

# Workforce Data Quality Initiative Research Brief 3

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*Dedicated to strengthening education, workforce, and social policies that affect current and future generations of American workers.*

## Highlights from the 2013 Central Texas FERPA Conference

**Background:** In April 2013, the Ray Marshall Center hosted a day-long conference on FERPA. Representatives from the U.S. Department of Education and the Privacy Technical Assistance Center presented information on recent changes to the law, best practices for developing data sharing agreements and securing data, and the uses of identified versus de-identified data.

Representatives from Maryland, Ohio, and Washington presented details on how FERPA-protected data is shared and used in their states. The audience also learned about several initiatives in Texas that are building and using longitudinal, individual-level education records for research and performance management.

This brief highlights key lessons learned from the conference and provides links to additional resources.

### What is FERPA?

The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education.<sup>1</sup> FERPA:

- Gives parents the right to access and seek to correct their children's education records; this right transfers to the student at age 18 or upon enrolling at a postsecondary institution
- Protects personally identifiable information (PII) in education records from unauthorized disclosure
- Generally requires written consent before sharing PII

FERPA allows schools to disclose individual records *without* consent in specific circumstances, including to:

- Provide directory information
- School officials with legitimate educational interest
- Schools to which a student is transferring
- Specified officials for the purpose of conducting an audit or evaluation of a State- or Federally-supported education program
- Appropriate parties in connection with financial aid to a student
- Organizations conducting specified types of studies for, or on behalf of, the school or school district
- Accrediting organizations
- Appropriate officials in cases of health and safety emergencies
- Comply with a judicial order or lawfully issued subpoena

<sup>1</sup> This section drawn from <http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html>. Last accessed: 05.07.2013.

## Drafting FERPA-Compliant Agreements

Written agreements between schools and other entities to release Personally Identifiable Information (PII) from education records require that:

1. An authorized representative be designated
2. The PII to be disclosed and for what purpose it will be used be specified
3. The activity be described with sufficient specificity to make clear that it falls within the audit/evaluation exception
4. The authorized representative must destroy the data on a date provided within the agreement
5. Policies and procedures that are consistent with FERPA and other Federal and State confidentiality and privacy laws be established in order to protect PII from further disclosure and unauthorized use

Data may only be shared under the audit or evaluation exception in FERPA in order to evaluate or audit a State- or Federally-supported education program or to enforce or comply with Federal legal requirements that apply to those education programs.

Student/parent consent forms for the release of information must be signed and dated and must:

1. Specify the records that may be disclosed
2. State the purpose of the disclosure
3. Identify the party or class of parties to whom the disclosure may be made



Anjali Gupta, Ray Marshall Center, and Cathy Malerba, Round Rock ISD, talk at the 2013 Central Texas FERPA Conference.



Audience members learn about FERPA regulations at the Conference.

## Recent FERPA Amendments

The U.S. Department of Education introduced new FERPA regulations effective January 3, 2012. These regulations expanded requirements for written agreements and enforcement mechanisms to help ensure program effectiveness, promote effectiveness research, and increase accountability. In addition, there is a new allowance for limiting directory information.

The audit and evaluation exception to the written consent requirement was the focus of several changes, including new requirements for written agreements and a stipulation that the disclosing entity use reasonable methods to protect PII.

The 2012 amendments included new definitions for two key terms:

- A. Defined “**Authorized Representative**” to include any individual or entity designated by a State or Local Education Authority to conduct an evaluation or audit of federal or state education programs, as well as any federal compliance or enforcement activity related to these programs;
- B. Defined “**education program**” to include entities that are “principally engaged” in the provision of education, ranging from early childhood education to postsecondary education, and inclusive of career and technical training.

The amendments also clarify that FERPA does not prevent the re-disclosure of PII as part of written agreements between educational authorities and researchers to conduct specified types of studies for, and on behalf of, schools and school districts.

## Data Security

FERPA does not specify security controls for data in the same way as other Federal regulations, such as the Health Insurance Portability and Accountability Act (HIPAA). Therefore, the responsibility for data security rests more heavily on the community, and educators are compelled to take precautions to keep data safe.

The Privacy Technical Assistance Center at the U.S. Department of Education highlights three main concepts that help define the basic concepts of data security:

1. *Confidentiality* - protecting personal and proprietary information
2. *Integrity* - ensuring the authenticity of information
3. *Availability* - ensuring timely access to and use of information

While it is not possible to completely eliminate risks to data security, well placed regulations and strong data management practices can help to reduce risk and promote safe networks. Individuals who have access to data also must take great care, as thumb drives and laptops are easy targets for predators who seek private information such as Social Security Numbers.

## WDQI Grantees Share Lessons Learned

### Ohio:

Presented details on ways to link education and workforce data when Social Security Numbers are not available, such as probability matching.

### Washington:

Presented details on creating a data governance structure to oversee linked, individual-level data from a number of agencies to achieve common research and accountability purposes.

### Maryland:

Presented research demonstrating the value of creating long-term, individual-level datasets to explore common questions about the returns to investments in education and workforce development.

## Identified vs. De-identified Data

Removing identifiers or aggregating data does not always protect a student's identity. In small cells, disclosure risk increases. In order to reduce risk and simultaneously avoid degrading the data to the point of uselessness, three approaches can typically be taken:

- *Suppression* - Removing data to prevent the identification of individuals in small cells or with unique characteristics
- *Blurring* - Reducing the precision of data that is presented to reduce the certainty of identification
- *Perturbation* - Making small changes to the data to prevent identification of individuals with unique or rare characteristics



Heath Prince, Ray Marshall Center, and Michael Hawes, U.S. Department of Education present at the 2013 Central Texas FERPA Conference.



The conference also provided an overview of four ongoing research and evaluation initiatives in Texas using individual-level data in a FERPA compliant environment.

### **Texas Workforce Evaluation System**

Provides post-exit outcomes for participants in:

- Workforce development programs funded through Federal and State resources
- Higher education
- Adult basic education
- Public (K-12) education

Annual reports and an online dashboard provide information on employment, earnings, unemployment insurance benefits, and other outcomes for the Texas Legislature and other stakeholders.

### **Texas Education Research Center**

Texas Education Research Centers (ERCs) were established by the Texas Legislature in 2006 to benefit education in Texas. The ERCs enable individual-level education (pre-kindergarten through college) and workforce data to be shared across agencies and accessed by researchers with approved projects. A Joint Advisory Board of state agency representatives and appointed stakeholders oversees the ERCs and considers research applications on a quarterly basis.

### **Texas Student Data System**

The Texas Student Data System (TSDS) aims to:

1. Reduce technology risk and system downtime
2. Provide real-time student performance data
3. Become the single data collection platform for the state

TSDS uses dashboards to allow teachers and school administrators to track students' attendance, discipline, grades, academic potential, and other relevant information.

### **Student Futures Project**

This project follows the pathways Central Texas high school seniors take into postsecondary education and employment. The Ray Marshall Center partners with local school districts to collect data through administrative records and surveys of high school seniors. The research has identified factors associated with college access and persistence, as well as employment and other outcomes.



Ruben Garcia-Texas Workforce Commission, Melody Parrish-Texas Education Agency, Celeste Alexander-The University of Texas at Austin, and Greg Cumpton-Ray Marshall Center present information on Texas-based research and evaluation initiatives.

#### **About the Workforce Data Quality Initiative (WDQI)**

The main objectives of the WDQI grant program funded by the U.S. Department of Labor's Employment & Training Administration are:

- Develop or improve state workforce longitudinal data systems.
- Enable workforce data to be matched with education data to ultimately create longitudinal data systems with individual-level information beginning with pre-kindergarten through post-secondary schooling all the way through entry and sustained participation in the workforce and employment services system.
- Improve the quality and breadth of the data in the workforce data systems.
- Use longitudinal data to provide useful information about program operations and analyze the performance of education and employment and training programs.
- Provide user-friendly information to consumers to help them select the training and education programs that best suit their needs.

More information at:

<http://www.doleta.gov/performance/workforcedatagrants09.cfm>