

FERPA

Family Educational Rights and Privacy Act

Eastern New Mexico University
Ruidoso Branch Campus
Faculty/Staff Training

What is FERPA?

- FERPA is the Family Educational Rights and Privacy Act, originally enacted by Congress in 1974.
- A federal law designed to protect the privacy of education records, to establish the right of students to inspect and review their education records.
- The statute applies to any educational agency or institution that receives federal funding, which includes, nearly all elementary, secondary, and POST SECONDARY institutions.

PARENTAL RIGHTS

- **The rights primarily reside with the student, regardless of age, once he or she is admitted or enrolls at an institution of higher education.**
- **Only when the student has signed a written release giving their parent(s) access to their record.**
- **An institution can accept proof from the parent(s) that the student is a dependent by showing a copy of their most recent Federal Income Tax return.**

STUDENT RIGHTS

A student has the right to:

- **inspect and review his or her educational records.**
- **request to amend his or her educational records.**
- **have some control over the disclosure of information from his or her educational records.**
- **Upon written request, the university shall provide a student access to his or her educational records.**

What are education records?

- Educational records are all records that contain information directly related to a student and are maintained by an educational agency or institution, or by a party acting on its behalf.
- The storage media in which you find this information does not matter. Student educational record may be:
 - a document in the registrar's office
 - a computer printout in your office
 - a class list on your desktop
 - a computer display screen
 - notes you have taken during an advisement session

WHAT IS A STUDENT EDUCATIONAL RECORD?

Just about any information provided by a student to the university for use in the educational process is considered a student educational record

- personal information
- enrollment records
- grades
- schedules

DIRECTORY INFORMATION

- FERPA identifies certain information, called directory information, that may be disclosed without the student's permission.
- Name, address, email address, telephone listing.
- Field of study.
- Enrollment status
- Most recent previous school attended
- Photographs.
- Date and place of birth.
- Participation in officially recognized activities and sports.
- Dates of attendance, degrees, and awards.
- Classification
- Expected Graduation Date

Basic Rules

- **Student educational records are considered confidential and may not be released without the written consent of the student.**
- **As a faculty or staff member you have a responsibility to protect educational records in your possession.**
- **Some information is considered public (sometimes called "Directory Information"). This info can be released without the student's written permission. However, the student may opt to consider this info confidential as well.**
- **You have access to information only for legitimate use in completion of your responsibilities as a university employee. Need to know is the basic principle.**
- **If you are ever in doubt, do not release any information until you talk to the office responsible for student records.**

Mr. and Mrs. Jones have always been proud of Jaydin, their extremely bright 16-year old son. Last August, they enrolled Jaydin as a full-time student at ENMU - *Ruidoso* Community College (as he had graduated with his GED the previous spring). Jaydin never talks about his experience at ENMU - *Ruidoso*, and his parents have never seen him study. Finally, without Jaydin's knowledge, Mr. and Mrs. Jones contact the ENMU admissions and records officials, demanding to see all the education records ENMU is maintaining about Jaydin.

Should ENMU- *Ruidoso* disclose Jaydin's education records to his parents?

NO!

- **As Jaydin is enrolled at ENMU - *Ruidoso* Community College, he is, under FERPA, an "eligible student". That means that Jaydin, and not his parents, has the right to inspect and review his education records. He may, if he chooses, authorize ENMU - *Ruidoso* to disclose his education records to his parents by signing a release of information form to be filed in student's records.**

In the Algebra class Ray teaches at ENMU-*Ruidoso*, Ray administers a quiz to his students every Friday. When the students complete the quiz, Ray asks each student to give his or her quiz answers to a classmate. Then, as a group, the students grade one another's work, with Ray providing the correct answer to each question on the quiz. Ray feels this practice of peer grading is a valuable teaching technique.

Andi, a student in Ray's class, objects to this practice. She feels that no other student should be able to know how she performed on a quiz, and contends that her FERPA rights have been violated.

**Does Ray's peer grading practice violate
FERPA?**

NO!

As the quiz answers are being graded, and before they are ultimately delivered to Ray--they are not being maintained by the institution, or a party acting for the institution. Consequently, they are not education records, and not being disclosed wrongfully to the students in Ray's class. The peer grading practice that Ray follows, then, does not violate FERPA.

At the end of the semester, Ray is concerned about Andi's performance in his algebra class. Hoping to humiliate her into studying hard for the final, Ray announces to the entire class: “Andi has earned nothing but D's and F's this semester. I'm sure she would appreciate any help you can give her in studying for the final exam.”

Has Ray violated Andi's FERPA rights?

YES!

Ray's grades were records directly related to Andi, and were maintained by Ray, acting for ENMU- *Ruidoso*. The grades, therefore, were education records, and Ray may not disclose Andi's education records to the class without Andi's prior consent.

In response to a request from a local newspaper reporter (who is writing a feature story on the surging popularity of Golf Club), Sara--the lead faculty advisor to ENMU - *Ruidoso's* golf club--was only too happy to provide to the reporter a student membership roster. One member--Seth--does not want it known that he belongs to the Golf club, and is furious at Sara. When Seth enrolled at ENMU, he indicated on his student information form that he refused to authorize ENMU to release any directory information about him to a third party.

ENMU's policies hold that student membership in college-sponsored organizations is directory information.

**Does Sara's disclosure of the club roster
comply with FERPA?**

NO!

- **Seth clearly notified ENMU that he did not want directory information about him released to any third party. Accordingly, Sara's inclusion of Seth's name on the list she gave to the reporter violated Seth's FERPA rights. If the other club members, however, did not previously object to ENMU's release of directory information about them, FERPA authorizes Sara's disclosure of their names to the reporter.**

Shelby aspires to be an elementary teacher, and has enrolled at ENMU-*Ruidoso* as a full-time student (with plans to transfer to the Portales campus upon graduation). In Shelby's English class, she has earned straight A's on all her assignments from her instructor, Holly. Shelby is not doing so well, however, in her communications class, which is taught by Fred. Fred is aware that Shelby is a student in Holly's class and, in an effort to improve Shelby's communications grades, Fred wants to discuss Shelby's work with Holly. This would mean that Fred would share Shelby's grades and other education record information with Holly, his colleague at ENMU-*Ruidoso*.

If Fred discusses Shelby's grades with Holly for this purpose, would his actions violate FERPA?

NO!

FERPA permits the disclosure of education records "to other school officials, including teachers" within an institution, provided that the institution has determined that other officials or teachers have "legitimate education interests" in seeing the records. Fred and Holly has a legitimate educational interest in reviewing Shelby's communications class grades-namely, Fred and Holly's shared desire to see Shelby succeed in all classes.

Besides carrying a six-credit hour load at ENMU-*Ruidoso* Community College, Ryan is a full-time employee in ENMU's admissions and records department. Whether he's studying or working, Ryan is constantly thinking about Lisa, a fellow ENMU-*Ruidoso* student with whom Ryan is hopelessly infatuated. Ryan desperately wants to get to know Lisa and takes advantage of his computer privileges in the admissions and records department to access Lisa's education records. Not only does Ryan find out Lisa's home address and telephone number, but also the classes in which she has earned high marks (to determine what interests they might have in common).

**Are Ryan's actions permissible under
FERPA?**

NO!

- **Ryan's retrieval of Lisa's education records violates FERPA. Ryan's employment at ENMU-*Ruidoso* allowed him access to Lisa's records, but his retrieval of that information was for purely personal reasons, and not for a legitimate educational interest.**
- **Even though an employee or student may have the capability to access a student's education records--by means of a computer or through other ways--it is not necessarily legal to examine those records.**
- **School officials, teachers, and even student employees may access students' education records only to the extent necessary for them to do their jobs...in other words, only to meet "legitimate educational interests". What's more, although a person has legitimate access to a student's education records, that person may not use such information in a manner that is improper or otherwise violates a student's privacy interests.**

SPECIAL "DON'TS" FOR FACULTY

- **To avoid violations of FERPA rules, DO NOT:**
- **at any time use the entire Social Security Number of a student in a public posting of grades**
- **ever link the name of a student with that student's social security number in any 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 or grades as an attendance roster.**
- **discuss the progress of any student with anyone other than the student (including parents) without the consent of the student**
- **provide anyone with lists of students enrolled in your classes for any commercial purpose**
- **provide anyone with student schedules or assist anyone other than university employees in finding a student on campus.**

Remember . . .

When in doubt, don't give it out!

Please contact the Student Advising Center for further information concerning FERPA.

Adopted from University of North Texas, FERPA Training and Maricopa Community College, FERPA and College Records.