

# Federal Educational Rights to Privacy Act (FERPA) Training



# What is FERPA?

- Family Educational Rights and Privacy Act of 1974
- Also known as the Buckley Amendment
- Applies to Institutions that receive funding under any program administered by the U.S. Secretary of Education, including federal financial aid under Title IV.



# What is FERPA intended to do?

- Protects the privacy and security of student educational records
- Gives college students the following rights:
  - Review their own records;
  - Seek correction of inaccurate or incorrect records;  
and
  - Block disclosure of directory information



# What is FERPA intended to do?

- Prevents the *educational institution* from disclosing personally identifiable educational records



# What is an Educational Agency or Institution?

- Any public or private agency or institution which is the recipient of funds under any applicable program.
- “No funds shall be made available under any applicable program to any educational institution which has a policy of denying, or which effectively prevents, as the case may be . . . .”



# Exceptions . . .

- Exceptions – the educational institution **may disclose** identifiable information when:
  - Student provides written consent
  - Records are directory information, unless student request it not be disclosed
  - Person requesting the information is exempt
  - When there threat that is significant and that you can articulate.



# Who is a student under FERPA?

- Student includes any person with respect to whom an educational agency or institution maintains educational records or personally identifiable information, but does not include a person who has not been in attendance at such agency or institution.
- Does not apply to applicants who are denied admission or never attend.



# What is a “record”?

- A record is any information recorded in any way, including, but not limited to:
  - Handwriting
  - Print
  - Computer Media
  - Video or Audio Tape
  - Film
  - Microfilm or microfiche



# Types of Records

- Directory Information
- Educational Records other than directory information
- Non-educational information and records



# What are “educational records?”

- Records, files, documents, and other materials which –
  - Contain information directly related to a student;  
and
  - Are maintained by an educational agency or institution or by a person acting for such agency or institution



# Examples of Educational Records\*

- Grades
- Enrollment records
- Class lists
- Class Schedules
- Test Papers
- Transcripts
- Registration forms
- Class assignments
- Any document with a student's identification information on it
- Can exist in any form – handwritten, electronic, print, tape, film or microfilm

\*This is not an exhaustive list\*

# What records are NOT educational records?

- Those created & maintained by the University's law enforcement agency;
- Personal notes made by faculty & staff;
- Employment records of non-students; and
- Student medical records.

**\*\*These records are NOT subject to FERPA and should never be disclosed to an unauthorized individual.\*\***

# What is personally identifiable information?

- Personally identifiable information includes, but is not limited to:
- The student's name;
- The name of a student's parent or other family member;
- The address of the student or student's family member;
- A personal identifier such as the student's social security number, ISIS identification number, or University Identification number;
- A list of personal characteristics that would make the student's identity easily traceable; or
- Other information that would make the student's identity easily traceable.



# What is directory information?

- Directory information includes the following student information:
  - Name
  - Address
  - Telephone number
  - Date and place of birth
  - Major field of study
  - Participation in officially recognized activities
  - Dates of attendance
  - Degrees and awards received
  - Most recent previous school attended



# Disclosure of Directory Information

- Directory information is released without the consent of the student unless the student has requested in writing to the registrar that such information should not be released.
- The University may also refuse to release directory information at its own discretion.



# Who has access to educational records other than directory information?

- School officials who the institution has determined have a *legitimate educational interest*;
- Officials of other schools in which the student seeks to enroll;
- Comptroller General of the U.S.;
- Secretary of Education of the U.S.;
- State education authorities;
- Attorney General for law enforcement purposes;
- Financial aid officer;
- Parents when the student is a dependent; and
- Third parties when there is a significant threat that can be articulated.



# Who has access to educational records other than directory information?

- Pursuant to a judicial order or subpoena;
- Juvenile justice authorities under state law;
- Organizations conducting studies for the institution to develop, validate or administer predictive tests, administering student aid programs, improving instruction if information will not be disclosed to third parties and will be subsequently be destroyed;
- Accrediting bodies;
- Protection of safety of the student or other persons;
- Alleged victims of violent crimes requesting results of school disciplinary proceedings; and
- Veterans administration requesting information for VA programs.



# What constitutes a “legitimate educational interest?”

- A clear “need to know” when acting in a student’s educational interest - this is determined by the institution.
- A legitimate educational interest does not give a school official access to personal notes of faculty and staff, employment records, medical records, security/safety records and financial records of parents or spouses.



# School Officials' Access to Educational Records

- Who are school officials?
  - Registrar
  - Faculty
  - Administrators
  - Researchers
  - Clerical and professional employees who manage student records
  - Support staff units (security, health care providers, clergy)
  - Members of board of trustees
  - Students serving on committees or assisting qualified officials



# Responsibilities of the Registrar

- Registrar is responsible for maintaining the confidentiality of all educational records
- Registrar maintains students' written consents for disclosure or request for nondisclosure of directory information
- Registrar must maintain a record of all outside requests, which includes:
  - Name of person making the request
  - Stated interest
  - Date of the request and disclosure
  - Name of person receiving the record
- Registrar will release information only if
  - The student consents
  - It is directory information without restriction by the student; or
  - The person requesting is on the exempted list



**What constitutes a “legitimate educational interest?”**

**Curiosity is NOT a legitimate educational interest.**



# Students may inspect their records.

- The institution must comply & produce the records within 45 days.
- The institution shall respond to reasonable requests for explanations and interpretations of the records.
- Do NOT destroy records if a request for access is pending.
- Contact the Registrar if you have questions or concerns.



# Students may amend their records.

- A student who believes that information contained in his or her education records is inaccurate or misleading, or that it violates his or her privacy or other rights, may seek correction of the records through a request to amend the records or through a hearing.
- Challenges can only be made to the accuracy of the records and not to the judgments the records contains.



# How does FERPA apply to subpoenas?

- When a subpoena requests information about a student, the institution must make a reasonable effort to notify the student of the subpoena prior to complying with it.
- Prior notice is NOT required when responding to:
  - A federal grand jury subpoena, which specifies that the student not be informed of the existence of the subpoena;
  - A law enforcement subpoena which specifies the same.



# Rights of the Students.

- Have access to their educational records within 45 days of making a request
- Amend erroneous records
- File a complaint with the United States Department of Education if the university does not comply with FERPA regulations
- To be informed of their rights under FERPA



# What students may not access:

- Their parents' financial information
- Confidential letters of recommendation for which they waived their right of review
- Records that pertain to other students



# Do parents have any rights under FERPA?

- They have access to the students' information when the student is under 18 or until the enroll in a post-secondary institution then the parents' rights transfer to the student.
- The university may disclose a violation of the law or university policy involving drugs or alcohol to parents if the student is under 21.



# Penalties for noncompliance with FERPA.

- Students may file complaints with the U.S. Department of Education.
- The Family Policy Compliance Office (FPCO) is authorized by the Secretary of Education to investigate, process, and review complaints of violations under FERPA.
- Schools may be sanctioned in a number of ways up to and including loss of Federal funding or refusal to award funding in the future, including Title IV financial aid.



# What are some strategies for dealing with individuals that cannot gain access to education records because of FERPA?

- Listen. Make sure that you have heard and understand the entire story before you respond.
- Empathize. Acknowledge that FERPA may seemingly be making this situation more difficult.
- Tell them what you can and cannot do, and WHY.
- Don't access the screen where the information is contained so that you are not tempted to share information you should not.
- Use information the caller is providing, with hypothetical situations and policies, to formulate answers.
- Try to speak directly to the student.



# Hypothetical

- A colleague who taught the block just before your block wonders how a particular student did on your test.
  - Should you to tell your colleague what that student's grades are in your block?



# Answer

- No.
- Your colleague does not NEED to know this information to carry out his or her educational responsibilities and he or she does not need it in furtherance of the student's educational interests.



# Hypothetical

Carl a student that you know comes to you and confides in you that his off-campus roommate Joey, who is usually outgoing and fun, has been acting strange since he broke up with his girlfriend. He will not come out of his room and when he does its only to go to the shooting range. Carl has noticed that Joey spends a lot of time reading about shootings online and in books. Joey even remarked that he gets so frustrated sometimes that he understands why school shooters do what they have done. Joey has also started keeping loaded guns and hunting knives around the apartment. Carl told you that the night before he and a couple friends talked Joey into going to a party at a neighbor's house and he agreed. However, when they arrived Joey started acting strange and out of nowhere and without saying a word, he pulled a hunting knife out of his pocket and stabbed the carpet floor of the apartment twice and then stopped. Carl does not want to get Joey in trouble. Even though you can tell he is frightened he asks you not to tell anyone about Joey or his behavior.

How do you advise Carl?

What do you do, if anything, after talking with Carl?

What does FERPA permit you to do?

# Nutshell Review

If the information requested is maintained by UACP, identifies a student and is not on the directory information list then it **SHALL NOT** be released unless:

The student consents;

The requesting party is a UACP official with a legitimate educational interest/need to know;

The requesting party is an authorized non-UACP official; and/or

There is a significant threat and can be articulated.

