

Protecting Student Information What, Who, Why?

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Objective and Disclaimer

- Provide an overview of the federal statute protecting students' educational records in the context of radiography programs
- I am not an attorney, registrar, or representative of the Department of Education
- Questions regarding specific matters should be discussed with your registrar's office or legal counsel



Protecting Student Information

- What are we talking about?
 - Classroom and clinical performance and progress
 - Disciplinary actions
 - Health issues
- Why is this important?
 - Federal law (FERPA) requirements
 - JRC Accreditation Standard 1 requirement
 - Students have a right to privacy about their records
 - Loss of federal funding for non-compliance
 - Potential for lawsuits and damage awards



What is FERPA?

- Family Educational Rights and Privacy Act, signed into law by President Ford on August 21, 1974
- Also known as the Buckley Amendment
- Amended nine times



What is FERPA?

- Protects the privacy of educational records and guarantees students the right:
 - To be informed about their educational records
 - To inspect them
 - To request an amendment to them
 - To challenge the accuracy of the records
 - To prevent unauthorized disclosure of their records
 - To complain to the Department of Education about a violation of FERPA
 - To waive these rights in writing



Who is protected by FERPA?

- Current and former students of a post-secondary institution
- FERPA rights continue after the student leaves the institution
- Applicants who are denied admission or who never attend are not covered by FERPA



Who is protected by FERPA?

- How about parents?
 - Parents of students at the post-secondary have no right to access their educational records at that institution unless:
 - Student consents in writing
 - Student is claimed as a dependent for income tax purposes
 - A subpoena or court order requires release of records
 - The student is under the age of 21 and has violated a law or institutional policy concerning the use or possession of alcohol or controlled substances



Who has to comply with FERPA?

- Applies to all educational agencies and institutions that receive funds under any program administered by the Department of Education
- School or institutional officials with access to education records through the conduct of their work



Who has to comply with FERPA?

- School officials are:
 - Persons employed by the school in an administrative, supervisory, academic or research, or support staff position
 - Persons or companies with whom the school has contracted
 - Institution-related organizations
 - Students assisting another school official in performing his or her tasks



Who has to comply with FERPA?

- Radiography Programs
 - JRCERT Standard 1 - Integrity, Objective 1.5
 - Program must assure “the security and confidentiality of student records, instructional materials, and other appropriate program materials.”
 - Student records must be maintained in accordance with the Family Education Rights and Privacy Act (Buckley Amendment)



Who has to comply with FERPA?

- So, what about clinical instructors & staff?
 - Contracts/participation agreements
 - “Facility and School agree that they shall refrain from disclosing the Student’s educational records except with the Student’s consent or as permitted under the Family Educational Rights and Privacy Act and all regulations there under.”



What information is covered under FERPA?

- Educational Records
 - Any record containing information directly related to a student and maintained by the educational institution or individuals acting on their behalf in any form
 - Includes:
 - Personally identifiable information
 - Enrollment information
 - Grades



What information is covered under FERPA?

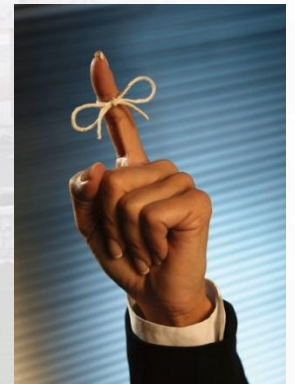
- Educational Records

- Forms
- Student health data/immunization records
- Background checks
- Drug screens
- Instructor or counselor ratings and observations (evaluations)
- Verified reports of serious or recurrent behavior patterns
- Family background information
- Religious affiliation
- Citizenship
- Ethnicity
- Gender
- Marital status



What information is not protected?

- Personal notes kept by instructors/staff provided:
 - Kept in the sole possession of the author
 - Not accessible or revealed to anyone except a substitute
 - Used only as a memory aid
- Law enforcement records



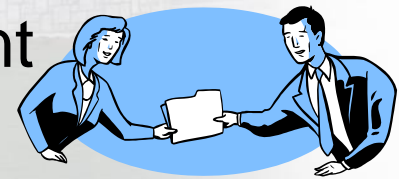
What information is not protected?

- Medical records – created by health care professionals and used solely for the treatment of the student
- Employment records – where employment is not contingent upon being a student
- Alumni records – created after the student has left the institution



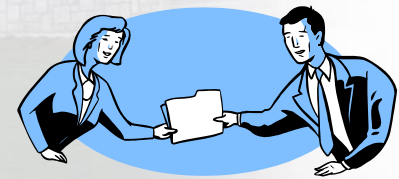
What information can be disclosed?

- Directory information
- Information that the student has given written consent to release
- Information needed by school officials with a legitimate educational interest
- Information needed by certain government agencies (e.g., Department of Education)



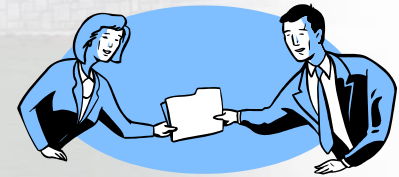
What is directory information?

- Information contained in a student's education record that generally would not be considered harmful or an invasion of privacy
- May be released without prior written consent
- Determined by the institution



What is directory information?

- Includes, but is not limited to:
 - Student's name
 - Address
 - Telephone number
 - E-mail address
 - Photograph
 - Date and place of birth
 - Major field of study
 - Grade level
 - Enrollment status
 - Dates of attendance
 - Participation in officially recognized activities and sports
 - Degrees, honors and awards received
 - Most recent educational institution or agency attended



Disclosing Non-Directory Designated Information

- Any type of information in the education record not identified by the institution as “directory information”
- Cannot be released without prior written consent by the student, with a number of exceptions



Disclosing Non-Directory Designated Information

- Exceptions include:
 - To school officials with a legitimate educational interest
 - A legitimate educational interest exists if an official needs access to the education record in order to:
 - Perform a task related to a student's education
 - Perform a task related to the discipline of a student
 - Provide a service or benefit relating to the student or student's family



Disclosing Non-Directory Designated Information

- Other exceptions include:
 - To officials at an institution in which the student seeks to enroll
 - To comply with a court order or subpoena
 - In connection with a health or safety emergency
 - To accrediting organizations



Complaints

- Students have the right to file written complaints with the U. S. Department of Education
- Complaints must be submitted within 180 days of the alleged violation and must be factual and specific



Avoiding Violations

- When in doubt, don't give it out!
- Information can be released with a signed written consent form
- Share confidential information about a student only with those having a legitimate educational interest
- Treat information on a computer screen with the same confidentiality as paper



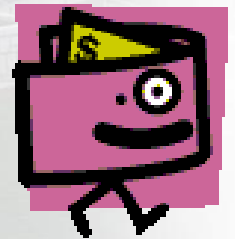
Avoiding Violations

- Do not leave graded materials in a stack for students to sort through
- Do not photograph a student without written consent
- Do not discuss confidential student information in a manner or place where others without a legitimate educational interest might hear



Penalties for Non-compliance

- Institutions are required to implement a plan of action to ensure compliance
- Withdrawal of Department of Education funding
- FERPA does not establish an individual right to sue or recover damages
- Individuals can not be penalized for violations of FERPA; however, they may be subject to disciplinary action by their institution



Scenario #1

- You get a phone call from someone identifying himself as a student, asking about his grades.
- Can you give out that information?



Scenario #1 Answer

- No. You can not be sure of the identity of the caller and whether it is the student in question. Therefore, you should not disclose the grade.



Scenario #2

- You get a frantic phone call from an individual who says he is a student's husband/brother/father and must get in touch with her immediately due to a family emergency.
- Can you tell him where and when her next class is or where she is in clinic?



Scenario #2 Answer

- No. Again, you can not be sure of the identity of the caller (It could be a stalker!). You should not disclose the information. You could offer to have the student contact the individual as soon as you can locate the student.



Scenario #3

- You receive a phone call from the local police department indicating that they are trying to determine whether a particular student was scheduled for a class on a specific day and time.
- Since they are in the middle of an investigation, are you permitted to share a copy of the student's schedule with them?



Scenario #3 Answer

- No. Not without a subpoena or court order. Such requests should be submitted to the Registrar's Office.



Scenario #4

- The parent of one of your students is concerned about the student's behavior and lack of communication with the parents. You have noticed that the student has changed over the last semester. She is dressing much more slovenly, appears unwashed on certain days, and seems depressed. Her grades are slipping.
- Can you disclose this information to the parent? Must you disclose to the parent?



Scenario #4 Answer

- FERPA prohibits sharing of educational records
- Personal observations are not educational records
 - The grooming behavior noticed here may be shared without violating FERPA
- FERPA does prohibit sharing of grades, which are a part of the official education record
 - Observations may still be shared, however. For example, noting that the student seems unable to concentrate in class, or is less responsive, would indicate problems with classroom behavior without sharing grades.



Scenario #4 Answer

- If there is reason to believe that there is a health or safety emergency with the student, the institution may share information with the student's parents and seek their assistance, without regard to the student's age or dependent status.
- FERPA does not require disclosure
- You do not have to disclose just because you may do so



Scenario #5

- You receive an e-mail message from a reputable employer asking for names and addresses for students with a GPA of 3.0 or better. They have good job opportunities to share.
- Can you help the students by providing the employer with this list?



Scenario #5 Answer

- No. GPA or any part of the students' grades is confidential information. This request should be referred to the Registrar's Office. You might also offer to share the employer's opportunity with all students where they could follow up individually.



Resources

- U.S. Department of Education, Family Policy Compliance Office
<http://www2.ed.gov/policy/gen/guid/fpc/index.html>
- Your Registrar's Office



Questions

