

Family Educational Rights and Privacy Act (FERPA)

Presented by:

Office of the General Counsel

Phone: (904) 632-3232

Email: OGC@fscj.edu

FERPA & Related Statutes

- Family Education Rights and Privacy Act
 - [20 U.S.C. § 1232\(g\)](#)
- Federal Register Enabling FERPA
 - [34 CFR Part 99](#)
- Florida Definition of Student Records
 - [Fla. Statute §1002.22](#)
- Florida Public Records Law
 - [Fla. Statute Chapter 119](#)

What is FERPA?

- A federal law that:
 - Protects the privacy of student education records.
 - Requires the College, with certain exceptions, to obtain a student's written permission before disclosing personally identifiable information from his/her academic record.
 - Gives parents certain rights with respect to their children's education records.
- FERPA applies to all schools that receive federal funding under an applicable program of the U.S. Department of Education.

Definitions

- Student: Any individual who is or has been in attendance at FSCJ and for whom we maintain an education record.
- Parent: Parent of a student and includes a natural parent, guardian, or individual acting as a parent in the absence of a parent or guardian.

Definitions (cont'd)

- Education Record: Those records directly related to a student and maintained by an educational agency or institution or by a party acting for and educational agency or institution.
- Records can be handwritten, printed documents, computer images or data, e-mail, video or film, photographs, audio tape, microfilm/microfiche.
- Refer to [34 CFR 99.3](#)

Definitions (cont'd)

- Records are not considered “education records” maintained by the institution if they are:
 - Sole Possession Records (kept in a file marked “desk notes” that only the owner has access to)
 - Law Enforcement Records
 - Employment Records
 - Treatment Records
 - Alumni Records

Exceptions to Right to Consent

- Once you have determined you have a student record, determine if you need consent ([34 CFR 99.30](#))
- FERPA establishes the following exceptions allowing the institution to disclose student records without the student's consent:
 - To other school officials who have legitimate educational interests.
 - To officials of other schools which the student is seeking to enroll.
 - In connection with application for financial aid.
 - To protect the safety and health of the student or others
 - In response to a lawfully issued subpoena.

Exceptions Clarification

- Do not confuse exceptions to “what is a record” vs. exceptions for “consent to disclose.”
- They are two different things.
- If it is not a student record, no consent is required and in fact it could be considered a public record and be made available under Florida law.

From the Student Perspective

Three primary rights are afforded to students and former students under FERPA:

1. Right to inspect and review records maintained by the school.
2. Right to seek amendment of the records which they believe to be inaccurate or misleading.
3. Right to control the disclosure of their “education records” to others.

Directory Information

- Information that can be released without written permission because it is not considered harmful or an invasion of privacy.
- This information is often released to banks, insurance institutions, potential employers, and similar businesses.
- The College does not sell or distribute mailing lists of its students or employees to marketers.

Directory Information

- Student name, postal addresses (not residence hall addresses), phone numbers and email addresses.
- Date and place of birth, photographs.
- Major, academic advisor, dates of attendance, enrollment status, degree and awards received.
- Most recent previous school attended.
- Participation in officially recognized activities and sports; height, weight and photographs of members of athletic teams.

Confidential Record

- Students who need to protect all of their information including directory information may do so in writing or in person at the Registrar's Office.
- Confidential Flags will be placed on a student's record.

Right to Inspect and Review (cont'd)

- What limitations exist on the right to inspect and review records? ([34 CFR 99.12](#))
- A postsecondary institution does not have to permit a student to inspect and review educational records that are:
 - Financial records of his/her parents.
 - Confidential letters and statements of recommendation placed in the student's records after January 1, 1975 if:
 - The student waived the right to inspect and review those letters/statements and
 - Those letters/statements are related to the student's admission, application for employment or receipt of an honorary degree

Right to Seek Amendment

- *Student's Rights:*

- Student may only request an amendment if the information is inaccurate, misleading, or an invasion of privacy.
- Student cannot require an institution to keep a certain kind of record.

- *Institution's Responsibilities:*

- Institution must respond in a reasonable period of time.
- If there is no amendment to be made, institution must inform student of that right and their right to a hearing.

- *Hearing:*

- General requirements: the hearing does not need to be like a court of law. ([34 CFR 99.22](#))
- If student's request denied at hearing, student can put comments in their records.

FERPA and You

- As faculty and staff, you are the guardians of student records and must adhere to FERPA.
- You can give non-directory student information to the Department Chair and to the student's advisor.
- You cannot give non-directory information to anyone else, including another instructor of a course the student is enrolled in unless there is a ***legitimate educational interest***.

FERPA Don'ts

- Faculty members should not leave graded course work in a box in the department office for students to pick up. Graded work must be returned to students individually.
- Faculty members should not use the name, social security number, or student ID number, or any part thereof, when posting grades.

FERPA Don'ts (cont'd)

- Students may not handle grade change forms or any forms dealing with grading.
- If you have logged into Orion and you are leaving your office, do not leave your Orion session open, you must log out or lock your computer.

General Discussion Points

- Disclosure to the media
 - *A lawsuit does not make a student record a public record.*
- Deceased students
 - *Right of privacy expires with an individual's death.*
- Psychiatric records under Florida Privacy Laws
 - *A physician may invoke the right to privacy.*

General Discussion Points (cont'd)

- Subpoenas
 - A student has the right to be notified before compliance with a subpoena.
- Parents
 - Parents of students over the age of 18 are not entitled to records. Parents with dependent students (under 18) may obtain records.

Simple Rules

- When in doubt, don't give information out.
- Never give non-directory information to an outside agency.
- Call the Registrar's Office or the Office of the General Counsel if you have a question.

FERPA Quiz – Test Your Knowledge!

- Question #1
- If a student's parent calls asking how a student is doing in a class, can you give out that information?

FERPA Quiz – Test Your Knowledge!

- Answer #1:
- No. Even though the person inquiring may be the student's parent, FERPA recognizes students in postsecondary education as adults, regardless of age. Therefore, you cannot discuss the students progress, grades, or any other non-directory information.

General Rule: You must assume that the student is an adult who is entitled to privacy, even from parents.

FERPA Quiz – Test Your Knowledge!

- Question #2:
- You receive a call from a recruiting firm asking for names and address of students with a GPA of 3.0 or better. They say they have good job information for these students. Can you help these students get jobs by giving out this information?

FERPA Quiz – Test Your Knowledge!

- Answer #2:
- No. While we all want to help students to get good jobs, that request should be sent to the Registrar's Office.

General Rule: Do not give out student information that pertains to grade point average to anyone without prior written consent from that student. In this case, the request should be forwarded to the College Registrar. Information about the recruiting firm's job openings could be provided to the students through the Campus Career Development Centers.

FERPA Quiz – Test Your Knowledge!

- Question #3:
- You receive a phone call from the police indicating that they are trying to determine whether John Smith was in attendance on a specific day. Since they are in the middle of an investigation are you allowed to give them this information?

FERPA Quiz – Test Your Knowledge!

- Answer #3:
- No. Requests from an off-campus police agency should be directed to the FSCJ Director of Security or Campus Dean of Students.

General Rule: Information about whether or not a student is enrolled in a particular semester is directory information, and can be obtained through the Registrar. A student's class schedule is NOT directory information and cannot be given out without the student's written permission. If the police require more information, a subpoena may be required. All subpoena's should be directed to the Office of the General Counsel. The OGC will respond to the subpoena. Additionally, FERPA requires notification to the student, unless the subpoena specifically prohibits such notification.

FERPA Quiz – Test Your Knowledge!

- Question #4:
- May an instructor leave graded materials in a pick up box in the department office for students to retrieve?

FERPA Quiz – Test Your Knowledge!

- Answer #4:
- No. That is a violation of the privacy rule because it is inappropriate for students to have access to other students' information.

General Rule: You cannot leave personally identifiable materials in a public place, even in a box in the department office. Graded material must be returned to the student personally.

FERPA Quiz – Test Your Knowledge!

- Question #5:
- An unauthorized person retrieves information from a computer screen that was left unattended. Under FERPA, is the institution responsible?

FERPA Quiz – Test Your Knowledge!

- Answer #5:
- Yes. Information on a computer screen should be protected the same way as printed reports are. Computer programs with confidential information should be closed when you are not in your office and printed reports should be filed in a secure area and not left on your desk.

General Rule: The medium in which the information is held is unimportant. No information should be left accessible or unattended, including computer displays.

FERPA Online

- To learn more about FERPA, you may visit:
 - College Catalog:
<http://catalog.fscj.edu/content.php?catoid=32&navoid=4184#privacy>
 - 34 CFR Part 99:
<http://www.law.cornell.edu/cfr/text/34/part-99>
 - FERPA Guidance for Students:
<http://www2.ed.gov/policy/gen/guid/fpco/ferpa/students.html>

Any questions about FERPA may be directed to the Office of the General Counsel.

Office of the General Counsel
Florida State College at Jacksonville
501 W. State St., Suite 403
Jacksonville, FL 32202

Phone: (904) 632-3232

Email: OGC@fscj.edu

Website: <http://www.fscj.edu/discover-fscj/gov-admin/general-counsel/>