

AACRAO 2009

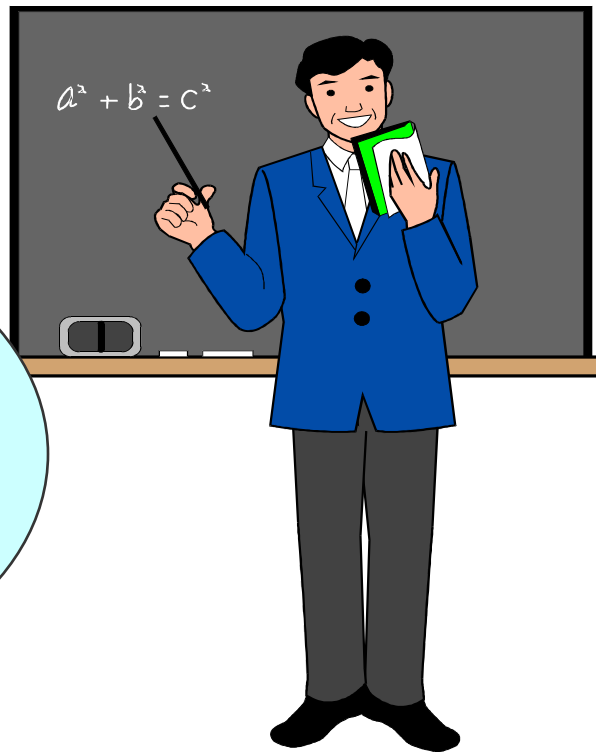
Session ID: 1074 / W185ABC

Tuesday, April 14, 2009 (1:30 - 2:30)

How to Train Your Faculty, Staff, and Administration on [FERPA?]

“ YES...IT CAN BE DONE!”

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You know FERPA, and your office staff is FERPA trained, but what about the rest of the campus? This session provides insight and practical tips on “how” you can train your campus faculty, staff, and administration the basic do’s and don’ts surrounding FERPA.

Things you'll need to do *BEFORE* you go out to train anyone:

1. *Assess your campus' "FERPA readiness."*

- Do all divisional secretaries know what they can or cannot say about a student over the telephone or to that person at their desk?
- Do faculty know they cannot post grades by SSN or student ID? Do they know they CAN post grades?
- Your staff knows FERPA, but what about support staff in other offices?
- Are other offices aware they may be custodians of "educational" records? *"How can that be? Isn't the Office of Student Records the custodian of all "student" records!"*
- Other than your office, who else receives subpoenas? Do they know what to do with them? Are they aware of student rights relative to the subpoena and FERPA?
- You've noticed a lot of student workers in various offices. Are they FERPA trained?

Things you'll need to do **BEFORE** you go out to train anyone (cont'd):

2. Convince someone, other than yourself, that FERPA training is needed.

- Your boss (whoever he/she may be)
- Other department heads (*incl. HR dept.*)
- Division Chairs / College Deans
- VP's, VC's, University President, Chancellor

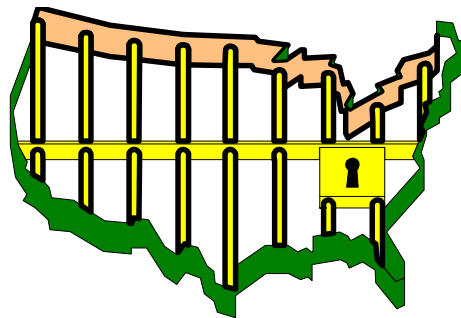


The more support you have, from the highest level of the food chain, the better your chances for success.

Things you'll need to do BEFORE you go out to train anyone (cont'd):

3. But “HOW” do I garner support for training?

- ❑ Educate “the power people” about FERPA
- ❑ Explain why it is in “their” best interest and the University’s to conduct this training. [annual notification, school officials, legitimate educational interest, computer access, etc...]
- ❑ Scare them! (FERPA applies to who...and the penalty for non-compliance is what...?)



Things you'll need to do BEFORE you go out to train anyone (cont'd):

4. Develop a FERPA training tool. There are many good tutorials on our colleague's websites.

ONLINE FERPA TUTORIALS

University of Nebraska at Kearney

www.unk.edu/offices/registrar/ferpa/index.php?id=425

The Ohio State University

www.ureg.ohio-

state.edu/ourweb/more/Content/ferpa_tutorial/main.htm

University of Arizona

www.registrar.arizona.edu/ferpacourse/default.htm

Indiana University East

http://www.iue.edu/registrar/FERPA_tutorial.php

University of Southern California

www.usc.edu/dept/ARR/ferpa/tutorial/

University of Maryland

www.sis.umd.edu/ferpa/

Things you'll need to do BEFORE you go out to train anyone (cont'd):

FERPA WEBSITES

AACRAO

www.aacrao.org/compliance/ferpa/index.cfm

George Mason University

<http://registrar.gmu.edu/privacy/privacy.html>

University of Texas at Austin

<http://registrar.utexas.edu/students/records/ferpa/index.html>

Penn State University

http://www.registrar.psu.edu/confidentiality/confidentiality_index.cfm

University of North Carolina – Chapel Hill

http://regweb.unc.edu/faculty/ferpa_training.php

University of Nebraska at Omaha

www.ses.unomaha.edu/registrar/ferpa.php

Family Policy Compliance Office (FPCO)

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

Things you'll need to do **BEFORE** you go out to train anyone (cont'd)

5. **Announce** that FERPA training will take place.

Announcement should be made by that individual who carries the most authority.

This announcement should include:

“**when**” the training will take place (i.e. a series of workshops “this semester”).

“**who**” will conduct the training (i.e. “the Registrar”) [DO NOT DELEGATE!]

“**WHY**” it is being conducted and a statement to the effect that attendance at one of the sessions is “mandatory”

The **WHY** statement may be the most important element. Saying it is mandatory almost assures poor attendance from those who know they can't be threatened or forced (and who will skip just to prove it).

The campus must understand “*why*”

FERPA training is so important.

Things you'll need to do *BEFORE* you go out to train anyone (cont'd):

6. Schedule FERPA

training with Dept. Heads, College Deans/Chairs, etc.



Personally call or visit to schedule their department's training. You may have to reassure them of the "why," so don't delegate.

Don't disrupt their schedule; let them pick the day and time; you stay flexible.

Get on the agenda of one of their regularly scheduled divisional meetings.

Promise to be brief. Ask for 45 minutes, insist on 30, and expect an hour.

Share a couple of real life "*how would you handle*" scenarios that are applicable to their division. This should wet their whistle and assure greater attendance.

DAY OF TRAINING (FERPA Workshop)

- **BE PREPARED!**

- Know the layout of their training/conference room. Remember, you are going to them.

- Make sure AV equipment (LCD projector) is in place and in working order. Have a back-up plan (overhead projector & transparencies) just in case it is needed.

- Only give them handouts that they really need.

- Keep it loose. Professional doesn't have to be stuffy.

And, finally...

HAVE FUN!

On-line FERPA Tutorial

Please feel free to make use of the IU East FERPA tutorial. Use it as FERPA refresher or ask your department or campus webmaster to copy it to your webpage. You may find it at:

http://www.iue.edu/registrar/FERPA_tutorial.php

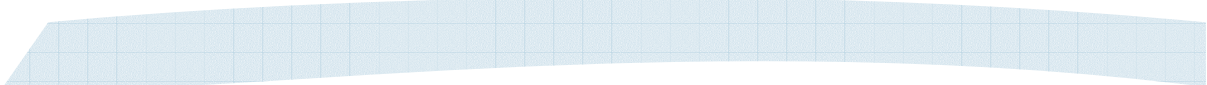
On behalf of your students, thanks for taking the time to learn the importance of protecting their educational records.

You've earned a gold



“FERPA” Presentation

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AACRAO 2006 FERPA Guide
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AACRAO 2008
Federal Relations 101
Workshop
March 24, 2008

FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF 1974 (FERPA)

**“A Federal Law designed to
(a) protect the privacy of
education records, (b) to
establish the right of students to
inspect and review their
education records, and (c) to
provide guidelines for the
correction of inaccurate and
misleading data through
informal and formal hearings.”**

ESSENCE OF FERPA

§ College students must be permitted to inspect their own **education records**.

§ **School officials** may not disclose **personally identifiable information** about students nor permit inspection of their records without **written permission** unless such action is covered by certain **exceptions** permitted by the act.

FAMILY EDUCATIONAL RIGHTS and PRIVACY ACT of 1974

This act is enforced by the
**Family Policy Compliance
Office,**

U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

ferpa@ed.gov

www.ed.gov/policy/gen/guid/fpco

KEY FERPA CONCEPTS

- § Required *annual notification* ≠ policy
- § *Written permission* of student required to disclose personally identifiable info
- § The *exceptions* to written permission
- § Students' *right to access* their records
- § The “musts” and “mays” in FERPA
- § Parents/parental disclosure
- § *Legitimate educational interest*

KEY TERMS

- § Education Record
- § Directory (i.e. public) Information
- § School Official
- § Personally Identifiable
- § Eligible Student

WHAT IS AN “EDUCATION RECORD?”

- § **Any record, with certain exceptions, maintained by an institution that is directly related to a student or students.**
This record can contain a student’s name, or student’s names or information from which an individual student, or students, can be personally (individually) identified.
- § **These records include: files, documents, and materials in whatever medium** (handwriting, print, tapes, disks, film, microfilm, microfiche) **which contain information directly related to students and from which students can be personally (individually) identified.**

“PERSONALLY IDENTIFIABLE”

Personally Identifiable means data or information which includes:

1. The **name** of the student, the student’s parent, or other family members;
2. The student’s campus or home **address**;
3. A personal identifier (such as a social security number or student number);
4. A list of personal characteristics or other information which would make the student’s identity easily traceable.

WHAT AN EDUCATION RECORD IS NOT!!

- § “Sole Possession” notes
- § Law enforcement unit records
- § Records maintained exclusively for individuals in their capacity as employees
 - | Records of individuals who are employed as a result of their status as students (work study) are education records.
- § Doctor-patient privilege records
- § Alumni Records

“SOLE POSSESSION NOTES”

Are 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.

- | This term has always been narrowly defined.
- | Notes taken in conjunction with any other person are not sole possession notes (counselor’s notes, interview notes).
- | Sharing these notes with another person, or placing them in an area where they can be viewed by others makes them “education records” and subject to FERPA.
- | **Best advice: If you don’t want it reviewed, don’t write it down.**

WHAT IS AN EDUCATION RECORD ? (SUMMARY)

If you have a record that is:

- | Maintained by your institution
- | Personally identifiable to a student (directly related to a student and from which a student can be identified)
- | Not one of the excluded categories of records...

Then, you have an education record and

It is subject to FERPA

REQUIREMENTS FOR COMPLIANCE

What we must do...

- | Provide **annual notification** to students of their FERPA Rights
- | Provide students **access** to their education records

REQUIREMENTS FOR COMPLIANCE

§ Provide **annual notification** to students of their right to:

1. Inspect and review their education records
2. Request an amendment to their education records
3. A hearing if the request for an amendment is unsatisfactory
4. Request that the institution not disclose **directory information** items about them
5. File a complaint with the U.S. Department of Education

REQUIREMENTS FOR COMPLIANCE

§ Provide **annual notification** to students of their right to:

6. Know that 1) **school officials** within the institution may obtain information from education records without obtaining prior written consent, 2) the criteria for determining who will be considered **school officials** and 3) what **legitimate educational interest** will entitle school officials to have access to education records

REQUIREMENTS FOR COMPLIANCE

§ Provide **annual notification** to students of their right to:

7. Know which information the institution has designated as public or **directory information**.

Note: This notification of **directory information** is **NOT** required to be included in the annual notification, but is highly recommended.

REQUIREMENTS FOR COMPLIANCE

Directory Information

- | Although not required to be included in the institution's annual notification, the **institution must notify student of what information the institution has designated as directory information.**
- | The Family Policy Compliance Office has recommended that this notification be part of the institution's annual FERPA notification to students.

REQUIREMENTS FOR COMPLIANCE

Directory Information

- | Information not normally considered a violation of a person's privacy
- | Students must be notified of the items of **directory information**
- | Students must be given the opportunity to request that directory information not be released. This right of non-disclosure applies to directory information only.

WHAT CAN DIRECTORY INFORMATION INCLUDE?

Directory Information **may** include the following student information:

- § Student's name and address
- § Telephone number
- § Date/place of birth
- § Major and/or field of study
- § Participation in officially recognized activities and sports
- § Height/weight of athletic team members
- § **Dates of attendance** (not classroom attendance)
- § **Degrees and awards received**
- § Most recent educational institution attended
- § Other similar information as defined by the institution that would not normally be considered an invasion of a student's privacy

WHAT CAN DIRECTORY INFORMATION INCLUDE?

Directory Information **may** include the following **recent additions** to student information:

§ E-mail address

§ Photographs

WHAT CAN DIRECTORY INFORMATION **NEVER** INCLUDE?

- § Race
- § Gender
- § Social Security Number
- § Grades
- § GPA
- § Country of citizenship
- § Religion

DIRECTORY INFORMATION COLLEGE XXX STYLE

**Indiana University East has designated
Directory Information according to the Family
Educational Rights and Privacy Act of 1974 to
be the student's:**

- | | |
|--|---|
| § Name | § Most recent previous educational institution attended |
| § Local and permanent address/telephone number | § Academic level |
| § Major field of study | § Enrollment status (FT/PT) |
| § Participation in officially recognized activities/sports | |
| § Weight/height of members of athletic teams | |
| § Dates of attendance | |
| § Degrees and awards received and dates | |

DIRECTORY INFORMATION

- § It is important to remember that **directory information** be defined as such.
- § If a data element isn't defined as **directory information** *it is NOT directory information* and can ONLY be released if the student's written permission is obtained or the release can be justified under one of the expectations to student's written permission found in FERPA.

REQUIREMENTS FOR COMPLIANCE

§ Let's now go back to point 6 of providing annual notification to students and their right to:

Know that 1) school officials within the institution may obtain information from education records without obtaining prior written consent, 2) the criteria for determining who will be considered school officials and 3) what “legitimate educational interests” will entitle school officials to have access to education records.

“SCHOOL OFFICIALS”

A **school official** can be a person:

1. Employed by the college in an administrative, supervisory, academic, research, or support staff position (including law enforcement and health staff personnel),
2. Elected to the Board of Trustees,
3. Or company employed by or under contract to the college to perform a special task such as the attorney, auditor, or collection agency,
4. Or student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks.

AT INDIANA UNIVERSITY EAST, A SCHOOL OFFICIAL IS A PERSON:

- § Employed by the University in an administrative, supervisory, academic or research, or support staff position (including law enforcement unit personnel and health staff);
- § Or company with whom the University has contracted, e.g., attorney, auditor, collection agency;
- § Serving on the Board of Trustees;
- § Or student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks.

REQUIREMENTS FOR COMPLIANCE

§ Let's now at the third part of point 6 regarding providing annual notification to students and their right to:

6. Know that 1) school officials within the institution may obtain information from education records without obtaining prior written consent, 2) the criteria for determining who will be considered school officials and 3) what **legitimate educational interest** will entitle school officials to have access to education records.

“LEGITIMATE EDUCATIONAL INTEREST”

§ The **demonstrated need to know** by those officials of an institution who act in the student’s educational interest, including faculty, administration, clerical and professional employees, and other persons who manage student record information.

§ Although FERPA does not define **“legitimate educational interest”**, it states that **institutions must specify the criteria for determining it.**

“LEGITIMATE EDUCATIONAL INTEREST” at INDIANA UNIVERSITY EAST

A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility to the University.

REQUIREMENTS FOR COMPLIANCE

§ We just covered the requirement for **providing annual notification to** students of their FERPA Rights

§ Now, let's look at the requirement for **providing students access to** their education records

REQUIREMENTS FOR COMPLIANCE

§ **Provide students with access to their education records**

They have the right to:

- 1) Inspect and review within 45 days of the request to inspect.

REQUIREMENTS FOR COMPLIANCE

Provide students with access to their education records

| Limitations to the right to inspect

- Parental financial information
- Confidential letters and recommendations to which the student has waived his/her right of inspection
- Education records containing information about more than one student
 - The institution **must permit access** to that part of the record which pertains only to the inquiring student

PROCEDURES AND STRATEGIES FOR COMPLIANCE – *Disclosure of...*

A. Disclosure of educational record information

1. Institutions shall obtain **written consent** from the student before disclosing any personally identifiable information from their education records (with the exceptions as noted in sections 2 and 3 below). **The written consent must:**
 - a. **Specify the records to be released**
 - b. **State the purpose of the disclosure**
 - c. **Identify the party or parties to whom disclosure may be made**
 - d. **Be signed and dated by the student.**

PROCEDURES AND STRATEGIES FOR COMPLIANCE – *Disclosure of...*

A. Disclosure of educational record information (continued)

2. Institutions **must** disclose education records without written consent of students to the following:

a. Students who request the information from their own records

PROCEDURES AND STRATEGIES FOR COMPLIANCE – *Disclosure of...*

A. Disclosure of educational record information (cont'd)

3. Institutions **may** disclose education records without written consent of students to the following:

a. Authorized representatives of the following for audit, evaluation, or enforcement of federal and state supported programs:

- Comptroller General of the United States
- The Secretary of the United States Department of Education
- U.S. Attorney General (law enforcement only)
- State educational authorities

PROCEDURES AND STRATEGIES FOR COMPLIANCE – *Disclosure of...*

A. Disclosure of educational record information (cont'd)

3. Institutions **may** disclose education records *without written consent* of students to the following:
 - b. **Personnel within the institution determined by the institution to have a legitimate educational interest**
 - c. Officials of other institutions in which the student seeks to enroll, on condition that the issuing institution makes a reasonable attempt to inform the student of the disclosure

PROCEDURES AND STRATEGIES FOR COMPLIANCE – *Disclosure of...*

A. Disclosure of educational record information (cont'd)

3. Institutions **may** disclose education records without written consent of students to the following:

d. **Persons or organizations providing to the student financial aid, or determining financial aid decisions**

e. Organizations conducting studies to develop validate, and administer predictive tests, to administer student aid programs, or to improve instruction

PROCEDURES AND STRATEGIES FOR COMPLIANCE – *Disclosure of...*

A. Disclosure of educational record information (cont'd)

3. Institutions **may** disclose education records without written consent of students to the following:

f. Accrediting organizations carrying out their accrediting functions

g. **Parents of a student who have established that student's status as a dependent - IRS Code of 1986, Section 152**

PROCEDURES AND STRATEGIES FOR COMPLIANCE – *Disclosure of...*

A. Disclosure of educational record information (cont'd)

3. Institutions **may** disclose education records *without written consent* of students to the following:
 - h. Persons in compliance with a **judicial order or a lawfully issued subpoena**, provided that the institution first make a *reasonable attempt to notify the student*.
Exception: If the subpoena is issued from a federal grand jury, or for a law enforcement purpose, and orders the institution not to notify the student.

PROCEDURES AND STRATEGIES FOR COMPLIANCE – *Disclosure of...*

A. Disclosure of educational record information (cont'd)

3. Institutions **may** disclose education records *without written consent* of students to the following:
 - i. A court if the student has initiated legal action against the institution or the institution has initiated legal action against the student (eg. In this case, a subpoena would not be required).

PROCEDURES AND STRATEGIES FOR COMPLIANCE – *Disclosure of...*

A. Disclosure of educational record information (cont'd)

3. Institutions **may** disclose education records without written consent of students to the following:

j. **Persons in an emergency**, if the knowledge of information, in fact, is necessary to protect the health or safety of the student or other persons

PROCEDURES AND STRATEGIES FOR COMPLIANCE – *Disclosure of...*

A. Disclosure of educational record information (cont'd)

3. Institutions **may** disclose education records without written consent of students to the following:
 - k. An alleged victim of any crime of violence, as well as the results of any institutional disciplinary proceeding against the alleged perpetrator of that crime with respect to that crime

PROCEDURES AND STRATEGIES FOR COMPLIANCE – *Disclosure of...*

A. Disclosure of educational record information (cont'd)

3. Institutions [**must**] disclose education records without written consent of students to the following:

l. **Veterans**

Administration officials in response to requests related to VA programs

m. Representatives of **Homeland Security** for purposes of the coordinating interagency partnership regulating international (CIPRIS)

PROCEDURES AND STRATEGIES FOR COMPLIANCE – *Disclosure of...*

A. Disclosure of educational record information (cont'd)

3. Institutions **may** disclose education records without written consent of students to the following:

n. Parents of a student under the age of 21 regarding a violation of an institutional policy or rule governing the use of alcohol or a controlled substance

Does not supersede any state law that prohibits disclosure of this information.

PROCEDURES AND STRATEGIES FOR COMPLIANCE – *Disclosure of...*

A. Disclosure of educational record information (cont'd)

3. Institutions **may** disclose education records without written consent of students to the following:
 - o. The public regarding the final results of an institutional disciplinary proceeding **as long as the student has been determined to be the alleged perpetrator of a **crime of violence or non forcible sex offense****

What do the “*FINAL RESULTS*” of an institutional disciplinary proceeding include?

- § **Must include only:** the name of the student, violation committed, and any sanction imposed by the institution against the student.

- § The institution **may not** disclose the name of any other student, including a victim or witness, without their prior written consent.

PROCEDURES AND STRATEGIES FOR COMPLIANCE – *Disclosure of...*

A. Disclosure of educational record information (cont'd)

4. Institutions **may** disclose information about students to their parents by any of three procedures:
 - a. By obtaining the student's **written consent**
 - b. By having the parents establish the student's **dependency** as defined by IRS Code of 1986, Section 152
 - c. By exercising its disclosure option on any **students under age 21 regarding a violation of an institutional rule or federal, state, or local law regarding the use of alcohol or controlled substance** as long as state law permits.

WHAT ABOUT PARENTS?

1. When a student reaches the age of 18 or begins attending a postsecondary institution regardless of age, FERPA rights transfer to the student.
2. Parents may obtain directory information only at the discretion of the institution.
3. Parents may obtain non-directory information (grades, gpa, etc.) only at the discretion of the institution AND after it has been determined that their child is legally their dependent.
4. Parents may also obtain non-directory information by obtaining a signed consent from their child.

PROCEDURES AND STRATEGIES FOR COMPLIANCE – *Disclosure of...*

A. Disclosure of educational record information (cont'd)

5. Institutions **may** release without written consent those records identified as public or directory information for students who are currently enrolled with the following conditions:
 - a. The institution inform students of those categories designated as directory information
 - b. That students be given opportunity to refuse disclosure of any or all categories of directory information
 - c. That the students be given a reasonable period of time in which to state such refusals in writing

PROCEDURES AND STRATEGIES FOR COMPLIANCE – *Disclosure of...*

A. Disclosure of educational record information (cont'd)

6. Institutions **may** release without written consent those items identified as public or directory information on any students *not currently enrolled*
7. Institutions **may** release without written consent information on any student found by a campus disciplinary body to have committed a crime of violence or non-violent sexual offense. The information that may be released is limited to the following: name, violation committed, sanction imposed by the institution.
8. Institutions are responsible for informing parties to whom personally identifiable information is released that recipients are not permitted to disclose the information to others (i.e. third parties) without written consent of the students.

PROCEDURES AND STRATEGIES FOR COMPLIANCE – *Record Keeping*

B. Records of requests and disclosures

1. All institutions are required to maintain records of requests and disclosures of personally identifiable information
 - a. These records will include the names and addresses of the requestor and his/her indicated interest in the records.

PROCEDURES AND STRATEGIES FOR COMPLIANCE – *Record Keeping*

B. Records of requests and disclosures

2. Records of requests and disclosure **do not** have to be kept for:
 - a. Requests from students for their own use
 - b. Disclosures in response to written requests from students
 - c. Requests made by school officials
 - d. Those specified as directory information
 - e. What's left?

PROCEDURES AND STRATEGIES FOR COMPLIANCE – *Record Keeping*

B. Records of requests and disclosures

3. These records of requests and disclosures are part of the student's education records and must be retained as long as the education records to which they refer are maintained by the institution.

KEY CONCEPTS

REVISITED

- § Required *annual notification*
≠ policy
- § *Written permission* of student
required to disclose personally
identifiable info
- § The *exceptions* to written
permission
- § Students' *right to access* their
records
- § The “musts” and “mays” in
FERPA
- § Parents/parental disclosure
- § *Legitimate educational
interest*

KEY TERMS *REVISITED*

§ Education Record

§ Directory (i.e. public)
Information

§ School Official

§ Personally Identifiable

§ Eligible Student

CURRENT HIGH TECH ISSUES and FERPA

§ Faculty → e-mail →
→ students

§ Posting grades

§ Distance learning

§ E-signatures

§ PIN's

§ E-mail transcript requests

§ Tracking/logging

§ Annual notification via the web

Institutional FERPA Web Sites

**University of Connecticut, Office of the
Registrar**

<http://www.registrar.uconn.edu/ferpa.html>

**New York University, University Registrar (as
part of faculty handbook)**

<http://www.nyu.edu/registrar/13faculty.shtml>

**George Mason University, Office of the
Registrar**

http://registrar.gmu.edu/faculty_services/

<http://registrar.gmu.edu/ferpafaqs.html>

**University of Nebraska at Kearney, FERPA
Quiz/Tutorial For Faculty and Staff**

[http://www.unk.edu/offices/registrar/ferpa/
index.php?id=425](http://www.unk.edu/offices/registrar/ferpa/index.php?id=425)

Institutional FERPA Web Sites

**University of Puget Sound, Office of the
Registrar**

<http://www.ups.edu/registrar>

**Ohio State University, Office of the University
Registrar**

[http://www.ureg.ohio-state.edu/ourweb/more/
Content/FERPA_Tutorial/main.htm](http://www.ureg.ohio-state.edu/ourweb/more/Content/FERPA_Tutorial/main.htm)

**Indiana University East, Office of Student
Records**

[http://www.iue.edu/registrar/ferpaweb/
index.shtml](http://www.iue.edu/registrar/ferpaweb/index.shtml)

Also www.aacrao.org (Resource
Center)

FERPA – YOUR QUESTIONS



AUTHORITATIVE SOURCE

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Ave., SW
Washington, D.C. 20202-5920
202-260-3887 (phone)
202-260-9001 (fax)

ferpa@ed.gov

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