Family Educational Rights and Privacy Act (FERPA) Overview

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FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF 1974

- “A Federal Law designed to protect the privacy of education records, to establish the right of students to inspect and review their education records, and to provide guidelines for the correction of inaccurate and misleading data through informal and formal hearings.”

- This act is enforced by the Family Policy Compliance Office, U.S. Department of Education, Washington, D.C.
KEY CONCEPTS

- Students’ right to access their education records as outlined in the Annual Notification
- Definition of education records
- Directory vs Private Information
- Who is a School Official
- Written permission required for disclosure of student education record
- There are exceptions to written permission of student described in the Release of Student Information Policy
ANNUAL NOTIFICATION

- Provide annual notification to students of their right to:
  - Inspect and review their education records (within 45 days)
  - Request an amendment to their education records
  - A hearing if the request for an amendment is unsatisfactory
  - Request that the institution not disclose directory information items about them
  - File a complaint with the U.S. Department of Education
Education Records: are directly related to a student and maintained by an institution or its agent.

- Education Records include things like:
  - Graded papers
  - Exams (including blue books)

- Education Records are NOT:
  - sole possession (lap drawer)
  - peer graded papers
  - online forums (e.g., Oncourse chats)
  - law enforcement unit records
  - employment records (unless employment is based on student status)
  - medical records
  - alumni records

Education Records are maintained for all enrolled students (including HS students)
Public vs Private Information

- **Directory/public information:** information contained in the record which would not generally be considered harmful or an invasion of privacy if disclosed.
  
  - At IU this includes: name, address, IU email address, phone number, major, dates of attendance, admission or enrollment status, campus, school, class standing, degrees and awards, activities, sports and athletic information.

- **Personally identifiable/private information:** information contained in the record which would generally be considered more sensitive or an invasion of privacy if disclosed (e.g., student identification number, social security number, grades, hours completed, GPA, current class schedule, parent name and address, race, gender, country of citizenship). At IU, this includes date of birth.
EXCEPTIONS

Which the Institution “MAY” honor

“Legitimate educational interest/need to know”
• school officials who need the information to perform their duties
• faculty are considered advisors with legitimate educational need for their enrolled students, those seeking to enroll, or those they advise (IU Memo from Ken Gros Louis, May, 1999)

• Parents of dependent students as claimed with IRS (copy of tax form required)

• “Lawfully issued” subpoenas (University Counsel review & student notification required)

• Various authorized representatives of government entities (audits or evaluation of education programs, compliance with SEVIS, Solomon Amendment, etc.)
SCHOOL OFFICIALS

- A person employed by the university in an administrative, supervisory, academic, research, or support position (including law enforcement personnel, health staff)
- A person or company with whom the university has contracted (attorney, auditor, collection agent)
- A person serving on the Board of Trustees
- A student serving on an official committee (disciplinary, residency or grievance committees) or assisting another school official in performing his or her tasks.
RELEASE OF STUDENT INFO POLICY

• Students have a right to know:
  1) School officials within the institution may obtain information from education records without obtaining prior written consent,
  2) The criteria for determining who will be considered school officials
  3) What legitimate educational interest will entitle school officials to have access to education records

• Students have a right to know which information the institution has designated as public or directory information
Restraint of Public Disclosure

- If a student does not want all or some of their directory information released to any person other than officials with legitimate need, they may complete and submit a restriction form to the Office of the Registrar.

- This restriction will also block information from appearing in the online address book.

- To remove the restraint, student would complete a removal form and submit it to the Office of the Registrar.
2009 FERPA Regulation Highlights

- Added “biometric records” to the list of personal identifiers. Biometric records include a record of biological or behavioral characteristics that can be used for automated recognition of an individual, including fingerprints, retina and iris patterns, voiceprints, DNA sequence, facial characteristics, and handwriting.
- Prohibits the use of SSN as an identification element when disclosing or confirming directory information unless the student has provided written consent for disclosure.
- A directory exclusion does not give students the right to remain anonymous in class or impede class communication.
- Institutions may release information to necessary parties when there are health and safety concerns. Exceptions for health concerns include: serious communicable diseases that are epidemic in nature, serious infectious diseases (case by case basis), and suicidal ideation (case by case basis).
2009 FERPA Regulation Highlights

• Allows an institution to disclose without consent information it has received from a State (under the Wetterling Act) about a student who is required to register as a sex offender in the State.

• Requires institutions to use “reasonable methods” to ensure school officials (including outside service providers) obtain access to only those education records – paper or electronic – in which they have legitimate educational interests.

• Amended regulations require a school to use reasonable methods to identify and authenticate the identity of parents, students, school officials, and other parties before disclosing education records.
POINTS OF INTEREST

- Faculty should never post grades or scores by student identification number (UID) or even portion of SSN (*Note: Given new Indiana State Laws concerning SSN, this is even more critical for all Faculty to understand.*)
- Nothing in FERPA allows discussion of a student record publicly—even if a lawsuit has made information matter of public record.
- Disclosure of student information is discretionary. Institutions are not required to make directory information available to the general public.
- Through Oncourse, students will see the names of their classmates unless they choose to restrict information in the Oncourse profile or have a complete FERPA restriction. For those students with complete restrictions, instructors will see the students username listed in place of both the first and last name. Other students will not know the restricted student is in the class unless the student interacts via a messaging system (e.g., chat).
BEST PRACTICES

- Download data to a secure LAN rather than saving to your desktop or local hard drive
- Transfer data via IU Vault rather than attachment to email
- Lock system when stepping away from your desk—don’t allow unauthorized individuals to look over you.
- Never share your password or log anyone else on to a system with your username
- Provide the minimum amount of data required to do the job.
- Don’t send UID in the subject line of an email.
- Ask questions—Registrar maintainer of the record (responsibility lies here)
TOOLS & RESOURCES

• Data Supervisor list by department
  registrar.indiana.edu/dma/access_security.shtml

• FERPA Info Online (Registrar website)
  • FERPA Tutorial
  • FERPA Indicator in SIS instructions
  • IU Release of Student Information Policy
  • IUB Annual Notification of Student Rights
  • Policy on Mass Email
  • Indiana Data Protection Laws FAQ
  http://registrar.indiana.edu/ferpainfo.shtml

• Third Party PIN Information  http://kb.iu.edu/data/auoz.html
ERR ON THE SIDE OF CAUTION

If unsure ........

DON’T DO IT!!!!
FOLLOW UP CONTACTS:

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