

Family Educational Rights and Privacy Act

Janet Dodson
Tuition Exchange
November, 2015

Today's Focus

- ▶ What is FERPA
- ▶ FERPA notifications
- ▶ Education records
- ▶ Directory information
- ▶ School officials
- ▶ What is a legitimate educational interested
- ▶ Safeguarding data

What is FERPA

- ▶ 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 information and formal hearings
- ▶ FERPA starts at 18 or the first day of class
 - ▶ Whichever is first

What is FERPA?

- ▶ The essence of the act is...
 - ▶ College students must be permitted to inspect their own education records
 - ▶ School officials may not disclose personally identifiable information (PII) about students nor permit inspection of their records without written permission
 - ▶ Of course there are always exceptions - check with your campus FERPA expert
 - ▶ Who is your campus expert? Check with the Registrar first

FERPA Notification requirements

- ▶ Provide annual notification to students outlining their right to:
 - ▶ Inspect and review their education records
 - ▶ Request an amendment to their education records
 - ▶ A hearing, if the request for an amendment is unsatisfactory
 - ▶ Request that the school not disclose directly information items about them
 - ▶ File a complaint with the U.S. Department of Education - FERPA office in Washington, D.C.

FERPA responsibilities

- ▶ All college employees - faculty, staff and student workers have access to education records
 - ▶ The sole purpose of access is to performing their jobs professionally, ethically and responsibly
- ▶ All college employees have the responsibility to protect the confidentiality of education records in their possession, regardless of the medium in which the records are presented

What is an Educational Record?

- ▶ Generally any record maintained by the college directly related to a student or students.
 - ▶ Can contain a student's name or information from which an individual student can be personally and individually identified
 - ▶ Records can include:
 - ▶ Files, documents, and materials in whatever medium* containing student's name or information from which an individual student can be personally and individually identified
 - ▶ * handwritten, printed, emails, tapes, disks, film, microfilm and/or microfiche
 - ▶ Records of individuals who are employed as a result of their status as students are education records

What is not an Educational Record

- ▶ Sole possession notes
- ▶ Personal notes by faculty/staff not shared with others
- ▶ Gradebooks
- ▶ Homework assignments
- ▶ Law enforcement unit records
- ▶ Records maintained exclusively for individuals in their capacity as employees
- ▶ Medical and treatment records
- ▶ Alumni records

What is a sole possession note

- ▶ Made by one person as an individual observation or recollection, are kept in the possession of the maker and are only shared with a temporary substitute
- ▶ Sharing these notes with another person, or placing them in an area where they can be viewed by others makes them education records
- ▶ Emails can never be sole possession

- ▶ Best practice - if you don't want it reviewed, don't write it down!

Directory Information

- ▶ Although not required to be included in the institutional annual notification, institutions must notify students what institutional information is designated as directory information
 - ▶ Students must be provided the opportunity to request the directory information not be released
 - ▶ This right of non-disclosure applies to directory information only

Typical items defined as directory information

- ▶ Student name
- ▶ Address
- ▶ Phone number
- ▶ Current enrollment status
- ▶ Field(s) of study
- ▶ Degree sought
- ▶ Expected completion date

Degrees & awards received

Awards & honors

Participation in officially recognized activities & programs

Weight & height of athletic team members

Photograph

What is never directory information

- ▶ Race
- ▶ Gender
- ▶ Social Security number (or part of an SSN)
- ▶ Grades
- ▶ GPA
- ▶ Country of citizenship
- ▶ Religion

Who is a school official

- ▶ An individual employed by the college in an administrative, supervisory, academic or support staff position
- ▶ Elected to the Board of Trustees
- ▶ A company under contract to the college to perform a specific task such as an attorney, auditor, outsourced service provider
- ▶ Student representative on an official committee, such as disciplinary or grievance committee or assisting another school official in performing tasks

What is a legitimate educational interest

- ▶ A school official has a legitimate educational interest in the official needs to review an educational record in order to fulfill their professional responsibility
- ▶ Performing a task that is specified in the position description or contract
- ▶ Performing a task related to a student's education or to a student's discipline
- ▶ Providing a service or benefit to the student
- ▶ Maintaining safety and security on campus

Providing a student access to their education record

- ▶ Inspect and review within 45 days of the request
 - ▶ College has the right to refuse..
 - ▶ Copies of records if the student is within 50 miles of campus
 - ▶ Copies of the records if the student owes the college money
 - ▶ Copies if there is an unresolved disciplinary action
 - ▶ College has the right to change a reasonable amount of copies
- ▶ Limitations to the rights to inspect
 - ▶ Student is not to see or review parental financial information
 - ▶ Confidential letters and recommendations to which the student waived their right
 - ▶ Records containing information about more than just the student

What about parents, spouses or partners?

- ▶ At the college level, parents have no inherent rights to inspect a student's educational record
- ▶ The right to inspect is limited solely to the student
- ▶ Generally college will only release information from a student record to a parent, spouse or partner only with the expressed written consent of the student

College may disclose records without written consent to

- ▶ Secretary, U.S. Department of Education
 - ▶ U. S. Attorney General
 - ▶ Accrediting organizations
 - ▶ Parents of a dependent as determined by IRS code
 - ▶ Parents of a student under 21 regarding an alcohol or controlled substance violation
- State educational authorities
 - Judicial order or lawfully ordered subpoena
 - Emergency if there is believe to be a significant threat to a student or others
 - Alleged victim of any crime of violence

Important updates and clarifications

- ▶ College may disclose information about someone “if there is an articulable and significant threat to the health or safety of the student or other individuals”
- ▶ Allow different colleges to share information - not just related to admissions decisions - about students who transfer

Safeguarding data

- ▶ Proper hard copy disposal
- ▶ Use strong passwords
- ▶ Change passwords periodically
- ▶ Don't post your password
- ▶ Save files inside protected folders
- ▶ Empty your Recycle bin
- ▶ Delete/dispose files on storage devices
- ▶ Avoid sending confidential data via e-mail - use secure file transfer instead

Remember

- ▶ Curiosity does not qualify as a legal right to know
- ▶ When in doubt, do not release information
- ▶ Contact the FERPA officer for assistance
- ▶ Asking for forgiveness is not acceptable when it comes to disclosure of education records

Let's Recap

- ▶ What is FERPA
- ▶ FERPA notifications
- ▶ Education records
- ▶ Directory information
- ▶ School officials
- ▶ What is a legitimate educational interested
- ▶ Safeguarding data

See you next month

- ▶ Webinar focus is Tuition Exchange Grant Opportunity - TE-GO
- ▶ What is it and the application process
- ▶ December 8

Janet Dodson

jdodson@tuitionexchange.org

402.418.1081