **Lawsuits caused by violations cost time and money.**

WHAT IS DIRECTORY INFORMATION?

- It is information that can be released without the student's written consent.
 - Name
 - Institution E-mail address
 - Enrollment status (full-time, part-time, or less than part-time)
 - Dates of Attendance
 - Degrees and Certificates received, including date(s) awarded

Each institution, to some extent, can determine what information is classified as directory information.

WHAT ARE EDUCATION RECORDS?

- **“Education records” are records that are:**
 - **Directly related to a student.**
 - **Maintained by an Educational Agency or Institution or by a party acting for the Agency or Institution.**
 - **Records can be in any media form: handwritten, print, type, film, electronic, microfiche, etc.**

WHAT ARE NOT CONSIDERED TO BE EDUCATION RECORDS

- **“Education records” do not include such records as:**
 - **Law enforcement unit records – maintained solely for law enforcement purposes and revealed only to law enforcement agencies; only applicable if an institution has a campus police unit.**
 - **Employment Records – of those students whose employment is not contingent upon being a student.**
 - **Records created as a result of being a student (e.g. work study) are education records.**
 - **Medical Records – created by a health care professional used only for the medical/health treatment of the student; only applicable if an institution has a student health office.**
 - **Alumni records – created after the student has left the institution.**

WHAT ARE NOT CONSIDERED TO BE EDUCATION RECORDS

- **Peer-graded papers before they are collected and recorded by the teacher.**
- **Personal Notes – kept by a staff member, if kept in the sole possession of the one who made the record.**
 - **Personal notes taken in conjunction with any other person are not sole possession notes.**
 - **Sharing personal notes with another person or placing them in an area where they can be viewed by others makes them “Educational Records.”**

WHO CAN ACCESS STUDENT INFORMATION WITHOUT OBTAINING PRIOR WRITTEN CONSENT?

- **The individual student.**
 - **By phone, only after using “reasonable methods” to authenticate identity.**
 - **By asking three (3) questions that only the student is likely to know.**
 - **CAUTION: The law expressly prohibits asking SSN or DOB to authenticate identity because confirming a correct guess can provide information to identity thieves. Be careful with this---you can do it, BUT it is not recommended.**
 - **By email, only to the email address listed in the Student Information System (SIS).**
 - **CAUTION: Keep in mind that misdirected emails, shared email accounts, and computer hackers, can all compromise the confidentiality of information sent by email. Therefore, NEVER email grades, GPA, or other sensitive information.**
 - **If you recognize the voice.**

WHO CAN ACCESS STUDENT INFORMATION WITHOUT OBTAINING PRIOR WRITTEN CONSENT?

- **Whomever the student authorizes by providing the institution with a written release (written, signed, dated, specific records to be disclosed, and identity of recipient).**
- **Any party requesting directory information (unless the student has requested non-disclosure).**
- **School Officials/Staff who have a legitimate educational interest.**
- **Persons in connection with a health or safety emergency.**
- **NOTE: Sensitive student information should never be emailed. An email is vulnerable to accidental misdirection by the sender and can be unsecure.**

INFORMATION NEEDING TO BE HANDLED IN A SECURE MANNER

- **Any paper with the student's SSN on it**
- **Class Assignments**
- **Class Rosters**
- **Grades**
- **Registration Forms**
- **Student information displayed on a computer screen**
- **Student Schedules**
- **Transcripts**

INFORMATION THAT CAN/MAY BE RELEASED

- **Directory Information that can/may be released without the student's consent:**
 - **Name**
 - **Institution E-mail Address**
 - **Dates of Attendance**
 - **Degrees & Certificates received, including date(s) awarded**
- **You may release Directory Information, but FERPA does not require institutions to disclose information from the education record to any party except the student.**
- **Any staff member who has concerns about a release for Directory Information should decline to provide the information to any person or entity, other than the student, at any time.**

WHO CAN ACCESS STUDENT INFORMATION WITHOUT OBTAINING WRITTEN CONSENT?

- **Staff and other designated officials, who, to carry out their responsibilities, have a legitimate educational interest.**
 - Perform an administrative task outlined in the individual's official job duties.
 - Perform a supervisory or instructional task directly related to the student's education.
 - Perform a service or benefit for the student, such as health care, job placement, financial aid, etc.
- **Persons or companies with whom the Institute has contracted – an attorney or auditor.**
- **Note: An instructor's desire to know how a student has performed in a previous course (viewing student transcripts) – as a way to gauge if the student is prepared for the course is NOT "legitimate educational interests." This can lead to biased grading, and is a violation of FERPA.**

APPLICABILITY OF FERPA

- **FERPA is applicable to both K-12 and higher education. The Family Policy Compliance Office is responsible for both levels of education.**
- **The difference between the K-12 and higher education is the following:**
 - **At the K-12 level the rights belong to parents.**
 - **Once a person attends an institution of higher education, the rights transfer from the parents to the student, regardless of the age of the student.**
 - **College students must be permitted to inspect their own education records.**

BASIC INFORMATION REGARDING THE FERPA ACT

- School officials may not disclose personally identifiable information about students, nor permit inspection of their records without written permission, unless such action is covered by certain exceptions permitted by the FERPA ACT.**
- Students who are or have been in attendance at a postsecondary institution are covered under FERPA.**
- FERPA protects the education records of any student who ever enrolled(began a course) at an institution.**
- Applicants who are denied admission or who never attend, are not covered under FERPA.**

WHEN DO FERPA RIGHTS BEGIN/END FOR A STUDENT?

- **Rights begin when the student is “in attendance” as defined by the institution. For example, when a student is officially registered for at least one class and that class has started.**
- **FERPA rights continue after the student leaves the institution; these rights are only terminated upon the death of the student.**

STUDENTS/FORMER STUDENTS & PARENT RIGHTS UNDER FERPA

- **Right to inspect and review their education records.**
- **Right to request an amendment of education records.**
- **Right to consent to disclosure, with certain exceptions.**
- **Right to file a complaint with U.S. Department of Education, if they feel their rights are being violated.**
- **Right to expect that their education records are kept confidential except where special provisions are made.**
- **Right to suppress the disclosure of directory information.**

HELPFUL HINTS TO AVOID FERPA VIOLATIONS

- **Access to student information via computer software does not authorize unrestricted use of the information.**
- **Curiosity is not a valid reason to view student information.**
- **Student records should only be accessed in the context of official business.**
- **When in doubt – don't give it out.**
- **Information about a student can be released with a signed consent from the student.**
- **Information on a computer should be treated with the same confidentiality as a paper copy.**
- **Do not leave confidential information displayed on an unattended computer.**

HELPFUL HINTS TO AVOID FERPA VIOLATIONS

- **Cover or put away papers that contain confidential information if you are stepping away from your desk.**
- **Shred records containing Social Security Numbers or grades. They should not be thrown in the trash or placed in an unsecured recycling bin.**
- **Do not use SSN/Student ID to post grades.**
- **Do not leave graded tests in a stack for students to sort through.**
- **Do not circulate a printed class list with the Student Name and SSN/Student ID.**

HELPFUL HINTS TO AVOID FERPA VIOLATIONS

- Do not provide anyone with student schedules or lists of students enrolled in your classes.
- Do not include confidential information (i.e. grades, GPA, # of credits) on a recommendation letter, without the student's written consent.
- Note: Supervisors are responsible for the FERPA compliance of those staff members they supervise. This includes: student workers, temporary employees, interns, SER, volunteers, etc.
- All staff is required to view the FERPA presentation and sign the FERPA acknowledgment document.