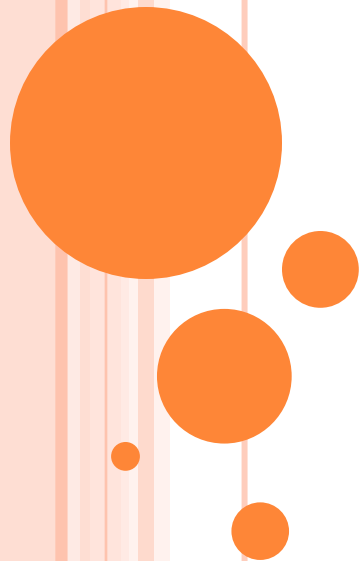


# STUDENT EDUCATION RECORDS

# FERPA



# FERPA PRE-TEST

1. What does the acronym “FERPA” mean?
2. Define the words “educational record”?
3. What is not an educational record?
4. Who has rights under FERPA?
5. Name the five FERPA rights.
6. What are your responsibilities under FERPA?
7. Name the things you should and should not do to ensure the security and confidentiality of student records.
8. What are the consequences of a violation of FERPA?
9. If a valid FERPA request to review records is presented, by when must the request be granted?
10. Should a right-holder be allowed to review all records?
11. What must a valid consent to disclose educational records contain?
12. Is a record protected by FERPA if the record does not contain any identifying information about a student?
13. What information must be included in a disclosure record?
14. Name four (4) exceptions to the student’s right to consent to disclosure of educational records.
15. How long will the confidentiality of FSU’s FERPA records be protected?



## WHAT DOES THE ACRONYM FERPA MEAN?

- FERPA stands for *The Family Educational Rights and Privacy Act of 1974* (aka the “Buckley Amendment”)
- FERPA guarantees certain rights to university students regarding education records



## WHAT IS AN EDUCATION RECORD?

- Records that are directly related to a student and maintained by an educational agency or institution or by a party acting for the agency or institution
- Any record (written, printed, taped, filmed, electronic, etc.)



# WHAT IS AN EDUCATION RECORD?

- Types of education records:
  - Transcripts
  - Exams
  - Papers
  - Financial aid and account records
  - Disability accommodation records
  - Disciplinary records, including complaints
  - Photographs
  - “Unofficial” files/Informal Records
  - Records that are publicly available elsewhere
  - Information the student has publicly revealed
  - Almost everything!



# WHAT IS NOT AN EDUCATION RECORD?

- A record kept by an FSU official if it is kept in the sole possession of the maker (not shared or accessible to others)
- Records created and maintained by FSU Police and Public Safety strictly for law enforcement purposes (only the law enforcement copy)
- Records relating to an individual who is employed by FSU that are made and maintained in the normal course of business and relate exclusively to the individual in that individual's capacity as *employee* and are not available for use for any other purpose
- Treatment records – unless they are ever shared with non-treating individuals
- Records created or received by FSU after a student is no longer in attendance
- NEW: Peer graded records before they have been collected and recorded by the instructor
- “Personal knowledge” which has not been recorded



WHO HAS RIGHTS UNDER FERPA?

The Student  
Is the Only Right-  
holder



# THE FIVE FERPA RIGHTS

- The right to inspect and review the student's own education records;
- The right to consent to disclosure of education records to third parties, except to the extent that FERPA authorizes disclosure without consent;
- The right to request amendment of education records to ensure that they are not inaccurate, misleading or otherwise in violation of the student's privacy rights;
- The right to be notified annually of privacy rights under FERPA; and
- The right to file a complaint with the U.S. Department of Education concerning alleged failures by FSU to comply with the requirements of FERPA.



# THE FOCUS OF THIS PRESENTATION

- Right to Inspect and Review
- Right to Consent to Disclosure of Education Records



# WHAT ARE YOUR PRIMARY RESPONSIBILITIES UNDER FERPA?

- To Record Disclosures
- To Allow Students to Review and Inspect Records
  - Records Custodian's Responsibility
- To Protect the Confidentiality of Student Records
  - All Staff and Faculty Responsibility
  - Some Dos and Don'ts!



# DO

- Ensure the secure storage of educational records
- Be careful when discussing records on the telephone, fax, or e-mail
- In the event of a breach, if personally identifiable information is compromised, contact Legal Affairs



# DON'T

- Use the social security number in a public posting of grades
- Ever link the name of a student with that of the student's social security number or any educational record in a public manner
- Leave graded tests in a stack for students to pick up by sorting through the papers of all students
- Circulate a printed class list with student name and social security number, grades or other records as an attendance roster
- Discuss the progress of any student with anyone other than the student without consent of the student. This Includes Parents!
- Provide anyone with lists of students enrolled in your class
- Provide anyone with student schedules or assist anyone other than a university employee in finding a student on campus



# WHAT ARE THE CONSEQUENCES OF VIOLATIONS OF FERPA

- Discipline!
- FSU could lose ALL Federal funding!



## RIGHT TO INSPECT AND REVIEW

- Right must be granted within 45 days of request.
- No Right to Review and Inspect:
  - Financial aid records of parents
  - Letters of recommendation to which the student has waived access
  - Records which contain information about more than one student—must be redacted so that information is not personally identifiable
  - Records which are not FERPA records and not “public records”



# RIGHT TO CONSENT TO DISCLOSURE

- Written consent must meet certain legal requirements—
  - If we have not reviewed a consent form for you recently, contact legal before providing student record info
  - Must be written, signed and dated, and must specify the records to be disclosed, the party to whom the records are to be disclosed, and the purpose of the disclosure.
- Verify Signatures and Identity
- Disclosure defined:
  - “To permit access to or release, transfer, or [otherwise communicate...] personally identifiable information contained in education records by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record”



# EXCEPTIONS

PRECURSOR TO THE EXCEPTIONS: SEE  
LEGAL FIRST

- Before releasing student records pursuant to any of the following “exceptions,” contact the Office of Legal Affairs.

EXT. 1145



# EXCEPTIONS TO THE RIGHT TO CONSENT TO DISCLOSURE

## ○ De-Identified Information

- Only records which are “personally identifiable” will be protected from disclosure by FERPA. Therefore, if the record is de-identified it may be disclosed. These records should be disclosed pursuant to a public records request.
- “Personally Identifiable” information includes but is not limited to:
  - Student’s name
  - Name of student’s parent or other family member
  - Address of the student or student’s family
  - A personal identifier, such as the student’s social security number, student number or biometric record (ie. thumb print)
  - Other indirect identifiers such as the student’s date of birth, place of birth and mother’s maiden name
  - Information requested by a person who you reasonably believe knows the identity of the student
  - **NEW:** Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty

# EXCEPTIONS TO THE RIGHT TO CONSENT TO DISCLOSURE

Situations when the University “may” disclose without consent.

## ○ **Directory Information:**

Information in a student's education record that would not generally be considered harmful or an invasion of privacy if disclosed.

FSU recognizes the following as directory information:

- a student's name,
- local and permanent address,
- ***NEW: photograph,***
- email address,
- telephone number,
- enrollment status,
- date and place of birth,
- major field of study,
- dates of attendance,
- honors,
- degrees and awards (including scholarships) received,
- participation in officially recognized activities,
- organizations and sports,
- weight and height of members of athletic teams, and
- the most recent previous educational agency or institution attended.

Directory information shall not include a student's social security number or student identification number.

Student has the right to opt out of allowing directory disclosures. If the student opts out, FSU is prohibited from disclosing the information



# EXCEPTIONS TO THE RIGHT TO CONSENT TO DISCLOSURE

Situations when the University “may” disclose without consent.

- **FSU Official with a Legitimate Educational Interest:**
  - **An FSU Official is any:**
    - person employed by FSU in an administrative, supervisory, academic, research, or support staff position
    - member of FSU’s Board of Trustees
    - person or company with whom FSU has contracted as its agent
    - member of FSU’s Judicial Board
  - **A legitimate educational interest:**
    - The university must determine whether there is an interest that is essential to the general process of higher education including teaching, research, public service, academic advising, general counseling, discipline, job placement, financial assistance, medical services, and academic activities.



# EXCEPTIONS TO THE RIGHT TO CONSENT TO DISCLOSURE

Situations when the University “may” disclose without consent.

- **Other Institutions**
  - If the student seeks enrollment at another university, FSU may disclose the information to the other institution as long as the disclosure is for purposes related to enrollment or transfer
- **Federal, State, and Local Officials and Educational Authorities Conducting an Audit**
  - See legal before disclosing
- **Financial Aid**
  - In connection with a student’s request for or receipt of financial aid as needed to determine eligibility, amount or conditions or to enforce terms of the financial aid
- **State and Local Juvenile Justice Officials**
  - See legal before disclosing
- **Institutional Studies**
  - Disclose to contract organizations conducting certain educational studies
  - See legal before disclosing



# EXCEPTIONS TO THE RIGHT TO CONSENT TO DISCLOSURE

Situations when the University “may” disclose  
without consent.

- Accrediting Agencies
- Parents – Student Is Dependent for Tax Purposes
- Court Order or Subpoena
  - See legal before disclosing
- Litigation (Between University and Student)
  - See legal before disclosing
- Health or Safety Emergency
  - **NEW:** If FSU determines there is an articulable and significant threat to health or safety, FSU may disclose to appropriate parties, including parents, in connection with an emergency if knowledge of the information is necessary to protect health or safety.



# EXCEPTIONS TO THE RIGHT TO CONSENT TO DISCLOSURE

Situations when the University “may” disclose without consent.

- Victim of crime of violence or a non-forcible sex offense
  - Final results of disciplinary proceeding only, regardless of whether FSU concluded a violation occurred
  - May disclose to victim
- Other disclosures of final results of student conduct hearings
  - If an alleged or actual crime has been committed and FSU determines that an FSU rule or policy was violated, FSU may disclose the final results of the conduct hearings to anyone
- Alcohol or drug violations
  - Student under age 21 at time of disclosure
  - May disclose to parents
  - Disclosure must relate to an FSU determination that the student has violated FSU’s drug or alcohol policies
- Registered sex offender information
  - See legal before disclosing



# DISCLOSURE RECORD?

- You must maintain a record of all requests for and/or disclosures of information from a student's education records, other than requests by or disclosures to:
  1. The student
  2. A qualified parent of the student
  3. An FSU official as defined above
  4. A party with written consent of the student
  5. A party seeking only directory information
  6. Party seeking records pursuant to a subpoena when the court or issuing agency has ordered that the subpoena not be disclosed
  7. The United States Attorney General
- ❖ The record will indicate the name of the party making the request, any additional party to whom it may be re-disclosed, and the legitimate interest the party had in requesting or obtaining the information.



# NEW: LIMIT TO PROTECTION OF EDUCATION RECORDS

- FERPA's protection of personally-identifiable information in a student's educational record ends at the time of the student's death. After the death of a student, at FSU's discretion, the student's education records may be disclosed.
- Unless FSU has information to the contrary, 75 years after the student's last date of enrollment, FSU will presume that the student is deceased.



# QUESTIONS

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[http://www.uncfsu.edu/chancellor/legal\\_counsel/index.htm](http://www.uncfsu.edu/chancellor/legal_counsel/index.htm)

