

# FERPA

## The Information Session

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# INTRODUCTION

- Definitions
- Key concepts
- Rights of students
- Directory Information
- FERPA Quiz
- Questions

# Definitions

- What is FERPA?
  - FERPA is the Family Educational Rights & Privacy Act
  - Law passed by congress granting rights to students (or parents) regarding their education records
  - Requires institutions to follow regulations with guidance from Family Policy Compliance Office

# Definitions

- What institutions are covered by FERPA?
  - All institutions that receive federal financial assistance are covered
  - Covers both private and public

# Definitions

- What is the definition of an eligible student?
  - Student: anyone 18 years old or enrolled in a post-secondary institution
  - Former students considered students for FERPA
  - FERPA does not define when 'enrolled' occurs

# Definitions

- What is an education record?
  - Any record containing information directly related to a student and maintained by institution
  - These are not education records:
    - Law enforcement records
    - Personnel records (if not based on student status)
    - Treatment records
    - Alumni records (after no longer enrolled)
    - Sole possession records

# Definitions

- What is personally identifiable information?
  - Any record containing the following:
    - Name
    - Student identifier
    - Name of student's parent or family member
    - Address of student (if not directory information)
    - A list of personal characteristics that would make identification possible

# Definitions

- What is a university official?
  - Defined by the institution
  - Someone working for the institution
  - An agent for the institution
  - Can include student workers

# Definitions

- What is a legitimate educational interest?
  - Defined by the institution
  - Usually defined as performing official duties for institution

# Key Concepts

- FERPA rights given to students
  - The right to access their education records
  - The right to consent to the disclosure of their education records
  - The right to request to amend their education records
  - The right to file a complaint with Department of Education regarding an alleged violation of their rights

# Key Concepts

- FERPA rights of parents
  - All rights transfer from parent to student once student turns 18 or enrolls in post-secondary institution
  - There are circumstances where parents can be given information when student is dependent

# Key Concepts

- FERPA Requirements for Institutions
  - Annual notification of FERPA rights to students
  - Record-keeping of certain disclosures of education records
  - Provide student access to their records within 45 days of the request
  - Protect privacy of education records

# Key Concepts

- **Directory Information**
  - Certain information that is considered non-harmful if made public
  - Can be released without consent
  - Students must be given opportunity to opt-out

# Rights of Students

- Student has right to inspect their education records within 45 days
  - Includes advising files, letters of recommendation (if not waived), application file, etc.
  - Does not include financial information submitted by parents, information on other students
  - Copies must be provided if student outside commuting distance, or alternative method of providing access (e.g. another school)

# Rights of Students

- Student has right to consent to the release of their education records
  - Student can release records with signed, dated consent
  - Without student consent, education records cannot be disclosed with some exceptions

# Rights of Students

- Disclosure of education records not requiring student consent:
  - University officials with a legitimate educational interest
  - Institutions to which the student seeks or intends to enroll
  - To federal, state, and local educational authorities
  - In connection with financial aid

# Rights of Students

- Disclosure of education records not requiring student consent:
  - To organizations conducting studies for or on behalf of the institution
  - To accrediting organizations
  - To parents of dependent students
  - To comply with a judicial order or subpoena
  - In a health or safety emergency
  - Directory information

# Rights of Students

- Disclosure of education records not requiring student consent:
  - The final results of a disciplinary proceeding to the victim of an alleged perpetrator of a crime of violence or a non-forcible sex offense
  - The final results of a disciplinary proceeding of an alleged perpetrator of a crime of violence or a non-forcible sex offense if student is found to have violated school policy

# Rights of Students

- Disclosure of education records not requiring student consent:
  - Disclosure to parents of student under 21 if student is determined to have committed a violation of its drug or alcohol policy

# Rights of Students

- Student has right to request to amend their records
  - Department responsible for records receives request
  - Must be a procedure in place (such as a committee) for appeal
  - If still not approved, then student's comments can be amended to the record
  - Does not cover academic decisions

# Directory Information

- Directory information can include:
  - Name
  - Address
  - Telephone #
  - E-mail
  - Field of study
  - Dates of attendance
  - Date and place of birth
  - Photographs
  - Enrollment status
  - Weight & height of athletic team members
  - Participation in officially recognized sports
  - Degrees & awards received

# Directory Information

- Directory information can include (cont):
  - Grade level
  - Most recent institution attended
- Directory information cannot include:
  - SSN or student ID
  - Race/ethnicity/nationality
  - Gender
  - Grades

# Directory Information

- An institution may disclose directory information if it has given public notice to students in attendance of:
  - What the institution has designated as directory information
  - The right of students to restrict their directory information and block its release
  - A time limit within which students must notify of their intent to restrict their information

# Directory Information

- If student has restricted information
  - No information can be given out (if complete block)
  - Cannot acknowledge person as a student
  - Institutions can choose to allow partial block

# Annual Notification

- Institutions must notify students in attendance of their rights
- Must include:
  - Procedures to inspect and review records
  - Procedures to request amendment of their records
  - Statement that education records may be disclosed to school officials without prior written consent
  - Must include criteria for determining who are school officials and what constitutes a legitimate educational interest

# Annual Notification

- Must include notice of providing information to institutions where the student seeks to enroll if you have that practice

# Recordkeeping Requirements

- Institutions must keep records of non-consent disclosures with the students record
- Does not apply to:
  - Release to university officials for legitimate educational interest
  - Directory information
  - Law enforcement subpoena or court order that specifies non-disclosure

# Enforcement Procedures

- The Family Policy Compliance Office (FPCO) is charged with investigating complaints and with providing assistance to schools
- The FPCO issues letters giving guidance to schools that have requested assistance or are alleged to be in non-compliance

# Enforcement Procedures

- Should a school not comply with the FPCO, the Secretary of Education can withhold funds administered by that department
- This has not happened to date

# Related Topics

- **Solomon Amendment**
  - A federal law requiring institutions to provide access to campus and recruitment lists for the Armed Services and ROTC
  - Directory information is similar to FERPA definition
  - Directory restrictions apply to Solomon requests as well

# HIPPA

- HIPAA (Health Insurance Portability and Accountability Act) does not cover FERPA records
- FERPA pertains to education records but excludes treatment records
- Treatment records are not covered by HIPPA

# Questions

## References:

### FPCO Website:

<http://www.ed.gov/policy/gen/guid/fpc/index.html>

### AACRAO Website:

<http://www.aacrao.org/compliance/ferpa/index.cfm>

### FERPA Regulations:

<http://www.ed.gov/policy/gen/reg/ferpa/index.html>