
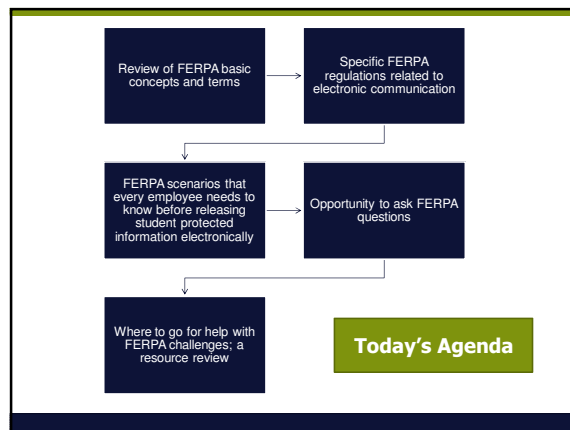



Innovative Educators
Supporting Academic & Professional Growth In Higher Ed

FERPA & Email: How To Effectively Communicate With Students & Avoid Liability

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The Most Important FERPA Basics




Family Educational Rights and Privacy Act of 1974

Student Rights:

- ❖ The right to see educational records the school is keeping on the student within 45 days of the request.
- ❖ The right to seek amendment to those records.
- ❖ The right to consent to any disclosure of those records.
- ❖ The right to obtain a copy of the school's Student Records policy.
- ❖ The right to file a complaint with the FERPA office in Washington, D.C. (<http://www.ed.gov/policy/gen/guid/fpc/index.html>)

Who has FERPA rights?

- All students attending an institution of higher education receiving Federal Title IV funds, regardless of age
- Attendance is defined by each institution
- Any student for whom an educational institution maintains educational records




Important FERPA Terms

- **Student**
 - Anyone attending an institution, regardless of age, during the attendance period defined by the school, for whom records are maintained
- **Student Record**
 - Any information or data recorded **in any medium**
- **Educational Record**
 - Directly related to a student
 - Maintained by an educational agency or institution

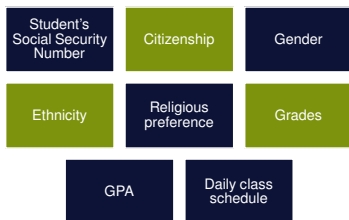
• Registration forms	• Transcripts
• Grades	• Student schedules
• Class assignments evaluated by faculty	• Class rosters
• Any paper with the student's ID on it	• Student information displayed on your computer screen

More Important FERPA Terms

- **School Official**
 - Members of an institution acting in the student's educational interest within the limitations of their "need to know"
 - You, as a front-line employee!
- **Directory Information**
 - What the institution has defined as information that can be released without permission from students
- **Confidentiality Indicator/Opt Out**
 - When a student asks for no directory information to be given out



What cannot be given out...Ever!*



*This means parents, too! Even if they are paying your bills.

What documents does a student NOT have a right to see?



What Exactly is Directory Information?

- Information not generally considered harmful
- Sample Acceptable Directory Information
 - Student's name
 - Student's local/permanent addresses and email address
 - Student's listed telephone number(s)
 - Major field of study
 - Dates of attendance
 - Enrollment status (undergraduate or graduate, full time or part time)
 - Degrees and awards
 - Most recent previous educational institution attended
 - Publication titles (dissertations)
 - Weight and height of university athletes



No other information may be considered directory information.

Schools must post their directory information and make this available to students annually

Requests for Non-Disclosure

- Applies only to directory information. All other information is always confidential and cannot be released.
- All or Nothing.....Cannot restrict information from particular individuals (can't say that just one specific person cannot have your information)
- Must be made by a currently enrolled student
- If a directory restriction exists you must say:

There is no information available on that person!



When in doubt, don't give it out!

- You are **never obligated** to give out FERPA protected information.
- FERPA law states that schools have up to **45 days** to provide students with access to their information and this does not require the information to be copied and released, but just to make the information **visible to review**.
- The more pressure you are receiving to release information, the more you want to assume that the person asking does not have the right to access the student's information.



Do you know...?

- Where to find your institution's FERPA policy?
- Your institution's directory information?
- How your school defines "attendance"?
- Does your school allow parents of dependent students to present tax records to have access to their records?
- Has your institution defined in writing who your "school officials" are? Does this include student employees?
- How are students being notified annually of their FERPA rights?
- Where you can see in the system that a student has a FERPA Hold?



Campus Email

Inspire "Common Sense" Mentality

FERPA is one of the most misunderstood regulations in education when it comes to electronic communication.

Email & Electronic Signature Procedures

- ✓ An Institution may recognize an electronic signature as a valid signature from faculty, staff, and students if the communication occurs through a college-issued account such as email, Moodle, the student information system or online portal.
- ✓ An electronic signature is defined as any electronic process signifying an approval to terms and/or ensuring the integrity of the document presented in electronic format.
- ✓ Electronic signatures from accounts not issued by the college should NEVER be accepted.

Suggested Institution Policy

Information Via Email

- All non-directory information should be transmitted by email only through the official email account.
- The institution could be held accountable if an unauthorized third party gained access, in any manner, to a student's educational record through any electronic transmission method.
- Emails should be limited to communication between the University employee and the individual student, or between University employees with a 'legitimate educational interest' in the student about whom the email is concerned.
- No information about a particular student should be included in an email sent to all members of a class or organization in which that student participates.

FERPA & Communicating Online

Email, Texting & Instant Messaging

- You should always use the institution email address to communicate with students from your official institution email account (require part-time faculty to use institutional email).
- It is permissible to communicate about educational records, including grades, through the student's institutional email account.
- If you email a group of students, put the students' email addresses in the BCC column or develop a distribution list for each class.

Chat Services

- Chats are sent in clear text over the Internet.
- Public instant messaging is not a secure option for communicating any sensitive information; this includes your students' grades, IDs and passwords.
- Data can easily be captured and read by savvy computer users and systems administrators.
- Safeguards should be put into place prior to using these programs for sending/receiving sensitive information (Security Questions).

Communicating With Students Electronically

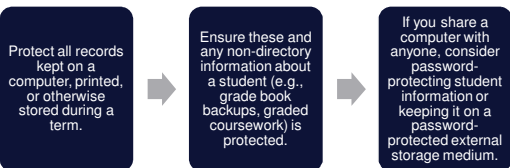
1. Place a statement in the Subject line or body of external email communications that states: "Under FERPA, this email is intended only for (Student's Name)."
2. Always use a student's college email account. Students can forward this email to another account, but in so doing, they remove the information from the school protected server and assume liability for the content of the email at that point.
3. Keep a record of all communications during a term as a record of compliance.
4. Never post grades or comment in an evaluative manner about course performance in spaces external to the password-protected course system.



Passwords



Passwords



- Know how to select a good one
 - At least 7 characters
 - Mixture of upper and lowercase characters
 - Mixture of alpha and numeric characters
 - Don't use words you can find in a dictionary
- Keep passwords safe
- Change them often
- Don't share or reuse them

Password Selection Tips

Everyday items can make great passwords:

1/4#Burger
2004EACno
0nmy30thBday



Use simple sayings, poems or songs

I like to go to the Electronic Access Conference *il2g2IEAC*
The bus stops near my campus at half past four *Tbsnmc@1/2p4*
TIGER, tiger, burning bright in the forests of the night, *Ttbbifotn,*
Dear Prudence, won't you come out to play *DP,wyco2p*

Passwords to Avoid


Places
Repeated letters *xxxx*
keyboard patterns *qwerty*
Names

DOB
Usernames
Dictionary words
Phone numbers

Securing your Workstations

- Lock Your System
- Shut Down
- Run Virus Scanning Software
- Password Protect Files
- Apply Patches






Email in the Classroom

Students cannot choose to be anonymous in the classroom setting.

Students who have a FERPA confidentiality block must still participate in the online portions of a course, which means that their email may be available to their classmates and their names will be posted within the course shell.


Check for Understanding



Scenario #1

You receive a frantic email from a woman saying that her daughter is diabetic and on medication. She hasn't seen the daughter in 6 days and needs you to give her the student's schedule so she can find her.

Can you provide her with the student's schedule via email?



Answer to Scenario #1

YES

NO

- You may not release a student's location, time or class schedule to anyone without written permission from the student or in response to a subpoena which has been approved by your college attorney.
- If this occurs, respond that you may not release that information. If they press you, refer them to your supervisor for backup help.
- The FERPA Authority at your campus (usually Registrar) could make a decision to notify the student that there is a concern and ask her to contact her mother.
- Remember, FERPA is technology neutral--same rules in person or electronic.

FERPA Issues?

- Directory Information:** A student's class schedule is not a permissible item to put into Directory Information and cannot be released without a student's written release
- Health and Safety Emergency:** This student's situation, as represented by the parent, does not constitute a reason to invoke the Imminent Threat to Self or Others
- Verification:** There is no way electronically to verify the identity of the parent, even if there is a disclosure document.

Scenario #2

You work in the Registrar's Office and receive a call from an instructor who says that an international student, living off campus, emailed her earlier this morning thanking her for teaching her and giving the faculty member the impression that she was going to complete suicide.

How should you respond?

- Tell her you want to help, but you can't release information the student gave to an instructor in confidence because you can't verify it came from the student via email.
- Refer the call to your supervisor to work with campus public safety or the local police to check on her.
- Since she is an international student, she is not covered by FERPA, so you can refer her situation to the local police.

Answer to Scenario #2

The answer is **B**.

- In this circumstance, campus authorities can partner with local police to do a wellness check and site the Health and Emergency aspect of FERPA. Verifying where the email originated is not relevant in this case since the health and emergency clause will be invoked.
- It is a common misperception that since FERPA is a U.S. federal law, that it does not apply to international students. This would be similar to saying that speed limits do not apply to international students.

FERPA Issues?

- **Health and Safety Emergency:** If you are presented with facts surrounding a situation where the student could be at risk of hurting themselves or others, you must report it to your **supervisor**. If FERPA protected information is released to authorities, a record of this release must be in the student's educational record. Request a copy of the student's email from the instructor.
- **Definition of a student:** According to your school's FERPA policy definition of a student. International students are protected under FERPA.

Scenario #3

You receive a forwarded email from a student employee in your office. She is a member of the English Honorary Society and received an email from the organization's faculty sponsor informing the membership that the chapter president has resigned and is on leave from the University to enter a drug treatment facility.

What should you do?

- Since the student works in your office, you can confirm the report and encourage the student to run for the presidency.
- Call the institution's FERPA compliance officer to notify them of the violation in release of non-directory information to the student group.
- Call the faculty to explain the problems with releasing this information.

Answer to Scenario #3

The answer is **B**:

- If the advisory had just informed the students the president had left the institution and your school has defined enrollment level as directory information, you could provide that information for students if there was not a confidentiality hold. However, the information shared goes well beyond the information and should not be released.

FERPA Issues?


- **Directory Information:** You may release or confirm directory information as defined by your institution for students without an opt out confidentiality hold.
- **Confidentiality Hold/Opt Out:** If a student has filed this you may not release any directory information on that student and need to say, "There is no information available on this person."

Scenario #4

As a phone receptionist in Disability Resources you receive a call from a nervous faculty member who has been providing information on the class assignments and progress of a student with Asperger's to his mother via text messages. They want to know if they can do this since they have a release from Disability Resources.

Is it ok to text the mom?

- Yes, because there is a signed form in Disability Resources allowing the instructor to provide information to that office.
- No, not unless the student is in attendance or provides a written release.



Answer to Scenario #4

The answer is **B**: No

- There is a difference between the release in place for the instructor to provide information to Disability Resources and the instructor providing information to the mom.
- When advising faculty on whether they need to release information to anyone outside of the student, it is always the most safe advice to have them not release without the student in attendance as well.


FERPA Issues?

- **School Official:** The faculty member is a school official and can release information with a release to an office, such as Disability Resources. In this instance the mother is a third party, non-school official and therefore should not have access without the student present or their written and maintained written permission.
- **Documentation of release:** A release to have a parent speak to a faculty member is for a one-time release. Each new conversation needs a new written release.


Scenario #5

A student files a complaint against a faculty member. The student is in a course with a requirement that students participate in email class discussions related to a series of readings. The student says she doesn't feel comfortable because her former boyfriend is in the class and she doesn't want her email to be made public. She has requested to have the requirement waived based upon a FERPA violation?

How should the institution respond?



Answer to Scenario 5



- ✓ Sharing is an important part of learning.
- ✓ FERPA doesn't isolate learning from the community.
- ✓ FERPA does not require all student coursework to be kept private at all times, and thus allows the use of social media in the classroom.
- ✓ FERPA does not prevent instructors from assigning students to create public content as part of their course requirements.

Email & other social media submissions not FERPA-protected


- Not yet received
- Not in the custody of the college
- Not reviewed/evaluated by the faculty

Final FERPA Thoughts


- require everyone to use institutional email accounts to communicate with students
- include electronic communication as part of annual FERPA training
- review institution's electronic signature policy
- remember FERPA is technology neutral...the rule is the rule

WHEN IN DOUBT, DON'T GIVE OUT

- **ASK! ASK! ASK!**



QUESTIONS/COMMENTS/DISCUSSION



Additional Resources

- THE AUTHORITY
Family Policy Compliance Office website:
<http://www.ed.gov/policy/gen/guid/fpcg/index.html>
sample forms, library, recent updates, regulations
202-260-3887 (Telephone)
202-260-9001 (Fax)
FERPA@ed.gov (informal requests for technical assistance)
- AACRAO website: <http://www.aacrao.org/compliance/ferpa/index.htm>
- AACRAO Publications: www.aacrao.org/publications/
AACRAO FERPA Guide 2010
FERPA 2013 Quick Guide
- Do a C.A.S.E. (Copy And Steal Everything) study by going to other websites and searching "FERPA".

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