

FERPA (The Family Education Rights and Privacy Act)

A. Purpose

To provide a summary of investigator responsibilities when using student educational records for research purposes.

B. Revision history

Originally issued: November 2013

C. Persons affected

All NWSU University faculty, staff, students, and agents of the institution

D. Policy

FERPA is a Federal law administered by the U.S. Department of Education: 34 CFR Part 99. FERPA applies to all educational agencies and institutions that receive federal funding. This document provides guidance for researchers using student educational records for research purposes.

FERPA aims to protect the privacy of student education records.

- Student education records include any record containing personally identifiable information (PII) directly related to the student. PII is not limited to name, but may include indirect identifiers as well.
- Examples include documents with a student's name, ID number, class rosters, grade lists, place of birth, ethnicity, residency status, advisor's name, class schedule, courses completed, grades, disciplinary records, and student information displayed on a computer screen.

Access - In many cases, student education records are accessible to and used by faculty, instructors, administrators, and staff for the purposes of conducting the duties of their job. For example, as part of an instructor's position, there is natural access to student's assignments, test scores, and attendance records in order to evaluate performance and ultimately assign a grade; however, the instructor cannot use this natural access for other intents and purposes, including research. If the instructor wants to use this student data for research purposes, FERPA applies and consent is required, unless one of the exceptions to consent as outlined in FERPA is met. FERPA requires a written agreement to disclose Personally Identifiable Information (PII) from educational records without consent. These written agreements must meet the requirements of DFR 99.31(1)(6)(iii)(C) or 99.35(a)(3).

Consent – Disclosure of educational records for research purposes requires consent. Consent form must:

- Specify the records to be disclosed
- State the purpose of the disclosure
- Identify the party to whom the disclosure is to be made, and
- Include a dated student signature

Exceptions allowing for the use of educational records for research purposes without consent include:

- The only PII obtained constitutes “directory information” and the student has not opted out of having his/her information included in the directory. The Registrar’s Office maintains the list of students who have opted out of the directory.
- The release is to an authorized representative of state/local educational authorities for an audit or evaluation of federal or state supported education programs or for the enforcement of or compliance with federal legal requirements related to those programs. Investigators must provide IRB with evidence that they are acting as authorized representatives of a state or local educational authority and that their audit or evaluation meets the conditions described above (e.g., a Memorandum of Understanding between University and educational authority).
- The release is to organizations conducting studies for or on behalf of educational agencies or institutions to develop, validate, or administer predictive tests; administer student aid programs; or improve instruction. A written agreement which meets criteria listed in FERPA between the University and the educational agency or institution is required.

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Contact the office of the Registrar for additional consultation regarding FERPA.