FERPA: What you Need to Know

The Family Educational Rights and Privacy Act and IPFW
FERPA at IPFW

As an employee, you may be working with sensitive and restricted data. In addition to being knowledgeable about how to classify and handle data at IPFW, you will need to be aware of federal regulations governing the data.
What is FERPA?

The Family Educational Rights and Privacy Act, known as FERPA (aka the “Buckley Amendment”), is a Federal law enacted by the United States Congress in 1974.

The Act, sets forth requirements regarding the privacy of student records. FERPA governs the release of records maintained by the University and access to these records.
What is the purpose of FERPA?

- Protect the privacy of student education records.
- Establish guidelines for the release of student records.
- Establish the right of students to inspect and review their education records.
- Provide guidelines for the correction of inaccurate and misleading data.
The federal law requires that a written institutional policy complying with the Act be established and adopted procedures be published.

Appendix A of IPFW Academic Regulations, “Release of Student Information” is our official policy.

The FERPA policy is available for review at:
http://bulletin.ipfw.edu/content.php?catoid=13&navoid=329#Release

OR

http://www.ipfw.edu/senate/htmfiles/ARTICLEA.htm
IPFW must...

• Inform students of University record systems and identify what data is on the record.

• Assure students that this data is used only for intended purposes.

• Give students the opportunity to request a correction or an amendment to their record.

• Make certain employees with access to the student information system protect student’s privacy.
What is the Definition of a Student?

At IPFW, a student is defined as one who has attended or “Is Attending”.

Note: Amended regulations (Jan ’09) include “in attendance” as including videoconference, satellite, Internet, or other electronic information and telecommunications technologies for students who are not typically in the face-to-face classroom.
What are Educational Records?

• Records that directly relate to a student (personally identifiable to a student).

• Records that are maintained by an educational agency or institution or by a party acting for the agency or institution.

Examples are:
- Student Grade Records
- Financial Aid Records
- Student Account Records
- Admission Application Records
Educational records are not...

- **Sole possession records** (private notes held by school officials that are not released to other personnel)
- **Law enforcement unit records** (this includes traffic violations)
- **Employment records** (not based on Work-Study)
- **Medical (Treatment) records**
- **Alumni Records** (created or received by the institution after the individual is no longer a student in attendance and are not directly related to the individuals attendance as a student)

These records have guidelines that respect privacy although they are not educational records subject to FERPA regulations.
What is Personally Identifiable Information?

- Personally identifiable information includes information that would allow a reasonable person in the school or its community, who does not have personal knowledge of the relevant circumstances, to be able to identify the student with reasonable certainty. Information includes: biometric records, SSN, Student ID, date and place of birth, mother’s maiden name.
Who is allowed to view a student record?
School Officials and employees of IPFW may review student records as long as they have a (need to know) “legitimate educational interest” to review these records.

Faculty and staff members may inspect student records as long as they have an academic or administrative reason, such as to fulfill a responsibility as part of their job.
Questions to consider in determining whether or not you have a “right” under FERPA to access a student’s education records.

- Do I qualify as a “school official”?
- Do I have a “legitimate educational interest”? 
A “school official” can be a person:

- Employed by the university in an administrative, supervisory, academic, research or support staff position (including law enforcement and health staff personnel).

Note: Amended regulations (Jan ‘09) expand the school official exception to include contractors, consultants, volunteers, and other parties to whom a school has outsourced services or functions under certain circumstances.
A “legitimate education interest” is generally defined as:

- The demonstrated need to know by those officials who act in the student’s educational interest, including: faculty, administration, clerical and professional employees, and other persons who manage student record information.
Ask the following three questions:

1. Is a school official making the request?
2. Does the requesting school official need the information in order to fulfill his or her job responsibilities?
3. Is there an existing policy that defines what the university considers legitimate educational interest?
It is **not legal** for school officials, faculty, staff, student worker or any other member of our campus community to access student records for non-educational purposes.

Such access is considered a violation of FERPA and if allowed, the University is subject to fines from the Department of Education.
Faculty members need to be careful when notifying students what grade they earned for a course or exam.

Posting a grade in a public area that lists the student name or ID (full or partial) alongside the earned grade is strictly forbidden under FERPA regulations.
How does FERPA apply to Blackboard?

• Due to the wording of FERPA (which originated in 1974, prior to the Internet) all computer files and records in courses using Blackboard or other online components are considered educational records protected by the act. Simply disclosing the fact that a particular student is enrolled in a course could violate students’ legal rights and put the faculty member – and IPFW – at risk of legal action. What this means in practice is that students have the right to expect that any material they submit in a course with an online component – as well as their names and other identifying information – will not be viewable by guests or other individuals permitted access to the course. The exception to this is cases in which students have give explicit, written, signed consent. Verbal consent or e-mail is insufficient.
If a student requests records to be made available to a third party, the University must collect written permission from the student before we release the information.

The information may be for an employment agency or another institution.
The written permission must:

1. Specify the records to be released;
2. State the purpose of the disclosure;
3. Identify the party or parties to whom disclosure may be made; and
4. Be signed and dated by the student.

Please note that institutions are responsible for informing parties to whom personally identifiable information is released that recipients are NOT permitted to re-disclose the information without the written consent of the student.
The University must have written permission from the student to release non-directory information to a third party such as...

Student’s ID number or Social Security Number

Grade Point Average (GPA)

Grades

Courses taken

Student’s schedule
FERPA regulations allow the release of “Directory Information”, without the written consent of the student.

Except ......

FERPA also gives students the right to restrict this information from the general public.
At IPFW, Directory Information is considered to be:

- **student name**
- **address**
- **honors & awards received**
- **Class standing**
- **Email Address**
- **Degrees & Awards**
- **telephone #**
- **Current enrollment status**
- **dates of attendance**
- **College/school and curriculum**

Participation in officially recognized student activities, sports and information related to participation on athletic teams
Directory Information is **NOT:**

- Race
- Gender
- Grades
- Social Security Number
- Religion
- Grade Point Average (GPA)
- Country of Citizenship
Students may restrict the release of Directory Information by visiting the **Office of the Registrar.**

Note: In Banner, if a student makes a request to restrict information, they are required to restrict ALL information. They can not restrict portions of the information. Therefore, if querying against the ODS system, it is important that you ensure you have requested the CONFIDENTIALITY_IND field so that it returns information on who has requested their information to remain confidential.

When data feeds are pushed out, they will contain the Confidentiality Indicator field so that recipients understand that these individuals can not have their information released.
When information is restricted...

If a student decides to restrict Directory information (making all information about them confidential) any requests for information will not be released to anyone, without written permission of the student.

For a student’s protection, when they want to restrict release of their information, we will not discuss anything with them by telephone. They must go to the Office of the Registrar in person with their ID card. If they decide to restrict their directory information, then any requests for such items as enrollment verifications, degree verifications, etc. will need their written permission before any of this information can be released to a third party, such as a health insurance company or prospective employer.
Always Protect Sensitive Information

Students, faculty and staff expect data in university systems to be secure from corruption and inappropriate disclosure.

- Password protect your computer.
- Store sensitive student information on a secure university network drive, or password protect and encrypt information on computers.
- Dispose of documents, CD’s or floppies properly.
- Secure your office, lock doors, lock file cabinets, and desk drawers.
- Do not send FERPA protected (non-directory) information through e-mail unless password encrypted.
Right to Inspection NOT Possession

• FERPA requires that student’s be allowed to “inspect and review” their records. Obtaining a copy of records or requesting copies be sent may be done pursuant to institutional policy.

• Therefore, if an institution has a policy of not releasing grades or other educational records if the student has a financial debt or disciplinary hold, the student is not entitled to this service.
What about parents?

Do they have the right to view their child's educational records?
Several years ago the Department of Education amended FERPA so that institutions have the option to allow parents to view their child’s educational records.

However, the parents must prove their child is a dependent listed on their current income tax return.
What type of information may be released to a student's parent?

• Directory Information (at the discretion of the institution)

• Non-directory Information **ONLY** if it has been determined that their child is legally dependent, or they have obtained a signed consent from their child.

Parents have the same FERPA rights given to students attending an institution of higher education at the K-12 grade level. Once a student reaches the age of 18 or begins attending a postsecondary institution, regardless of age, FERPA rights transfer from the parent to the student.
Amended regulations (Jan ’09) clarify that schools are permitted to disclose education records without consent to parents:

- When the student has violated a law or the school’s rules or policies governing alcohol or substance abuse, if the student is under 21 years of age.

- When the information is needed to protect the health or safety of the student or other individuals in an emergency.

- Ensures that schools understand that FERPA does not block information sharing with parents if any of the above exceptions apply.
Students have the right to inspect and review their records. The University may take up to 45 continuous days (not working days) before providing students this access. This includes the right to inspect information in their file in their major department.

Most institutions provide immediate access, although FERPA regulations do not require immediate review.
More on Student Rights

• **Students** who are denied admission to the university, do not have the right to review their denied applications.

• **Students** who are admitted but have not yet enrolled, have no FERPA rights until they actually attend classes.

• **Former students** have the same rights under FERPA as presently enrolled students.

Students rights with respect to the educational records at IPFW can be found at:

http://bulletin.ipfw.edu/content.php?catoid=13&navoid=329#Release or
http://www.ipfw.edu/senate/htmfiles/ARTICLEA.htm
Recent Amendments to FERPA relating to Anti-Terrorism Activities

October 2001 amendments to the “USA Patriot Act of 2001” affect FERPA regulations.
FERPA generally requires prior written consent from the parent or student before an educational agency or institution may disclose personally identifiable information from educational records to a third party.

The law now includes exceptions to this general rule.
The amendments to FERPA permit release of personal information from educational records to the Attorney General of the United States in connection with an investigation or prosecution of terrorism crimes, without the consent or knowledge of the student or parents.
Requests for educational records must be accompanied by an Ex Parte order or a lawfully issued subpoena or court order.

In an emergency regarding Health or Safety, exceptions apply to nonconsensual disclosures to appropriate persons in the case of smallpox, anthrax or any other bioterrorism attack.
Things to remember…

• FERPA is everyone’s responsibility

• Directory Information is the only information released without written consent of the student

• ALWAYS check the confidentiality status of students to ensure compliance with privacy restrictions

• Frequently refer to the policy for updates on “Release Of Student Information”

• Please contact the Office of the Registrar regarding FERPA issues and student privacy.
When do you take FERPA into consideration?

- Answering a student’s questions about their performance or records
- Answering a parent or spouse’s questions about a student’s performance or records
- Answering questions posed by a non “School Official” about a student’s performance or records
- Releasing student information to other “School Officials”
- Sharing Directory Information within a Class: attendance, peer grading, posting grades, sharing email addresses, multi-party emails
- Writing recommendations
SPECIAL NOTE

• Access to Student information via Banner or other computer software does not authorize unrestricted use of the information

• Information on a computer screen should be treated with the same confidentiality as a paper copy

• Curiosity is not a valid reason to view student information

• Records should only be viewed in the context of official business

• WHEN IN DOUBT—DON’T GIVE IT OUT
Tips to Remain Compliant with FERPA

• Use existing IPFW services and infrastructure; don’t agree to have student data (names, grades, discussion boards, student projects, etc.) stored outside of IPFW’s control.

• Talk with IT Services about specific needs you have which are not currently available and/or supported at IPFW.

• Keep your electronic devices (laptops, desktops, servers, PDA’s, etc.) secure, don’t leave devices where they could be stolen and hacked off site.

• Keep your own My.IPFW password safe; don’t share it with peers or teaching assistants.

• Consult with IPFW administration regarding contracts that involve sensitive FERPA-related information.
Tips to Remain Compliant with FERPA

- Do Not use the SSN or student ID to post grades
- Do Not leave graded tests in a stack in an unsecure area for students to sort through
- Do Not circulate a printed class list with the student name and ID
- Do Not provide anyone with student schedules or academic history (courses, grades, gpa, etc.)
- Do Not provide anyone with lists of students enrolled in classes
- Do Not include confidential information (i.e. grades, # of credits) in a recommendation letter without the written consent of the student
Thank you for your attention and cooperation in protecting the privacy of our students!

If you have further questions, please contact the IPFW Office of the Registrar.