



# **FERPA: Past and Present**

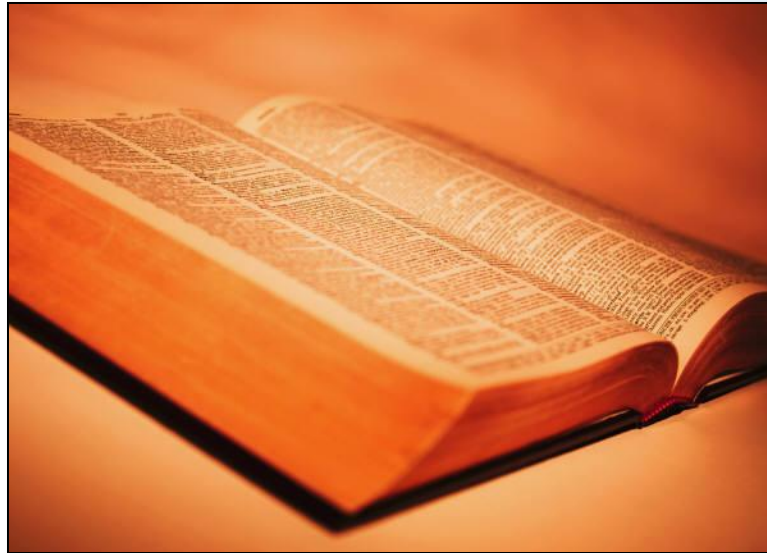
## ***Implications for Data Sharing and Research***

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# **Family Educational Rights and Privacy Act (FERPA)**



Key Definitions and Requirements



# FERPA – Access & Consent

- Gives parents (and eligible students) the right to access and seek to amend their children's education records
- Protects personally identifiable information (PII) from education records from unauthorized disclosure
- Requirement for written consent before sharing PII



# Personally Identifiable Information (PII)

- Name
- Name of parents or other family members
- Address
- Personal identifier (e.g., SSN, Student ID#)
- Other indirect identifiers (e.g., date or place of birth)
- *“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...to identify the student with reasonable certainty.” (34 CFR § 99.3)*

**11:00: “Uses and Applications of Identified vs. De-Identified Data”**  
(Michael Hawes, U.S. Dept. of Education)



# Education Records

- FERPA regulations define education records as those 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.



# Education Records

- Excludes:
  - Sole-possession materials;
  - Law enforcement records ;
  - Employee records;
  - Post-secondary students' medical treatment records;
  - records created or received by an educational agency or institution after an individual is no longer a student in attendance and that are not directly related to the individual's attendance as a student;
  - Grades on peer-graded papers before they are collected and recorded by a teacher.

*(Paraphrased -- See 34 CFR §99.3 for precise definition)*



# Exceptions

- Exceptions from the consent requirement for:
  - “School Officials”
  - “Directory Information”
  - “Studies”
  - “Audits and Evaluations”
  - Health and Safety emergencies
  - And others purposes as specified in §99.31



# Directory Information

- Students don't attend school anonymously!
- Allows schools to release certain information, without consent, such as:
  - Name
  - Address
  - Telephone listing
  - Email address;
  - Date and place of birth;
  - Photographs;
  - Participation in officially recognized activities and sports;
  - Field of study;
  - Weight and height of athletes;
  - Enrollment status (full-, part-time, undergraduate, graduate);
  - Degrees & awards received;
  - Dates of attendance;
  - Most recent previous school attended; and
  - Grade level.





# Directory Information

- Common uses:
  - Yearbooks
  - Concert programs
  - Telephone directories
  
- No standard list of Directory Information – set locally by the school district in their Annual Notice
  
- **Parents and eligible students have a right to opt-out!**



**“Research  
Exception”**



# Exceptions that are typically used for research

- Studies Exception
  - “For or on behalf of” schools, school districts, or postsecondary institutions
  - Narrowly defined allowable purposes
- Audit and Evaluation Exception
  - Allows PII to be shared without consent with “Authorized Representatives” of certain “FERPA-permitted entities”
  - To audit or evaluate a Federal- or State-supported education program *(or to enforce or comply with Federal legal requirements that relate to those programs)*

**9:00 Session: “Drafting FERPA Compliant Agreements and Consent Forms”** (Baron Rodriguez, PTAC)



***That was then...***  
***...This is now***



# Recent FERPA Amendments

- Final FERPA regulatory changes
  - Published in [Federal Register](#) on December 2, 2011
  - Effective January 3, 2012
- Expanded requirements for written agreements and enforcement mechanisms to help
  - Ensure program effectiveness
  - Promote effectiveness research
  - Increase accountability



# Key FERPA Regulatory Changes

- Allows for limited Directory Information policies
- New definition: *Authorized Representative*
- New definition: *Education Program*
- Written agreements now also required for data sharing under the audit/evaluation exception
- Under the audit/evaluation exception, the entity disclosing the PII must use "reasonable methods" to protect the information.

**9:00 Session: "Drafting FERPA Compliant Agreements and Consent Forms" (Baron Rodriguez, PTAC)**



# Enforcement

- The Family Policy Compliance Office (FPCO) is authorized to investigate, process, and review complaints and violations under FERPA.
- The 2012 Regulations amended enforcement provisions so that if an entity that receives Department funds violates FERPA (regardless of if they have students in attendance) FPCO may bring an enforcement action against that entity.
- Possible enforcement actions include:
  - “5-year ban”
  - withholding payment
  - cease and desist orders
  - compliance agreements.



# Available Resources on the Web

- Technical Briefs, Issue Briefs, and White Papers
- Case studies
- Security Checklists
- Webinars, FAQs, and other Training Materials

[www.ed.gov/ptac](http://www.ed.gov/ptac)

9:00:	<b>“Drafting FERPA Compliant Agreements and Consent Forms”</b> (Baron Rodriguez, PTAC)
10:00/1:30:	<b>“Data Security and Secure Data Transfers”</b> (Mike Tassey, PTAC)
11:00:	<b>“Uses and Applications of Identified vs. De-Identified Data”</b> (Michael Hawes, U.S. Dept. of Education)
2:30:	<b>“Questions and Answers with PTAC”</b>





# Questions and Discussion



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