



Santa Rosa Junior College

TO: BOARD OF TRUSTEES	ITEM NO. 14
FROM: PRESIDENT	
SUBJECT: Revision to Procedure 8.2.9P Student Educational Rights and Privacy	DATE 11-10-09
REASON FOR BOARD CONSIDERATION INFORMATION	ENCLOSURES 1 of 12

BACKGROUND

The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education.

The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) final regulations were published in the *Federal Register* on December 9, 2008. The U.S. Department of Education (Department) issued a notice of proposed rulemaking (NPRM) announcing proposed changes in the *Federal Register* on March 24, 2008, to help educational agencies and institutions better understand and administer FERPA, and to make important changes to improve school safety, access to education data for research and accountability, and the safeguarding of education records, among other areas. The final regulations include changes and clarifications as a result of public comments on the NPRM from over 100 individuals and organizations. The final regulations represent an appropriate balance between preserving students' privacy, promoting their safety, and facilitating research and accountability that will help ensure that students receive a quality education.

Due to the many changes, it was determined that a rewrite of the existing Santa Rosa Junior College policy was in order. Extensive research, consultation with College legal counsel and constituency groups was incorporated in this new version.

Initiator	Supervising Adm/Mgr	Vice President	President
Diane Traversi		Ricardo D. Navarrette	Robert F. Agrella

8.2.9P

STUDENT EDUCATIONAL RIGHTS & PRIVACY

BOARD REVIEW: JANUARY 11, 1988

REVISED: NOVEMBER 14, 1995

REVISED: NOVEMBER 14, 2000

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- I. Background. FERPA, the Family Educational Rights and Privacy Act of 1974, also known as the Buckley Amendment, is the primary federal law that protects the confidentiality of students' records in academic environments. Sonoma County Junior College District policies and procedures shall comply with FERPA and with state law and accrediting commission standards.
- A. FERPA protects both current and former students' records.
- B. Most records created during a student's time at the District are considered education records and are FERPA-protected.
- C. FERPA rights begin when the student first attends the District.
- II. Definitions. The following definitions apply to this policy and to administrative regulations adopted to implement this policy.
- A. Access. "Access" means a personal inspection and review of a student record or an accurate copy of a record, or an oral description or communication of a record or an accurate copy of a record, and a request to release a copy of any record.
- B. Directory information. "Directory information" means information contained in an education record that would not generally be considered harmful or an invasion of privacy if disclosed. The Board defines "directory information" to include the following: student name, electronic mail address, and full-time or part-time enrollment status.
- "Directory information" does not include a student's social security number.
"Directory information" does not include a student's identification number, user identification, or other unique personal identifier used by the student to access or communicate in electronic systems unless that identifier must be used in conjunction with other factors that authenticate the user's identity.
- C. Disclosure. "Disclosure" means permitting access to or the release, transfer, or other communication of personally identifiable information contained in

education records by any means, including oral, written, or electronic means, to any party except the party that provided or created the record.

D. Education records. "Education records" are records that

1. Are directly related to a student, and

2. Are maintained by the District, regardless of format (e.g., paper copy, computer data, microfilm, audio or video tape) unless excluded from coverage by FERPA. The following are excluded from the definition of "education records:"

(a) Records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible by or revealed to other persons except a temporary substitute for the maker of the record.

(b) Records of the Sonoma County Community College District Police Department.

(c) Employee records made and maintained in the normal course of District business relating exclusively to individuals in their capacity as employees and that are not available for use for any other purposes.

(d) Records maintained by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional acting or assisting in a professional capacity, which are used solely in connection with the provision of treatment to the student and disclosed only for providing treatment.

(e) Financial records of parents related to applications for financial aid or scholarships.

(f) Confidential letters or statements of recommendation filed on or before January 1, 1975 or filed after January 1, 1975 pursuant to a student waiver.

(g) Alumni records which contain only information relating to a person after that person is no longer a student and that are not directly related to the individual's attendance as a student.

(h) Grades on peer-graded papers before they are collected and recorded by an instructor.

E. Legitimate educational interest. "Legitimate educational interest" means an official need to review or access a student education record by an official or employee of the District in order to fulfill a professional responsibility; to perform appropriate tasks that are specified in his or her position description or by a contractual agreement; to perform a task related to the student's education; to perform a task related to the discipline of a student; or to provide a service or

benefit relating to the student or student's family, such as counseling, financial aid, health care, job placement, or transfer.

Individuals who use student education records to serve their own personal needs or for purposes that are not related to their job responsibilities do not have a legitimate educational interest in the student education records.

F. Officials and Employees. "Officials and employees" means those persons who are employed by the District in administrative, supervisory, academic, or support positions, or who are officers or agents of the District. "Officials and employees" also includes District contractors, volunteers, and other non-employees to whom the District has outsourced District services and functions, who are under direct District control.

G. Personally Identifiable Information. "Personally Identifiable Information" (PII) in a student education record is that information that allows other parties to personally identify the student whose record is being reviewed. PII includes, but is not limited to:

1. The student's name.
2. The name of the student's parent or other family members.
3. The student's address or family member addresses.
4. A personal identifier, such as the student's social security number, student identification number, or biometric record.
5. Indirect identifiers, such as date or place of birth or mother's maiden name.
6. Other information that would allow a reasonable person in the College community who does not have personal knowledge of relevant circumstances to identify the student with reasonable certainty.
7. Information requested by a person who the District reasonably believes knows the identity of the student to whom the education relates.

III. Student Rights. Students' rights regarding their education records include the following:

A. The right to inspect and review any of their education records during regular business hours within a reasonable timeframe, usually no later than 15 working days after their initial request.

B. The right to seek to have their education records amended to correct inaccurate or misleading information or to address information that violates the student's right of privacy.

C. The right to know about the disclosure of their education records to any third party, except where restrictions exist. (See Section IV for conditions and exceptions.)

D. The right to prohibit the release of directory information. Directory Information may generally be released without student consent unless the student or former student has notified the District that the information shall not be released.

The District may limit or deny the release of specific categories of directory information based upon a determination of the best interests of students.

E. The right to limited use of social security numbers. District students have the right to expect that their social security numbers will be protected in accordance with state law.

IV. Disclosure Without Student Consent. The District may disclose personally identifiable information from a student record without the consent of the student under any of the conditions allowed by FERPA regulations, and summarized as follows:

A. To officials and employees whom the District has determined have legitimate educational interests.

B. To officials of another school or institution of postsecondary education where the student seeks or intends to enroll or is enrolled, for purposes related to enrollment or transfer.

C. To authorized representatives of the United States or state and local educational authorities in connection with an audit or evaluation or for enforcement of legal requirements.

D. For purposes of determining eligibility for financial aid.

E. To organizations conducting studies for educational agencies or institutions which have entered into appropriate written agreements.

F. To accrediting organizations to carry out their functions.

G. To parents of a dependent student.

H. To comply with a judicial order or lawfully issued subpoena.

- I. To parents and others in connection with a health or safety emergency where knowledge of the information is necessary to protect the health and safety of the student or other individuals.
- J. The information is designated as directory information and the student has not restricted the release.
- K. The disclosure is to the victim of violent crime and reflects the final results of a District disciplinary proceeding.
- L. The disclosure reflects the final results of a District disciplinary proceeding reflecting violent crimes as well as a violation of District rules of student conduct.
- M. To parents regarding student violation of law or District policy regarding the use or possession of alcohol or a controlled substance for students under the age of 21.
- N. The disclosure concerns sex offenders and others who are required to register under the Wetterling Act or the Adam Walsh Act.
- O. The release is to the federal military for recruitment purposes and involves the student's name, address, telephone listing, age, level of education, and academic major.

The District may also release information from education records in accordance with federal requirements after the removal of all personally identifiable information.

Where disclosure is permitted, but not required, the District is authorized to limit disclosure based upon a determination of the best interests of students.

V. Administrative Regulations. The Superintendent/President shall adopt administrative regulations that implement this policy. Such regulations shall ensure that students are advised annually of their rights under federal law and this policy. The regulations shall establish the means for seeking an amendment to education records and for restricting the release of directory information. The regulations shall establish means for ensuring that student social security numbers are protected in accordance with state law. The regulations shall establish standards for written student consent to disclose education records and include reasonable methods to identify and authenticate the identity of students, parents, school officials and employees, and any other parties to whom the District discloses personally identifiable information from education records. The District shall retain the right to charge a reasonable fee to copy an education record requested by a student.

A. Santa Rosa Junior College defines directory information as: Student's name, email address, and full or part-time enrollment status.

B. District Students shall have the right to expect:

1. That their Social Security number, (SSN) will be protected in accordance with the Federal law, and not used in posting their grades.
2. That their full Student ID, (SID) number will not be used in posting grades.
3. That their name will not be linked with his/her SSN or SID in any public manner.
4. That graded class work will be distributed in a confidential manner. That when graded class work must be co-mingled with that of other class members during the distribution process, the student's grade will not be visible or accessible to other class members. Grades on peer-graded papers before they are collected and recorded by an instructor are excluded from this requirement.
5. That a printed class roster which includes Personally Identifiable Information as defined in 8.2.9P § II G. will not be circulated or posted as an attendance roster.
6. That their academic progress and/or educational record will not be discussed with anyone other than the student themselves, unless there is a legitimate educational interest from a District instructor or staff member, or unless disclosure is otherwise allowed under federal law.
7. That Santa Rosa Junior College will safeguard their educational records, especially records contained in electronic data systems.
8. That Santa Rosa Junior College will not provide directory information for the purposes of military recruiting in response to a Solomon Amendment* request if the relevant student has "opted out" of the release of directory information.
9. That they will be advised annually of their rights under federal law and this policy, in both written and electronic format via the Admissions & Records office.
10. That the ability to opt out of the release of directory information will be available to them in both written and electronic format, in both written and electronic format via the Admissions & Records office.
11. That they will be provided a method to allow release of specific information from their education record to a third party via a written and signed release submitted to the Admissions & Records office, or unless disclosure is otherwise allowed under federal law.
12. They will always be asked to provide photo identification when requesting information about their own student record while conducting business in any department or service area at the College.
13. That if they make a telephone call to the College, they will be asked a series of pertinent questions to confirm their identity before any information is released.

(*) The Solomon Amendment final regulations published in July 2002 requires institutions to provide directory-type information to the Department of Defense for military recruiting purposes.09/22/09 dt

FERPA

(Family Educational Rights
Privacy Act of 1974)

Protecting Student Privacy

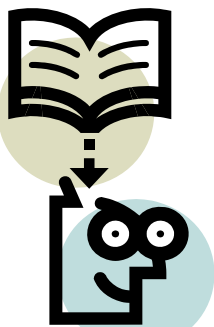
Presented by Diane M Traversi
Director, Admissions & Enrollment Services



FERPA FERPA FERPA



What is YOUR FERPA IQ?



What is FERPA?

And why do we have to adhere to it's regulations?

- The Family Educational Rights and Privacy Act of 1974, also known as the Buckley Amendment, is the primary law that protects the confidentiality of students' records in academic environments.
- If a member of the academic institution violates FERPA, the Department of Education could take away federal funding.
- Our students depend on us to keep their information confidential.
- It's the right thing to do.

Whose records are protected under FERPA?

- FERPA protects both **current** and **former** students' records.
- Any record created during a student's time at your institution is considered their education record and is FERPA-protected.
- FERPA rights generally begin when the student's application for admission is accepted. However, each institution has the right to define this.

Definition of an "Education Record"

Education records are defined as ALL records that are:

- Related directly to a student,
- Maintained by the institution or a staff member, and
- Kept in ANY format.



This includes: Formal and informal documents, communications, computer data, computer screens, and paper files. Nearly every piece of student-related information, regardless of it's location or the medium of it's presentation, is considered to be part of the student's education record.

Question # 1

- One of your faculty reports that a particular student in his/her class, has asserted that one of his FERPA rights is the 'right to remain anonymous in class.' Does the instructor need to comply?

Answer..

- No
- This new regulation clarifies that a right to opt out of directory information does not include a right to remain anonymous in class, and may NOT be used to impede routine classroom communications and interactions. This applies whether it is a face-to-face class on on-line through electronic communications. Section 99.37(c).

To avoid FERPA violations, DO NOT:

- Post grades using SSN or SID or personally identifiable data.
- Link a student's name with his/her SID, SSN in any public manner.
- Leave graded tests in a stack for pick-up.
- Circulate a printed class list with names, SID, SSN, or grades as an attendance roster.
- Do not assist anyone in finding a student on campus other than an eligible institutional employee.
- Do not provide anyone with a list of students enrolled in classes for any commercial purpose.
- Discuss the progress of any student with anyone (including parents) other than the student without the student's consent.
- Do not provide anyone with a student's schedule.

FERPA Student Rights

Students' rights regarding their education records are as follows:

- The right to inspect and review any of their education records within a reasonable timeframe, but no later than 45 days after their initial request.
- The right to seek to have their education records amended.
- The right to control the disclosure of their education records to any third party.
- The right to address any privacy-related complaints.

Question # 2

Education records may be released without consent if all personally identifiable information (PII) has been removed.
True or False?

Answer

- True - Provided that the PII has been removed, including the following:
 - SSN or SID number
 - All names
 - All addresses
 - Any personal characteristics
 - Any other indirect identifiers
 - Biometric indicators – handwriting, facial characteristics, fingerprints, retina and iris patterns, DNA sequence, and voiceprints.
- Section 99.31(b).

Obligation to Release Directory Information?

- An institution is not obligated to release directory information to anyone. FERPA states only that an institution **MAY** release information, but there is no obligation to do so.
- **WHEN IN DOUBT ~ DON'T GIVE IT OUT.**



Test your knowledge - Question #3

- The DSPS Office calls your A & R Dept. and requests a list of students that includes their full SSN, because they need to upload them to a "Filer" program that only accepts SSN's. Can you provide such a list?
- [Answer:](#)
- **No** - High Risk records, such as SSN's or other information that could be used for identity theft, should generally receive greater or more immediate protection than medium or low-risk records. The risk outweighs the possible 'legitimate educational interest' as the exposure to many other individuals whose hands or eyes it may land, poses a high risk of identity theft. Section (99.31(a)(1)(ii) , and (99.37(d)).

Suggested Ways to Safeguard Student Records:

- Photo ID – every time in order to access student's files.
- Password-protect your computer in which you store students' records.
- When you have finished a computer task involving student data, exit all files, sign off all applications, and close all application windows.
- Use only your assigned computer accounts and do not share it with other individuals. You are solely responsible for all actions taken using your account.
- Respond only to inquiries that you are authorized to field, even if you may have access to the information that is being sought.
- Shred, SHRED, SHRED, SHRED!

Parental Rights .. Do they have any?



Yes – in **some** cases they do:

- Parents have the right to expect that information such as their own financial records and related financial information will be held confidential. These cannot be released to the students or others, without the parents authorization.
- Parents access to information from their children's education records is carefully restricted, unless the student provides *prior consent* for data release to a parent. Otherwise, the only information that can be released to parents is the *Directory Information*, provided the student has not opted out of it's release.

Question # 4

- There has been an earthquake with a magnitude of 6.6 on the Richter scale has just shook the San Francisco Bay Area, lasting approximately 32 seconds. This is slightly less in magnitude than the Loma Prieta quake of 1989 which devastated public and private structures. At the initial assessment, your College appears to have suffered only mild to moderate damage and several minor injuries requiring First Aid only.
- Phone calls from parents begin almost immediately, wanting to locate their sons and daughters, and inquire about injuries. Can your staff relay any personal information to a parent in this situation?

Answer

- YES – you may.
- If the school determines that there is an articulable and significant threat to the health or safety of a student or other individuals, it may disclose information from education records to appropriate parties whose knowledge of the information is necessary to protect the health and safety of the student or other individuals. Section 99.36.

THREE Current Regulations....

When an institution MAY allow parents access to child's education record:

1. The student is a dependent for Federal income tax purposes, Section (99.31 (a)(8)).
2. The disclosure is in connection with a health or safety emergency as defined by Section (99.36).
3. For post-secondary students, if the student has violated any Federal, State or local law, rule or policy regarding the use or possession of alcohol or controlled substance, Section (99.31(a)(15)).

Clarification and Bottom Line

- Institutions should understand that while they MAY choose to follow a policy of not disclosing information to the parents of eligible students, FERPA does not prevent them from doing so in most circumstances.
- Note – It is always best to err on the side of **NOT** disclosing without prior consent.



New Regulations and Updates

Final Rule – 34 CFR Part 99

- Current version – December 2008 publish date.
- Comprehensive document that clarifies, and defines unchanged regulations, and also explains and emphasizes changes.
- <http://www.ed.gov/policy/gen/guid/fpco/pdf/ht12-17-08-att.pdf>, is a shorter summary – 15 pages!
- Good shorter summary called "Dear Colleague..." @ <http://www.ed.gov/policy/gen/guid/fpco/hottopics/ht12-17-08.html>.
