

FERPA.....

What is it?

Why does it matter?

What does it have to do with my job?

Family Educational Rights and Privacy Act = “FERPA”

- 20 U.S.C. 1232g, 34 CFR Sec. 99
- Also referred to as the Buckley Amendment
- Conditions federal education funding on providing student access to, and maintaining privacy of, education records

Key Terms

- **Eligible Student** who is covered?
- **Education Record** what is covered?
- **Personally Identifiable** what about the records makes them important to protect?
- **School Official** people who can see the records IF they have a legitimate educational objective – this is one of FERPA’s main exceptions
- **Directory Information** specific categories of information about the student that MAY be released unless the student acts to restrict release

A FERPA True/False warm up

- Faculty and Deans have complete discretion to inspect education records of students. T or F?
- Students have a right to copies of their education records? T or F?
- An institution may give out, without restriction, any information it has designated as “Directory Information.” T or F?
- A student’s receipt of degree and date of graduation can always be given out. T or F?
- Exams are not education records and thus students have no right to see them. T or F?
- A student’s right to inspect and review their education records terminates when the student graduates? T or F?



True – False Answers

All the statements on the prior slide are false.

Perhaps you knew that;

Perhaps you didn't – either way,
keep reading.



What are student's rights?

- ❑ Be informed about educational records;
- ❑ Prevent unauthorized disclosure of records;
- ❑ Inspect and review education records within 45 days of making the request;
- ❑ Request changes if student feels records are inaccurate or misleading; Be invited to participate in a hearing if the request for change is not granted;
- ❑ If no change happens, insert statement describing the perceived inaccuracy into the records;
- ❑ File a complaint with US Dept of Education about a violation; and
- ❑ Waive these rights in writing.



Who is protected under FERPA?

- ❑ Only “Eligible” students
- ❑ That means students who have been in attendance i.e., have enrolled and shown up.
- ❑ Students who have only been admitted and/or registered do not yet have FERPA rights

What Records are Protected?

Education Records

Examples include but are not limited to:

- ❑ Registrar's records
- ❑ Papers and exams
- ❑ Student information database system info
- ❑ Class schedules
- ❑ Financial Aid – Student Account records
- ❑ Disability accommodation records
- ❑ Email discussions between school officials about a student's conduct, progress toward degree, grades, etc.

Education records are a broad category....

- ❑ Encompassing a wide variety of records maintained by UMB that are directly related to a student
- ❑ Records can be maintained in many formats: handwritten, print, tapes, discs, microfiche and email (printed out or stored on a computer)
- ❑ Records can be in a variety of locations including faculty, registrar, and student affairs' offices or in a central campus location

Some examples of records that are NOT education records and thus are not covered by FERPA.

- ❑ Law enforcement unit notes
- ❑ Records maintained exclusively for individuals in their capacity as employees
- ❑ Doctor-patient privilege records (They are likely protected by HIPAA but are not, on our campus, education records when generated.)
- ❑ Alumni records
- ❑ “Sole Possession” notes (Narrowly defined exception ~ includes only an individual’s observation or recollection that is NOT shared with others.)



Remember, the category of records that are “personally identifiable” is quite broad too.

Data or information which includes any of these:

1. Name of the student, or his/her parents or family members
2. Campus or home address
3. SSN, Student Identification Number or similar unique identifier
4. List of personal characteristics which would make the student’s identity easily traceable

Use caution regarding what makes someone “personally identifiable”

- Consider the descriptor “the Senator’s son.” You might think it doesn’t reveal an identity but if we only have two Senators, and one has no children, then we can only be talking about Senator Cardin and his family ... and likely we have narrowed things down too far.
- Or if you say a “female Native American student” and your school only has two Native American students, you might have accidentally identified a particular student if one is male and the other is female.



REVIEW: What needs to be protected?

Personally identifiable education records of any type, kept in any medium



The next big question:

What can be shared and under what circumstances?



Information may be disclosed when

- ❑ The student has **consented** to the disclosure – put a copy of the written release in the file;
- ❑ The law provides an **exception** that allows for disclosure without student consent; or
- ❑ The information is part of one of UMB's **Directory Categories** and you've checked BANNER and the student has **NOT** limited its release

Directory Information Details

- Release is discretionary – The law’s language talks in terms of schools may share there is no requirement that we must share.
- UMB’s policy is to not release directory information in response to requests by commercial entities unless a specific exception is authorized by University Counsel.

More Directory Details

- ❑ Students must be given annual notice of the items the institution considers **Directory Information** (UMB's Policy on Confidentiality and Release of Student Records is in the Answer Book and on line.)
- ❑ The situation is one of *consensual permission* – “we will share unless you tell us we may not share”
- ❑ Students must be given the opportunity to request that any or all of their **Directory Information** not be **released** (They act on their request through SURFS – by marking, category by category “N” which signifies “No, do not release”– for each of the ten categories.)



What are UMB's Directory Information Categories?

- Name
- UMB email address
- Address
- Phone Number
- Date and place of birth
- Photograph
- Major field of study
- Dates of attendance
- Degrees and awards received
- Most recent educational institution attended

Students may use SURFS to edit and alter their Directory choices at any time!

The screenshot shows a Windows Internet Explorer browser window displaying the 'Personal Information Menu' for the University of Maryland Baltimore. The browser's address bar shows the URL: https://crab.umaryland.edu/pls/sdev/twbkwbis.P_GenMenu?name=bmenu.P_GenMnu. The page features a header with the SIMS (Student Information Management System) logo and the text 'SURFS - Student User Friendly System'. Below the header, there are navigation tabs for 'Personal Information' and 'Student Services & Financial Aid'. A search bar is present with a 'Go' button. The main content area is titled 'Personal Information' and lists several options for editing personal data: Change PIN, View Addresses and Phone Numbers, Update Address(es) and Phone(s), View E-mail Address(es), Update E-mail Address(es), View Emergency Contacts, Update Emergency Contacts, Update Marital Status, Request for Name Change, Social Security Number Change Information, View Directory Options, and Update Directory Options. At the bottom of the page, it indicates 'RELEASE: 7.3'. The Windows taskbar at the bottom shows the Start button and several open applications, including Microsoft Outlook and Oracle Developer F...



Students can decide to restrict one, a few or all categories of Directory Info

Once in SURFS, if the students visit “Update Directory Options” they can choose, category by category, what categories, if any, they want to be restricted and thus rendered non-publishable.

NOTE: school officials still retain a right to view and use directory information. Restriction of directory information only pertains to permission to publish to others who do not otherwise have a reason to have access to the information.

Can a student refuse to allow any Directory Information to be released?

Yes! It is our responsibility to check each and every time a request is made to see if it is ok to share the information.

Confidentiality Flag

- ❑ Access the SPAIDEN form.
- ❑ Select the *Biographical* tab.
- ❑ The **Confidential** field is a Student Controlled Field. If checked, this indicates that the student has selected certain information to not be released as Directory Information.
- ❑ Access the SZDIREC form to view what can and can not be released as Directory Information. Any information that is noted with an “N” can not be disclosed.

SZDIREC Form View

Directory Information Form SZDIREC 7.0 (SDEV)

ID: @00001553 Web, Sims

Directory Information

Opt In: Y - Personal Information Available
Opt Out: N - Personal Information Not Available

Opt In/Opt Out

Name:

Address:

Phone:

Birth:

Photo:

Major:

Attendance:

Degrees:

Institution:

Email:



Remember: Directory Information only includes our 10 specific things. It does not include:

Race/Ethnicity

Grades

Social Security Number

County of Citizenship

Participation in clubs or organizations

Gender

GPA

Religion

Class Standing

This means that you **must have a signed RELEASE** from the student to share this information with anyone unless its release is covered by an exception. The most frequently implicated exception is that covering “school officials with a legitimate educational objective.” This exception never allows release to those outside the institution.

Main FERPA Exception: School officials with a legitimate education interest

UMB defines “**school official**” as

- A person employed by UMB in an administrative, supervisory, academic, research or support staff position (including law enforcement unit personnel and health staff);
- A person or company with whom the University has contracted (such as an attorney, auditor or collection agent);
- A person serving on the Board of Regents;
- A student serving on an official committee (such as disciplinary or grievance) or assisting another school official in performing his or her tasks.



What is a Legitimate Educational Interest?

“A school official has a ‘legitimate educational interest’ if the official needs to review an education record in order to fulfill his or her professional responsibility.”

Compare and Contrast

- A faculty member **CANNOT** see a student's grades "just to get a feel for what kind of student they are" or "to see how they have done in the past."
- A faculty member who is the student's advisor or who tracks progress toward degree or academic probation **WOULD** have a reason to see a student's grades.

Compare and Contrast

- A faculty member **MAY** have student photos even if a student has opted out of photo release as a directory category if the faculty member needs the photos to create a seating chart to take attendance.
- A faculty member **MAY NOT** have student photos that are directory restricted in an attempt to determine if the rude person on the Light Rail was a UMB student.



Many other exceptions create circumstances where an institution “may” share information about students.

- ❑ To other schools where a student seeks to enroll or is enrolled
- ❑ To authorized US representatives in connection with audit or evaluation of federally supported education programs
- ❑ To authorized persons and organizations in connection with a student's application for, or receipt of, financial aid but only to a limited extent
- ❑ To organizations conducting educational studies subject to limitations



Exceptions continued....

- ❑ Parents of a student who is a dependent for income tax purposes – UMB may require documentation of dependent status.
- ❑ Military recruiters
- ❑ Accrediting organizations to carry out their functions
- ❑ In connection with an emergency where knowledge of the emergency is necessary to protect the health or safety of the student or other individuals
- ❑ In response to a judicial order or subpoena provided that the institution makes a reasonable effort to first notify the student



If the information isn't **Directory** or covered by an **Exception** – consent is required

- Written
- Signed and dated
- Specifies the records to be disclosed
- Provides the identity of the recipient
- Identifies the purpose of the disclosure

Implications of phone, fax and email consent.

- Consent given by phone should rarely, if ever, be accepted. It is difficult to verify a phone caller's identity with 100% certainty.
- Many people tell phone callers that the institution will accept faxed consent bearing a signature. Yet, we are not qualified to do signature analysis. If the caller is perpetrating a fraud, there is little to deter him or her from simply typing, (falsely) signing and submitting a release.



Do you know the consent is real?

- However, with a faxed consent, you do have a written, signed copy to place in the file.
- How should email requests be treated?
School officials need to be equally cautious about relying on emailed consents – there is technically no “signature” and email spam/fraud is quite prevalent.

Do we have to require face to face consent?

- Requiring in person submission of written consent is most reliable but sometimes also the least practical.
- Be sure to balance your student service perspective with your intellect and intuition. Don't act unless you are sure – if you doubt something, keep asking questions until you are satisfied.

No record of disclosure is required when you release information:

- ❑ To student about his or her self
- ❑ To UMB “school officials with a legitimate educational objective”
- ❑ In another “exception” category
- ❑ Directory Information that has not been restricted by the student

PARENTS

When they call, what do we do?

- ❑ FERPA rights belong to the student at post-secondary institutions
- ❑ Parents have no right to access educational records and must produce written consent from the student.
- ❑ If the parent can show the student is a legal dependent schools “may” share but they are not required to share.

Is it an Educational Record?

A. Directory Information

1. Check Banner forms
2. May release if not restricted

B. Permissible Exception?

1. School official
2. Legitimate educational objective

Not A or B? Get Written Consent

1. Signed and dated
2. Which records
3. To whom
4. For what reason
5. Put copy in file

Tips on Managing Student Records

- ❑ **DO** review a copy of the UMB Policy on Confidentiality and Disclosure of Student Records before responding to a request for education records.
<https://cf.umaryland.edu/hrpolicies/section3/t30630Asa.html>
- ❑ **DO NOT** release directory information on a student without checking BANNER (SPAIDEN and SZDIREC) to see whether the information has been flagged for non-release.
- ❑ **DO** refer all subpoenas or IRS summons or other legal process requests for education records to the Office of the Registrar or University Counsel.
- ❑ **DO NOT** request information from an education record custodian, or access the student's records by computer, unless you have a legitimate educational interest and are authorized to access the information.

More Tips....

- **DO** follow the confidentiality provisions of FERPA by not sharing education records information with your colleagues unless a legitimate educational interest exists.

- **DO NOT** release information about a student disciplinary matter without conferring with University Counsel.

- **DO** ask for help if you are not sure about a request.

- **DO NOT** post or return students' papers, scores or grades in a public place when names, Social Security numbers, or other personal identifiers are displayed. If posting or returning when other students are going through the papers/exams, use a code known only to you and the student.

- **DO** remember that medical, mental health and law enforcement records should not ordinarily be put in the student's file with the student's education records.

Check out questions

1. **Students may request that institutions not disclose:**
 - a. Directory info
 - b. Non-directory info
 - c. A & B
 - d. Education record info
2. **FERPA requires what permission regarding Directory Information?**
 - a. Written
 - b. Consensual
 - c. Certified
 - d. Verbal

Check out questions continued

3. An education record is:

- a. Class roster
- b. Student's SAT score
- c. Electronic notation of student's grade
- d. None of the above
- e. All of the above

4. An employer calls to verify a student's gpa. Can you give it out over the phone?

- a. No
- b. Yes, if the student hasn't restricted its release as a Directory category
- c. Maybe

Answers

1. a) students may restrict Directory Information distribution.
2. b) consensual permission – we may unless they say we may not
3. e) all are education records
4. c) gpa is not directory, you need a release from the student on hand before you give it out pursuant to a phone or written request

Some basic tenets to remember....

- Deans, Faculty and other school employees are likely “School Officials” and thus they satisfy prong one of the main FERPA exception but the second prong requires that they have a “legitimate educational objective” for reviewing records. It is a two part test – just working for the institution does not qualify one for unfettered access.
- Schools may share Directory Information after they have 1) published the directory categories to the student body (the campus’ notice is sufficient), 2) given the students the option of opting out of disclosure, and 3) checked to make sure that the information being shared is not from a category a student has asked be restricted.
- Students must be able to inspect and review their records but they are NOT entitled to copies. As a courtesy, we often DO provide copies and we are allowed to charge for making the copies. If you have concerns about a copy request, please contact University Counsel.



**Please print this final page and submit it
as directed below.**

I reviewed the UMB Power Point presentation on FERPA and privacy of student records and information. The training addressed the rights of students to have access to or to permit others to have access to specific records; conditions under which disclosure of student records may occur without prior consent of the student; and a student's opportunity to review and seek correction of his or her education records. I agree to comply with federal regulations and UMB policy on the proper use and protection of student records and student privacy.

Print Name: _____ Extension: _____

Signature: _____

School or Department: _____ Date: _____

IF THIS IS FOR CREATING A NEW BANNER (SIMS) USER ACCOUNT,
submit this form to your SIMS Area Owner.

OTHERWISE: Return this form to the person that asked you to take the FERPA Training.