FERPA Tutorial Instructions

We recommend that you set aside about 20 minutes to complete this course.

To navigate through the tutorial:

• Scroll through and read each page.
• The course has several question pages. As you come to a question, please take a moment to decide on an answer before you scroll to the next page to find the answer.

For additional information, refer to PSU’s Guidelines for Release of Student Records. The guidelines may add understanding to the course. Additionally, you may refer any questions to the Office of the Registrar at 503-725-3220.
Purpose of This Tutorial

This tutorial, sponsored by the Office of the Registrar at Portland State University, explains the parameters of the permissible use and release of student records. The laws and regulations on maintaining and using student records are the Family Educational Rights and Privacy Act (FERPA) of 1974 (Public Law 93-380), as amended; 34 Code of Federal Regulations, Part 99; Oregon Revised Statutes 351.065, and Oregon Administrative Rules 580-Division 13 and 577-Division 30. By completing this tutorial you will learn how to responsibly handle student records.

The following topics will be addressed:

• What are the legal constraints on use and disclosure of education records?
• What are the responsibilities of PSU employees regarding student records?
• What are the students' rights regarding their education records?
• Which education records may and may not be released and under what circumstances?
• Who can you contact when you have questions about appropriate ways to handle students' records?
Major Concepts of FERPA

Some of the topics that this tutorial will address are the following:

• What is FERPA?
• Who at PSU must comply with FERPA?
• Who is a student?
• What is an Educational Need to Know based on a legitimate educational interest?
• What are student education records?
• Student rights under FERPA
• Disclosure of education records
• Directory Information for PSU
• Confidentiality
• Student consent
• Restrictions placed on student access
• How do you handle exceptions to FERPA?
• What about parent's access to their student's records?
• What happens if someone violates FERPA?
What is FERPA?

The Family Educational Right and Privacy Act (FERPA) of 1974 (Public Law 93-380), as amended, Oregon Revised Statutes 351.065, and their implementing regulations, afford students certain rights with respect to their educational records and require Portland State University to assure that those students' rights are not abridged.

Student Record Privacy
FERPA protects the privacy of all "education records," in any medium, maintained by Portland State University. Although the law was written in 1974, its coverage is not limited to paper copies. All student education records, including records about students contained in computer databases, are protected. It is important to respect the privacy of students. Even though a record is not protected by FERPA, it does not mean that the record can be freely released. For example, other laws protect employment and medical records. Medical records used to accommodate a disability should be kept separately from a student's "education records."
Who Must Comply with FERPA?

Only employees with an *educational need to know* based on a *legitimate educational interest* may access student records, and then only those records necessary for the performance of their professional responsibilities. That means, for example, faculty members, computer support personnel who might have access to student data, staff members in departmental or administrative offices, librarians, and student employees. It also means the president, deans, and department heads. These are just examples.

All employees of PSU must comply with FERPA.
Who is a Student?

A student is any individual who is or has been enrolled as a student at Portland State University.

This includes students who are enrolled in any PSU course, whether attending the main campus, an off-campus site, or online, regardless of the student's age.

FERPA continues to apply to a student's records even after they have graduated or otherwise left the University.
What is an Educational Need to Know or a Legitimate Educational Interest?

A PSU employee has a legitimate educational interest if the employee needs to review an educational record to fulfill his or her professional responsibility. The educational need to know must be related to the tasks that are specified in the position description or contract that:

- relates to a student's education or discipline, or
- provides a service or benefit to a student

An example of an educational need to know would be an academic advisor who needs to review a student's education record to determine what courses have been and/or need to be completed. This is a task related to advising the student. The advisor would not be authorized to view education records that are not relevant to the task at hand.
Question 1

Which of the following PSU employees would have an educational need to access the records of Sally Smith, a PSU student in the Maseeh College of Engineering and Computer Science?

A. The Dean of the College of Liberal Arts and Sciences who happens to know Sally's parents and wants to check on her academic progress for them.

B. Sally's adviser in the Maseeh College of Engineering and Computer Science who wants to review her academic progress.

C. A work study student who is Sally's roommate and wants to pick up Sally's exam from her professor.

D. Sally's co-worker in the University Market who wants to see Sally's class schedule to take something to Sally.

E. All of the above.
Sally's adviser in the College of Engineering and Computer Science needs to see Sally's records for purposes of reviewing her academic progress and giving her appropriate advice.

The Dean of the College of Liberal Arts and Sciences is a family friend and does not have an educational need to know or legitimate educational interest in Sally's education records. It would be inappropriate and illegal for the Dean to access the records for this purpose or to give information from Sally's education records to her parents.

Sally's roommate, though a work study employee of PSU, does not have an educational need to access Sally's records. The professor should give Sally's exam paper only to Sally, and not to the roommate.

Sally's co-worker in the University Market has no educational need to see any of Sally's records.
Question 2

Under FERPA, who is considered a PSU student?

A. Only students who are currently enrolled.

B. Only students who are currently enrolled at the main campus, excluding students enrolled at off-campus location or in distance learning or online courses.

C. Any person who is currently or has ever been enrolled at PSU.

D. Only students who have graduated from PSU.

E. All of the above.
C is Correct

FERPA applies to all students who currently attend classes at PSU -- at the main campus, at off-campus locations, and through distance learning and online courses -- and to all former students.
What are Student Education Records?

Most student records at the university are considered education records that are protected by FERPA.

Examples of education records include:

- Admissions information for students who are accepted and enrolled;
- Biographical information including date and place of birth, gender, nationality, information about race and ethnicity, and identification photographs;
- Grades, test scores, evaluations, courses taken, and official communications regarding a student's status;
- Course work including papers and exams, class schedules, as well as written, email or recorded communications;
- Disciplinary records;
- Students' financial and financial aid records;
- Internship program records.
- Employment records related to a student's employment in a position for which only students are eligible.

**Education Records** include any information or data recorded in any medium that is directly related to a student and maintained by the University or by a person acting for the University. Record mediums include, but are not limited to, electronic databases and files, handwriting, print, tapes, film, e-mail, microfilm, and microfiche.
Restricted Records Beyond FERPA

Some university records are not defined as educational records in FERPA, and the FERPA procedures do not apply to them. However, other legal restrictions do apply to them and they also may not be released. Any subpoena or request for release for these records should be referred to the Office of the Registrar.

Some examples are the following:

- employment records when the employment is not connected to student status (e.g., a staff member who happens to be pursuing a degree at the institution, as opposed to a student employed under the work-study program);
- medical and mental health records used only for treatment of the student; and
- alumni records that do not relate to or contain information about the person as a student (e.g., information collected by the University pertaining to alumni accomplishments).
- law enforcement records maintained by Campus Public Safety are not education records under FERPA, but may be subject to other restriction.

This is a list of examples only; it is important that all university records be maintained with appropriate restrictions.
Question 3

Which of these items are considered student education records?

A  Financial aid records.
B  A computer generated list of library books checked out by a student.
C  A degree audit of a student's academic record.
D  A list of web sites accessed by the student.
E  All of the above.
E is Correct

It is safe to assume a record is protected unless a specifically articulated exception has been established.
Question 4

Which of these databases contain student education records?

A. Banner (each of the Student, Finance, and Human Resources modules)
B. DataMASTER
C. D2L
D. All of the above
All of these electronic data systems contain large volumes of education records that are student specific and student identifiable.

Banner, the DataMASTER, and D2L are enterprise-critical systems. That is, the data in them is essential for the operation of the University.
Student Rights Under FERPA

FERPA protects four specific rights of students. The right to:

**Inspect**
Students have the right to inspect and review their education records in a timely manner. Specifically, students have the right to inspect their records within 45 days of their request.

**Amend**
Students have the right to request the amendment of their education records that they believe are inaccurate or misleading.

**Consent**
Students have the right to consent to disclosures of the personally identifiable information contained in their educational records.

**Complain**
Students have the right to file a complaint with the U.S. Department of Education concerning alleged failures by Portland State University to comply with the requirements of FERPA.
Disclosure of Education Records

Student education records may not be disclosed to anyone unless

- the student has given written consent, or
- the request fits one of the legal exceptions.

However, FERPA allows an institution to define "directory information" that can be released. Consent from a student is not generally required for the release of directory information and it may be viewed and released to the public, unless the student has placed a confidentiality restriction on its release.
Defined in OAR 577, Division 30, as the following:

- Student's name
- Current E-mail address
- Dates of attendance
- Major/minor field of study
- Degrees and awards received
- Date(s) of degree(s)
- Fact of application for degree(s)
- Number of credits earned and class standing (freshman, sophomore, etc.)
- The fact of enrollment, and whether Full-time or part-time status
- Status as graduate assistant
- Dates of employment for student worker positions
- Participation in officially recognized activities and sports
- Weight and Height of members of athletic teams
Question 5

Which answer best identifies the major legal protections given to a student's "education records" under FERPA?

A. Faculty and staff generally may not see a student's education records without first identifying an educational need to know or one of the other exceptions under which records may be reviewed.

B. The student has a right to access and review his/her records.

C. All education records are confidential (except directory information in most cases) and may not be disclosed unless the student consents or the request fits one of the exceptions.

D. A student has a right to submit a document to be retained in their file if the document corrects information contained in the file.

E. All of the above
The student has a right to access and review his or her education records.

All education records are confidential (except directory information in most cases), and cannot be disclosed unless the student consents.

Faculty and staff generally may not see a student's education records without first identifying an educational need to know or one of the other exceptions under which records may be reviewed.

Students have the right to request the amendment of their education records that they believe are inaccurate or misleading.
Question 6

Which of the following data items is included in PSU’s definition of directory information?

- **A** Grades
- **B** Class Rank
- **C** Major/minor field of study
- **D** Parents’ mailing address
- **E** Date of birth
C is Correct

The major/minor field of study is considered directory information at PSU.

Grades, class rank, parents' mailing address, and date of birth are not directory information.
Confidentiality Restrictions

Students have the right to establish a confidentiality restriction on the release of their records, including directory information. Before releasing directory information, you must check to see if the student has the "Confidential" restriction in place. You may not release any information about a student who has established confidentiality of their records - you may not even acknowledge that the student is or ever was registered at PSU. Specifically, you must respond by saying, "I have no information about this person."

- To check for a student's confidential status, you will need to access one of the database resources for student information at PSU:
  - In Banner, any form that lists student specific information will give a warning message when the Student ID is typed in, and then the word "Confidential" will appear in the upper left corner of the form. The Faculty/Staff menu selections in Employee Online Services that display student specific information will also display the word "Confidential" adjacent to or near the student's name.
  - In DataMASTER, reports that contain non-directory information require you to select whether or not the report will be for 'Internal PSU Only' or 'External Use'. Selected reports will also have a column or indicator on the report to indicate confidentiality when the 'Internal PSU Only' option is selected.
  - D2L does not have an accessible confidentiality indicator, so you must check other sources to determine confidentiality restrictions.

Shadow systems (departmental databases, spreadsheets, files, personal grade books, etc.) are not reliable sources to determine whether the student has restricted their information.
Responding to Inquiries about Confidential Students

If the student has placed a restriction on the release of his or her information, the best response is to make your answer about their question, rather than about the student. You might say something like, "The only office that can release that type of information is the Office of the Registrar." Be cautious that your response does not imply in any way that the individual is a student at PSU.

If the person making the inquiry is persistent, please refer them to the Office of the Registrar.
Student Consent

When giving non-directory information to a third party about a student, you must have a signed written consent from the student before releasing any personally identifiable information. "Personally identifiable" means the information would make the student's identity easily traceable.

This is especially important to keep in mind when you use DataMASTER. Even if you suppress students' names and/or identification numbers, the data available in DataMASTER can be assembled in such a way as to make personally identifiable information about specific students likely if you have groups of 10 or fewer records. You must be very careful about the way you use DataMASTER data to assure that personally identifiable information is not released to any unauthorized person.

Written consent to release personally identifiable information must include the following:

- the precise information to be disclosed,
- the purpose of the disclosure,
- to whom the disclosure may be made
- the expiration date of the consent (usually, the end of the current term, or three months)
- the student's signature and date of signing
To Review...

Directory information is releasable unless a student has placed a confidentiality restriction on their records.

Non-directory information is any information about a student that is not in the list of PSU directory information. Non-directory information is not releasable without the written consent signed and dated by the student defining the specific purpose, recipient, and period of time for the release.

A signed and dated confidentiality restriction by a student prevents the release of any directory or non-directory information about a student. PSU employees with an educational need to know may access and use restricted records. Release of restricted records to anyone without an educational need to know may occur only with the written consent signed and dated by the student defining the specific purpose, recipient, and period of time for the release.
Restrictions to Student Access

Students have a right to access and review their education records, subject only to reasonable time, place and manner restrictions. However, a student does not have the right to see:

- confidential letters of recommendation (those to which the student has waived access in writing),
- financial information of their parents,
- those items not defined as education records, or
- records that contain information on more than one student, in which case the student may see only those portions of the record that pertain to her or himself.

Before giving students access to any information pertaining to their student records, look at their student ID cards to verify their identity.
Question 7

Which of the following statements is false?

A. Students have the right to consent to release of their non-directory information
B. You may release non-directory information if the student calls you on the telephone and tells you it is OK
C. Students have the right to place restrictions on release of their directory information
D. Banner forms that list student specific information will indicate whether a student has restricted release of their directory information
E. Students have a right to inspect their educational records
B is Correct

An oral statement from the student either on the phone or in person is not a valid release.

A student's permission to release their non-directory information must be given in writing indicating the precise information to be disclosed, the purpose of the disclosure, to whom the disclosure may be made, the expiration date of the consent, the student's signature, and the date of signing.
Question 8

Which of the following data items in a student’s education records may be released to the student?

A. Parents’ financial information
B. Confidential letters of recommendation
C. Records that include information about other students
D. None of the above may be disclosed to the student
E. A, B, and C may all be disclosed to the student
Students may not have access to their parents' financial information.

Students may not see documents in their education record that include information about other students. However, students may have access to those parts of the document that pertains only to them.

Students may not see documents that are not considered education records. For example, a professor's grade book or notes that a professor makes to track a student's academic progress in class.
How do you handle exceptions to FERPA?

As with any law, there are exceptions and FERPA defines specific circumstances under which prior written consent to release personally identifiable information is not required. Examples are subpoenas for information about the student, inquiries made under the provisions of the USA Patriot Act, requests by the Secretary of Education, agents acting on behalf of PSU, schools at which the student seeks or intends to enroll, accrediting agencies, health or safety emergencies, etc.

Whenever you receive a subpoena for information about a student, a request for information under the USA Patriot Act from a law enforcement official, or any other unusual request for student data, always refer the inquirer to the Office of the Registrar.

FERPA allows PSU to release student record information to anyone if a health or safety emergency exists and the information will assist in resolving the emergency. If you release student records under the health or safety emergency provision, notify the Office of the Registrar so that a record can be made of the disclosure.
What about parents’ access to their child’s student records?

One area of FERPA that generates confusion is the right of a parent to access student record information. In this case, Oregon law applies as well as FERPA. Oregon law prohibits giving parents access to students' information except with the student's written consent.

Although FERPA is a federal law, it is written in such a way as to permit institutions to be more restrictive in some cases. Since FERPA is permissive regarding parents' access to information, and Oregon law is restrictive, **Oregon law is what prevails in this case.**

You may release student information to parents only with the written consent of the student regardless of the student's age, or whether the student is a legal dependent of the parent, or whether the parent pays the student's tuition and school expenses.
Question 9

Which of the following statements is false?

A. Parents of a PSU student may have access to their student’s education records without the student’s consent if the student is under age 18.

B. Students may restrict release of all of their education records including directory information.

C. Medical records are not education records but are restricted by different laws.

D. Students’ current email addresses are part of PSU’s directory information.

E. Students do not have a right to see records that contain information on more than one student.
A is Correct

Even the parents of a 13 year old child prodigy who is registered at PSU may not see the student’s education records without the written consent of the student. Oregon law prohibits releasing education records to parents without the student’s written consent.
What happens if someone violates FERPA?

FERPA is a federal law with which all of us must comply.

If you inadvertently or mistakenly violate the confidentiality of any student information, contact the Office of the Registrar immediately (503-725-3220) to discuss how we as an institution can remedy the situation. Promptness is essential.

Reckless or repeated negligent violations of FERPA will result in disciplinary action. Serious violations within the University could potentially result in the loss of all federal funding for PSU.
Congratulations…

You have completed the FERPA tutorial…thank you for your time!

If you have more questions about PSU’s FERPA policies see PSU’s Guidelines for Release of Student Records.

Or contact the Office of the Registrar:
Western Hemlock 21
1914 SW Park Ave, Space 21
503-725-3220
www.pdx.edu/registration
registrar@pdx.edu