

**Guidance and Procedures Number: 47**

**Title: Family Educational Rights and Privacy Act (FERPA)**

**Date of Last Revision: July 5, 2007**

## **I. Summary of the FERPA Regulations**

The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education (ED).

FERPA regulates the disclosure of Personally Identifiable Information from youth Education Records in all public elementary and secondary schools, school districts, intermediate education agencies, state education agencies, and any public or private agency or institution that uses funds from ED. The purpose of FERPA is to protect all student and parent information maintained in an Education Record.

## **II. FERPA Definitions<sup>1</sup>**

**Record** means "any information recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche."

**Education Records** means records that contain information directly related to a student and that are maintained by an educational agency or institution or by a party acting for the agency or institution.

**Eligible student** means a student who has reached 18 years of age or is attending an institution of postsecondary education.

**Disclosure** means to permit access to or the release, transfer, or other communication of Personally Identifiable Information contained in Education Records to any party, by any means, including oral, written, or electronic means.

**Personally Identifiable Information** is the student's (or family member's) name, address, personal identifier, and personal characteristics or other information that would make the student's identity easily traceable.

**Directory Information** means information contained in an Education Record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. It includes, but is not limited to, the student's name, address, telephone listing, electronic mail address, photograph, date and place of birth, major field of study, dates of attendance, grade level, enrollment status (e.g., undergraduate or graduate; full-time or part-time), participation in officially recognized activities and sports, weight and height of members of athletic teams, degrees, honors and awards received, and the most recent educational agency or institution attended.

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<sup>1</sup> 34 CFR § 99.3

### **III. Access to Education Records for Research Purposes**

Investigators are responsible for meeting FERPA and human subject protection regulations (IRB requirements)<sup>2</sup> and University policy when accessing Education Records.

FERPA stipulates that an educational institution has the authority to determine what information may be accessed from an Education Record. If an institution denies an investigator access to information in an Education Record, the IRB cannot overrule the decision.

#### **1. Obtaining Consent to Access Records for Research Purposes**

FERPA and IRB requirements are usually met if a parent (or "Eligible Student", as defined in § 99.3) signs a consent form to participate in a research study and authorizes release of his/her Education Records for research purposes.

FERPA regulations specify that a parent or Eligible Student must provide a signed and dated written consent in accordance with the requirements of § 99.30 before Personally Identifiable Information from Education Records is disclosed, unless the disclosure falls within one of the exceptions set forth in § 99.31.

FERPA's consent provisions require a specification of 1) the records that may be disclosed; 2) the purpose of the disclosure; and 3) the identity of the party or class of parties to whom the records may be disclosed.<sup>3</sup>

##### **a. Parent Permission**

FERPA gives parents certain rights with respect to their children's Education Records. These rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level. Students to whom the rights have transferred are "Eligible Students."

If a prospective student is not an Eligible Student under FERPA then the student's parents must provide signed consent for Disclosure of Personally Identifiable Information from the student's Education Records.

#### **2. Access to Records for Research Purposes Without Obtaining Consent**

##### **a. Disclosure of Directory Information**

FERPA allows schools to designate and disclose, without consent, certain items of information as "directory information", such as a student's name, address, telephone number, date and place of birth, honors and awards, and dates of attendance.

Each educational institution designates what information is considered directory information. FERPA requires that students be given the opportunity to file a request to

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<sup>2</sup> 45 CFR 46

<sup>3</sup> 34 CFR § 99.30

prevent disclosure of directory information, commonly known as “opting out”. An institution will not release any information on a student, even directory information, if a student has “opted out”.

The Investigator should contact each institution from which he/she proposes to access student records and follow that institution’s FERPA policy and procedures when accessing directory information.

**b. Disclosure Without Consent Allowed Under 34 CFR 99.31(a)(6)**

FERPA allows schools to disclose Education Records without consent to organizations conducting certain studies for or on behalf of, educational agencies or institutions to: (A) Develop, validate, or administer predictive tests; (B) Administer student aid programs; or (C) Improve instruction.”<sup>4</sup>

**c. Removal of all Personally Identifiable Information**

Education Records may be released without consent if all Personally Identifiable Information has been removed.

**Note:** The US Department of Education indicates that “data that cannot be linked to a student by those reviewing and analyzing the data are not ‘personally identifiable.’ As such, the data are not “directly related” to any students. Accordingly, a document containing only non-personally identifiable data, even when originally taken from a student’s Education Record, is not a part of the student’s Education Records for purposes of FERPA.”<sup>5</sup>

**IV. Disclosure of Information from UCLA Student Records**

The following terms, relevant to FERPA, are defined in UCLA Policy 220, “Disclosure of Information From Student Records.”<sup>6</sup>

- Student
- Attendance
- Record
- Student Records
- Personally Identifiable Information
- Public Information
- Disclosure

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<sup>4</sup> 34 CFR § 99.31

<sup>5</sup> US Department of Education correspondence to the Tennessee Department of Education, dated November 18, 2004, accessed May 17, 2006 at: <http://www.ed.gov/policy/gen/guid/fpco/doc/tennessee.doc>. (Copy attached)

The correspondence further details its intention to “promulgate regulations in the future defining this type of non-personally identifiable (anonymous) data, thus allowing disclosure, without parental consent, but with appropriate privacy safeguards.” The correspondence also outlines criteria for the establishment or creation of an “anonymous data file for the purpose of education research”.

<sup>6</sup> Copy attached; accessed and printed May 17, 2006.

UCLA maintains various types of Records pertaining to Students; some are maintained for academic purposes, others, such as medical Records, are maintained for other specific purposes. UCLA Policy 220 applies only to Records pertaining to Students in their capacity as Students; it is not applicable to other Records which are maintained for purposes unrelated to a Student's status as a Student.

The Disclosure of information from Student Records is governed by the Federal Family Educational Rights and Privacy Act (FERPA). It is the purpose of UCLA Policy 220 to provide reasonable interpretations of those laws and to protect the Student's right of privacy as guaranteed by the Constitution of the State of California. When the law is silent, UCLA shall be guided by two principles: (1) privacy of an individual is of great weight; and (2) the information in a Student's files should be disclosed to the Student on request.

For the purposes of implementing the provisions of FERPA, the University is viewed as nine separate institutions, rather than as a single entity. Personally Identifiable Information contained in UCLA Student Records may not be disclosed to other University of California campuses without the written consent of the student, unless the Disclosure is consistent with the provisions of Section IV. E. of UCLA Policy 220.

## **1. Disclosure of UCLA Directory Information**

UCLA<sup>7</sup> has designated the following categories of Personally Identifiable Information as Directory Information which UCLA may release and publish without students' prior consent:

- name
- address (local/mailling, permanent, and/or e-mail)
- telephone numbers
- major field of study
- dates of attendance
- enrollment status
- grade level
- number of course units in which enrolled
- degrees and honors received
- the most recent previous educational institution attended
- participation in officially recognized activities (including intercollegiate athletics)
- the name, weight, and height of participants on intercollegiate athletic teams

The following are not designated as directory information:

- student identification numbers
- social security number
- ethnicity/race/nationality
- citizenship
- gender
- religious affiliation or preference
- grades, GPA

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<sup>7</sup> The Official Notice from the UCLA Registrar is available at: <http://www.registrar.ucla.edu/soc/notices.htm>  
Copy attached; accessed and printed May 17, 2006.

**Regulations:**

34 CFR 99 [http://www.access.gpo.gov/nara/cfr/waisidx\\_03/34cfr99\\_03.html](http://www.access.gpo.gov/nara/cfr/waisidx_03/34cfr99_03.html)  
45 CFR 46

**References:**

US Department of Education's FERPA Policy Guidance  
<http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html>.

US Department of Education, *Recent Changes Affecting FERPA & PPRA*, April 2002.  
<http://www.ed.gov/policy/gen/guid/fpco/pdf/changes-ferpa-ppra.pdf>

US Department of Education correspondence to the Tennessee Department of Education,  
dated November 18, 2004. <http://www.ed.gov/policy/gen/guid/fpco/doc/tennessee.doc>

UCLA Policy 220: Disclosure of Information From Student Records  
[http://www.adminvc.ucla.edu/appm/public/app\\_0220\\_0.html](http://www.adminvc.ucla.edu/appm/public/app_0220_0.html)