



So You Think You Know FERPA? AKA FERPA 201

NEACRAO

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Who are we?

The U.S. Department of Education's Student Privacy Policy Office (SPPO) is responsible for the administration and enforcement of federal laws, relating to the privacy of students' education records, and for the provision of technical assistance on student privacy issues for the broader education community.



Disclaimer

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Should you be here?

- Do you have access to personally identifiable student data?
- Do you worry about what your district staff are doing with that data?
- Do you like presentations with memes?

Icebreaker

- What kind of training does your staff get in:
 - IT Security
 - FERPA Training
 - Other laws (State Law, GLBA, etc.)
- How often are you training them?
- Who in your faculty are you training? Full time staff? What about adjunct professors?



FERPA Pre-Test: True or False?

1. FERPA only applies to schools that receive federal education funds.
2. Once a student enters college, the school can't share education records with the parents.
3. Under FERPA a school must consider amending a grade that the student does not agree with
4. Student health records maintained by the campus clinic nurse are not education records.
5. FERPA permits a student to file a lawsuit against a college for violating his or her rights under FERPA.



FERPA Pre-Test: True or False?

6. Schools are required to provide students with a copy of their education records upon request.
7. A school must disclose student information that has previously been designated as directory information to a third party that requests access.
8. Education agencies can share data with researchers using FERPA's research exception.



Introduction

- FERPA is Hard
- Most audiences score 40% on our FERPA 101 pretest
- Many FERPA violations stem from a lack of understanding, or worse, a partial understanding of FERPA
- This is meant to be an interactive session, if you have scenarios you want to discuss, please bring them up



Scenario 1:

Common Falls College is proud of the progress they've made to implement the new student information system (SIS). It's been a big effort, but now all students are live on "SmartStudentsRUs". One of the things they are most excited about is all the reports they now have available.

Ima Techy is a history professor who helps with scheduling coordination for her department. She has been experimenting with some of the report filters and is amazed that she can drill down to all the students in the entire college and can see all their data! This will be a huge help when she must help schedule classes for next semester.

Scenario 1:

Ima gets a call from Bill Melater, an adjunct faculty member in the engineering department. They met at the “Emerging Educational Practices” course she took over the summer.

Bill explains that he is working on his doctorate and needs some data for his dissertation. Ima can easily download the data from those reports in SmartStudentsRUs!

Scenario 1:

- Should Ima release the data?
- What risks are involved with disclosing this level of data?
- Is there an avenue to provide this information legitimately?
- What guides your staff when faced with this type of situation?
 - Policies
 - Processes
 - Training

Scenario 2:

Janet is 17 year's old, and a high school student enrolled in the career and technical education Culinary Arts Program. The Culinary Arts Program has an articulation agreement with the local community college. As such, Janet is dually-enrolled at the community college where she is taking the Artisan Breads and Pastries class.

Janet's parents have requested access to, and a copy of, Janet's education records maintained at the high school and the community college.

Scenario 2:

The fun and “easy” way to work through this problem

- Keep in mind what records are kept at which school or institution!



- Determine who has rights to access at each of the schools or institutions

- Parents **MAY** have access to records kept at the college if:
 - Janet signs a consent form or;
 - Janet is claimed as a dependent
- Parents **have the right** to access records kept by the high school!



- Are records shared between the institutions? If so, where those records are maintained will provide your answer on who has access.

Scenario 3:

Your university provides students the option of taking classes online. The university uses a third party to run those online classes. The third party also has arrangements with other subcontractors to assist in running the classes.

For a student to enroll in online classes, they must agree to the third party's Terms of Service which permits the third party to use, reproduce, or distribute for any purpose the data it maintains on its students.

Scenario 3:

1. Can a University require a student to agree to the terms of service in order to enroll in online classes?
2. Does the fact that the online classes are an option make a difference in whether they must agree to the terms of service before enrolling?
3. Are virtual applications, such as third parties facilitating online learning, subject to FERPA?

Scenario 4:

Mary is a database administrator for a college. Part of her job requires doing system updates for the SIS. As such, she has full administrative access to all the data in the SIS. Her sister Beth's children go to the same college. Recently, her nephew got put on academic probation. Her nephew refuses to talk about it and won't tell his parents anything.

Frustrated, Beth calls Mary and asks her to look up in the system anything about why he's been put on academic probation. Mary goes into the SIS, looks through all his data, and lets Beth know his grades, classes he's taken, and a report on his academic progress. Is what Mary did ok?

Scenario 5:

An organization that has programs for students with learning disabilities approaches you regarding their programs. They ask for the name, address, and email of students in your college who have a disability in order to contact them regarding their programs. The programs offered by the organization would be of benefit to the students with disabilities.

Can this data be disclosed to the organization?

Scenario 6:

John is a teaching assistant for Dr. Harsh's history 410 class. After midterms, Dr. Harsh is called away to deal with a family emergency. The midterms are already graded but have yet to be entered into the SIS. Eager to get this off his plate, Dr. Harsh gives John his username and password for the student information system. Over the weekend, John logs into the SIS and enters in the grades.

- Is this acceptable?
- What is required under FERPA?
- Can TA's have access to education records?

Scenario 7:

Jeff and Greg are roommates. Unfortunately, things are not going well with Jeff, and he is having a rough time. He is failing his classes and his girlfriend just broke up with him. Greg is worried about his mental state and is concerned that he may harm himself, so he contacts the campus administration asking for help.

What does FERPA permit you to do?

Scenario 7:

- Is this a health or safety emergency?
- Who decides what is a health or safety emergency?
- What student data may you release? Who can you release it to?
- What if you contact Jeff, and he is no harm to himself? Was it a FERPA violation if you accessed and released his education records?



Scenario 8:

Monica enrolls in college and begins attending class. She signs a consent form permitting her parents to have access to her academic, student account, and financial aid records maintained at the college. Later, her parents reach out to the registrar's office and request access to her transcripts.

The registrar's office successfully authenticates her parent's identity but still refuses to provide the information to the parents. Is this ok? What does the school have to do? What does it not have to do?

Scenario 8:

- When a child turns 18 or enters a postsecondary institution at any age the rights under FERPA transfer to the eligible student.
- If a student is claimed as a dependent by either parent for tax purposes, then a parent is permitted to have access. The disclosure is not compelled.
- This permutation of FERPA causes some parents some consternation



Scenario 9

Bob, Tommy and Joe are ecstatic that their favorite NFL team, the Philadelphia Eagles have won the Superbowl. They go to the local bar to celebrate and wind up celebrating too much. Inebriated, they return to campus and stumble around drunkenly trying to find their dorm rooms.

While they are doing nothing violent, their behavior violates the school's alcohol policy and several students complain about the incident. Campus administration reviews the surveillance video and clearly can see the three fans and their celebrations. The administration confirms that they have violated the school's alcohol policy and put the three students on probation. Tommy is a basketball player and this probation is preventing him from competing in this weekend's big game.

Scenario 9, Continued

1. The student newspaper, doing a story on discipline incidents for student athletes and submits a public records request for the video. Must you comply with the public records request?
2. Joe comes from an affluent family that donates a lot of money to the university. They ask for the university to destroy the video so it doesn't damage Joe's future political career. How would you handle the request from the parents to destroy the video?
3. Bob has no recollection of the evening and requests to come in and view the video so he can be sure that it was him. Do you have to comply with the request?

Scenario 10:

Sam is a recent graduate of your university. After his graduation he comes to the registrar's office and requests a copy of his official transcript. You notice that he owes several hundred dollars in unpaid fees and tell him he will not receive a copy until he satisfies his financial obligations.

He states that refusal to honor his request is a FERPA violation. What do you do?

Scenario 11:

Professor Johnston teaches Engineering 302. It's a tough class that requires prerequisites in order to take. He gets his final class list for the upcoming semester. While he knows that everyone registered for the class meets the qualifications to take it, he wonders how well the students overall academic performance is at the University.

Professor Johnston decides to go into the SIS and check out the grades and other data about each of the students. Was what he did okay?

Scenario 11:

Questions to ask yourself:

- What is the professor's role at the University?
 - Is it his job to monitor the overall academic progress of students or is it to teach classes?
- Is there a legitimate educational reason for looking into student data?
- Is there anyone in a position at the University that should be able to access all student data?

Scenario 12:

Emily is enrolled at Richmere University and is diagnosed with severe depression, requiring ongoing treatment from Dr. Roberts in the Counseling Center at Richmere. As a result, Dr. Roberts maintains sensitive information about her diagnosis, medications, and necessary accommodations.

Dr. Roberts understands the importance of protecting Emily's privacy and assured her that only those individuals providing her direct care at Richmere would have access to these records.

Scenario 12:

Later, Emily sues Richmere, claiming the counseling services she received were inadequate, causing her depression to worsen, and is seeking monetary damages from Richmere. Wanting to defend themselves, counsel at Richmere request all records relating to Emily's treatment for depression from counseling services.

Is Richmere permitted to share these records with counsel? Are there any limitations?

Scenario 13:

Sally works in the psychology department as adjunct faculty at Camden University and teaches PSYC 100 and PSYC 200. Students must complete PSYC 100 in order to take PSYC 200. During her second full year teaching, Sally wonders if you can predict how well a student will do in PSYC 200 based upon how well they did in PSYC 100.

She can easily obtain the grades of students in the classes she taught to get the data but would like the grades from students in the sections of PSYC 100 and PSYC 200 that she didn't teach.

Scenario 13:

Sally goes to Dean Smith's office and proposes conducting research to determine if the outcome in PSYC 100 really can predict success in PSYC 200 and asks for the grades for all students in the psychology program for the past five years.

Excited that Sally is going to evaluate the program for improvements, he eagerly agrees and provides Sally with the requested data. Is what Dean Smith did okay?

Scenario 14:

Ms. Rodriguez works in the registrar's office at Jefferson College. She is working on a spreadsheet for Dr. Packer, the Dean of Students, that contains sensitive data on students, including who are on academic probation and who need an accommodation for a disability.

Dr. Packer oversees the success of students at the college and wants to ensure those students are receiving the appropriate help for them to graduate college on time.

Scenario 14:

Finally finished with the spreadsheet, Ms. Rodriguez is eager to send it off, as there were over 500 students on the spreadsheet, and it was a lot of information to enter. She quickly sends it off and promptly leaves for lunch.

The next day, Dr. Packer asks Ms. Rodriguez where the spreadsheet is. It was due to him yesterday and he never received it. Certain that she sent it, Ms. Rodriguez checks her email and discovers that instead of sending it to Dr. Packer, she sent it to the packaging department instead!

Scenario 14:

- What should Ms. Rodriguez do next?
- What are her responsibilities under FERPA?
- Are there best practices beyond FERPA that should be followed?
- What policies and procedures are in place at your institution if this situation occurs?



Contact information

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