



Second Alliance, INC.
Campus Based Loans and Receivables

Family Educational Rights and Privacy Act (FERPA)

Crusin' to Collections 2021

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WHAT IS FERPA?

The **Family Educational Rights and Privacy Act of 1974**, also known as the **Buckley Amendment**, protects the privacy of student records. The Act provides for the right to inspect and review education records, the right to seek to amend those records, and to limit disclosure of information from the records. The Act applies to all institutions (K-12 and postsecondary institutions) that are the **recipients of federal funding**. The regulations for FERPA can be found in 34 CFR Part 99.

WHO IS PROTECTED UNDER FERPA?

Students who are currently enrolled in higher education institutions or formerly enrolled, regardless of their age or status in regard to *parental dependency*.

Students who have applied but have not attended an institution *do not have right under FERPA*.

WHAT ARE EDUCATION RECORDS?

With certain exceptions, a student has rights of access to those records which are directly related to him/her and which are maintained by an educational institution or party authorized to keep records for the institution. "**Education Records**" generally include any records in the possession of the institution which **contain information directly related to a student**, with the exception of those addressed in future slides.

FERPA contains no requirement that certain records be kept at all. This is a matter of institutional policy and/or state regulation.

FERPA coverage includes records, files, documents, and data directly related to students. This would include transcripts or other records obtained from a school in which a student was previously enrolled. Records held by an agency acting on behalf of the institution are also included.

WHAT ARE EDUCATION RECORDS?

Records may be those maintained in any form such as:

- Handwritten
- Video or Audio Tape
- Computer Media
- Film
- Print
- Microfilm
- Microfiche
- E-mail
- Scanned Records

WHAT IS **NOT** INCLUDED IN AN EDUCATION RECORD?

Sole-possession records or private notes held by educational personnel which are not accessible or released to other personnel.

Law enforcement or campus security records which are solely for law enforcement purposes.

Records relating to an individual's employment by the institution (unless employment is contingent on student status).

Records relating to treatment provided by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional and disclosed only to individuals providing treatment.

Records of an institution which contain only information about an individual obtained after that person is no longer a student at that institution (i.e., alumni records).

WHAT DOCUMENTS CAN BE REMOVED FROM AN EDUCATION RECORD BEFORE THE STUDENT VIEWS THE RECORD?

Any information that pertains to **another student**.

Financial records of the student's parents.

Some confidential letters and statements of recommendation under conditions described in FERPA section 99.12 or University Policy.

WHAT IS DIRECTORY INFORMATION?

Institutions may disclose information on a student without violating FERPA through what is known as "directory information".

This generally includes:

a student's name, address, telephone number, e-mail address, date and place of birth, major field of study, participation in officially recognized sports and activities, weight and height of athletes, dates of attendance, degrees and awards received and other similar information.

Each institution is required to annually notify students in attendance of what constitutes directory information. This notice must also provide procedures for students to restrict the institution from releasing his/her directory information.

WHAT FERPA PROHIBITS DESIGNATING AS DIRECTORY INFORMATION?

- Students SSN
- Student's Identification Number (with limited exceptions specified in the regulations)
- Any Directory information that is **LINKED** to non-directory information (without specific consent)

WHEN DO YOU NEED CONSENT TO DISCLOSE PERSONALLY IDENTIFIABLE INFORMATION FROM AN EDUCATION RECORD (INCLUDING TRANSCRIPTS)?

With specific exceptions (*future slide*), a signed and dated consent by the student must be provided by the student before any disclosure is made.

The written consent must:

Specify the records that may be disclosed

state the purpose of disclosure

identify the party or class of parties to whom the disclosure may be made

Please note that the School must comply with written requests within 45-days of receipt

WHAT IS "PERSONALLY IDENTIFIABLE INFORMATION"?

- *The student's name*
- *Name of the student's parent or other family members
address of the student or student's family*
- *A personal identifier, such as a social security number or
student identification number*
- *A list of personal characteristics that would make the
student's identity easily traceable*

WHEN IS THE STUDENT'S CONSENT NOT REQUIRED TO DISCLOSE INFORMATION?

The exceptions are:

- To University faculty, staff, and administrators with a legitimate educational interest (defined in the University's annual notification)
- To parents of a "*dependent student*"
 - *If the student is a dependent for income tax purposes, the institution may disclose any education records, including financial records to a student's parents. If the student is not a dependent, then the student must generally provide consent for the school to disclose the information to the parents. A consent form is suggested as dependency may not be easy to verify at the time of a request.*
- To Federal, State and local education authorities involving an audit or evaluation of compliance with education programs
- In connection with processing Financial Aid
- To organizations conducting studies for, or on behalf of, educational institutions

WHEN IS THE STUDENT'S CONSENT NOT REQUIRED?

The exceptions are (con't):

- To accrediting organizations
- To comply with judicial order or subpoena
- Health or safety emergency
- Directory information
- To the student
- Results of disciplinary hearing to an alleged victim of a crime of violence

Requests to disclose should always be handled with caution and approached on a case-by-case basis.

HOW DOES TECHNOLOGY IMPACT FERPA?

The use of computerized record-keeping systems is increasing at a tremendous rate. Electronic data will eventually replace most paper documents. We try to ensure that appropriate policies are established to protect the confidentiality of those records, educate faculty, administrators, staff, and students, about the policies, and make sure the policies are enforced. *The same principles of confidentiality must be applied to electronic data as apply to paper documents.*

These general guidelines are not intended to be legal advice. *This document provides only a summary of FERPA. For further information regarding FERPA or clarification regarding FERPA, refer to the act and regulations or contact the FERPA representative for your campus.*

Protection Notices -FYI

Dear Colleague Letters (DCL: GEN-15-(17&)18 July 29,2015)

- Letters were posted to the ifap.ed.gov website reminding institutions of higher education, their third-party servicers, and Guaranty Agencies of their continuing obligation to protect data used in all aspects of the administration of Title IV student financial aid programs.
- The expectation is that we all will “quickly access and implement strong security policies and controls to monitor and manage all systems and data bases”.
- They also reminded us that under FERPA and GLBA and potentially other laws, that schools may be responsible for losses, fines and penalties (including criminal) caused by any data leaks.
- Suggestion is to follow industry standards and best practices managing and securing personally identifiable information (PII).

Do WHAT???????

The Standards and Best Practices alluded to include:

- Assessing the risk and magnitude of harm that unauthorized access can cause.
- Determine the levels of information security that is appropriate to protect the information.
- Implement policies and procedures to cost-effectively reduce risk to an acceptable level.
- Regularly test and evaluate the information security controls and implement and improve such controls continually.
- Collaborate with and utilize the resources of US-CERT (United States Computer Emergency Readiness Team).

Please read and have your school's compliance officer make sure that you are in line to prevent breaches and the related costs!

What can happen if we fail to follow the law?

Lawsuit

Loss of Federal funding

Conviction of a misdemeanor under the Public Information Act

- Confinement in the county jail not to exceed 6 months
or
- Fine not to exceed \$1,000
or
- Both

Dismissal

Remember . . .



When in doubt, don't give it out!



If you have any questions on what you can or cannot release, check with your supervisor or the University Counsel



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Thank –you

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