



Middle Georgia State College

Understanding the Basics Of

FERPA

Adapted from AACRAO
Federal Compliance Committee
January 2006 Power point Presentation

FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF 1974

“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 informal and formal hearings.”

This act is enforced by the **Family Policy Compliance Office**,
U.S. Department of Education, Washington, D.C.

<http://www2.ed.gov/policy/gen/guid/fpc/index.html>

THE ESSENCE OF THE ACT

- 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.

KEY CONCEPTS OF FERPA

- Required annual notification
- Written permission required for disclosure of student education record
- The exceptions to written permission of student
- Students' right to access their records
- The “musts” and “mays” in FERPA
- Parents/parental disclosure
- Legitimate Educational Interest

Full Text: [Federal Register e-CFR Part 99 Family Educational Rights and Privacy](#)

KEY TERMS OF FERPA

- Education Record
- Personally Identifiable
- Directory Information
- School Official

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(s) or information from which an individual student 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:

The name of the student, the student’s parent, or other family members;

The student’s campus or home address;

A personal identifier (such as a social security number or student number);

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”

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

- 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:

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 know which information the institution has designated as public or **directory information**.
- See next slide for MGSC's Directory Information.

MGSC Directory Information

- Student's Name
- Mailing Addresses
- Telephone Number
- Major Field of Study/Degree
- Expected date of completion of degree requirements/graduation
- Degrees and awards received
- Dates of Attendance
- Full or part-time enrollment status
- Student Classification
- Previous educational agency or institution attended
- Participation in officially recognized athletics and activities

WHAT CAN DIRECTORY INFORMATION NEVER INCLUDE?

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

REQUIREMENTS FOR COMPLIANCE

- Provide annual notification to students of 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. Or company employed by or under contract to the college to perform a special task such as the attorney, auditor, collection agency, or an official of the National Student Clearinghouse;
3. 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

- Provide annual notification to students of 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 interest** will entitle school officials to have access to education records.

“LEGITIMATE EDUCATIONAL INTEREST”

MGSC discloses a student’s personally identifiable information without consent to school officials who are deemed to have a legitimate educational interest on behalf of the student. This could include faculty, administrators, advisers, staff, and other persons who manage student record information. Each employee who has access to a student’s information is then bound by FERPA to protect the privacy and security of the information they are allowed to access.

REQUIREMENTS FOR COMPLIANCE

- Provide students with access to their education records
Students have a right to:
 - 1) Inspect and review within 45 days of the request to inspect.
 - 2) Request an amendment of the education record if the record is inaccurate, misleading or in violation of their privacy rights.
 - 3) Consent to disclosures of personally identifiable information (or to block even the release of their directory information)
 - 4) File a complaint with the U.S. Department of Education concerning alleged failures by the College to comply with the requirements of FERPA.

Scenarios Where The College May Disclose Education Records Without Consent

- To comply with a judicial order or a lawfully issued subpoena;
- To appropriate parties in a health or safety emergency;
- To officials of another school, upon request, in which a student seeks or intends to enroll in connection with a student's request for or receipt of financial aid, as necessary to determine the eligibility, amount, or conditions of the financial aid, or to enforce the terms and conditions of the aid;
- To certain officials of the U.S. Department of Education, the Comptroller General, to state and local educational authorities, in connection with certain state or federally supported education programs;
- To accrediting organizations to carry out their functions;
- To organizations conducting certain studies for or on behalf of the College;
- The results of an institutional disciplinary proceeding against the alleged of a crime of violence may be released to the alleged victim of that crime with respect to that crime.

WHAT ABOUT PARENTS?

- When a student reaches the age of 18 or begins attending a postsecondary institution regardless of age, FERPA rights transfer to the student.
- Parents may obtain directory information only at the discretion of the institution.
- Parents may also obtain non-directory information by obtaining a signed consent from their child. **MGSC considers all students independent for the purposes of complying with FERPA.***

***There are provisions under FERPA that would allow the release of information to parents or others in cases of health or safety emergencies and violation of any Federal, State, or local law governing the use or possession of alcohol or a controlled substance.**

Faculty Information

- **Faculty Handbook**

Review section 5.04.13 and 5.04.14 of the [MGSC Faculty Handbook](#) for additional information on FERPA compliance for faculty.

- **Grades**

Students' scores or grades should not be displayed publicly. Grades, transcripts or degree audits distributed for purposes of advisement should not be placed in plain view in open mail boxes located in public places.

- **Papers**

Graded papers or tests should not be left unattended on a desk in plain view in a public area nor should students sort through them in order to retrieve their own work.

Faculty Information

- **Athletes**

The education records of student athletes are covered by FERPA. Without a signed consent form, personally identifiable information may not be disclosed from the education records of student athletes.

- **Class rosters/grades sheets**

These and other reports should be handled in a confidential manner and the information contained on them should not be re-disclosed to third parties.

- **Banner SIS / SWORDS**

Access to the Banner Student Information System is not tantamount to authorization to view the data. Faculty are deemed to be "school officials" and can access data in if they have a "legitimate educational interest." A legitimate educational interest exists if the faculty member needs to view the education record in order to fulfill his or her professional responsibility. Neither curiosity nor personal interest are a legitimate educational "need to know."

MGSC Links and Forms

- [FERPA FAQ](#)
- [Student Notification of Rights Under FERPA and Non-Release of Information Form](#)
- [Student Consent For Access to Educational Record \(Release of Information Form\)](#)

When In Doubt, Just Ask!

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Best Practical Advice: Treat A Student's Records As If They Were Your Own...Always Protect and Err on the Side of Caution!