

# Family Educational Rights And Privacy Act Of 1974 - FERPA

This Act Is Enforced By  
*The Family Policy Compliance Office*  
*U.S. Dept. of Education*

(202) 260-9002 (fax)

*ferpa@ed.gov*

<http://www.ed.gov/offices/OM/fpco/>

# What is the goal of this presentation?

- To gain an understanding of FERPA
- To be aware of the effects of non-compliance with FERPA
- To understand ISU's FERPA policy
- To know where to find ISU's FERPA policy
- To be aware of resources for FERPA questions

# FERPA

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"A federal law designed to protect the privacy of education records, to establish the right of students to inspect and review their education records, and to provide guidelines for the correction of inaccurate and misleading data through informal and formal hearings."

DEFINITIONS OF TERMS FOR ADMISSIONS AND RECORDS. Washington, D.C.: AACRAO, 1980, p. 28.

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# Why comply with FERPA?

- It is the law.
- It protects our students' privacy.
- It protects the University.
- ISU wants to continue to receive federal funds.

# Liability of non-compliance:

- FERPA does not have any power to take punitive actions against individuals.
- Individuals cannot sue educational institutions for damages under FERPA.
- However, ISU could lose federal funds for proven FERPA violations.

# So, what does FERPA say?

- Schools may not disclose *personally identifiable* information about students nor permit inspection of their *education records* without written permission from the student unless such action is covered by certain exceptions permitted in the Act.
- College students must be permitted to inspect their own *education records*.

# Who is a student?

- All students attending a post secondary institution – including early college, continuing education, audits, etc. – *regardless of age.*
- Attendance at ISU is defined as the first day of the first class attended by the student or participation in a University-sponsored program or activity, such as required student orientation, athletic pre-season practice, etc.

# What is an education record?

- Any record created or maintained by ISU directly related to a student or students.
- These records can contain a student's name or information from which an individual student, or students can be personally (individually) identified.
- These records include: files, documents, and materials in whatever media (*handwriting, print, tapes, disks, film, microfilm, microfiche*) containing information directly related to students and from which students can be personally (individually) identified.

# What must ISU do?

- Notify students of FERPA rights each year
- Protect students' right to inspect & review their education records.
- Protect students' right to request to amend their education record.
- Protect students' right to limit disclosure of *personally identifiable* information in education records.
- Inform third parties they may not re-disclose information.
- Keep records of requests for and disclosures of student education records in limited situations.

# “Personally Identifiable” ?

## Information including:

1. The name of the student, the student's parent, or other family members;
2. The student's campus or home address;
3. A personal identifier (such as a social security number or ISU ID number);
4. A list of personal characteristics or other information which would make the student's identity easily traceable.

# What is NOT an education record?

- Sole possession notes
- Law enforcement unit records
- Employment records
- Medical records
- Alumni records – data collected after last attendance or graduation, not the student data

# What is a sole possession note?

Records created and maintained by a person generating education records (not in conjunction with the student).

Examples:

- Notes of a professor or staff member intended for his or her own use are not part of the educational record; personal notes or "memory joggers."
- Notes that are not accessible or revealed to any other person, except for a substitute.

*These notes should be kept secure as they may contain personally identifiable information.*

# What are students' rights?

A student has the right to:

- Inspect and review their education records;
- Request to amend their education record;
- Limit disclosure of their “*personally identifiable*” or “*directory information.*”

# What education records can a student have access to?

- Admissions Office
- Registration and Records Office
- Financial Aid Office (*except parent financial information*)
- Financial Services Office
- Supplemental Academic Advising Office
- Department and/or College (*except sole possession notes*)
- Career Center
- Any office that produces student educational records ...

# What is directory information?

- Information from a student's educational records not normally considered a violation of a student's privacy if disclosed without student permission.
- Institutions define their own directory information using FERPA guidelines.

# What is directory information at Idaho State University?

- Student Name
- Local/Permanent address
- Local/Permanent telephone
- E-mail address
- Class/School/College
- Major field of study
- Dates of attendance
- Enrollment status
- Expected graduation date
- Degrees received
- Athletics: Participation in officially recognized activities and sports
- Other similar information as defined by the institution that would not normally be considered an invasion of a student's privacy.

# Directory Information can *NEVER* include:

- ISU ID (Bengal) Nbr
- Social Security Nbr
- Race/ethnicity
- Gender
- Citizenship
- Nationality
- GPA
- Grades
- Academic Standing
- Religion

Note: If an item of student information isn't defined or listed as "directory information" then *it isn't* directory information!  
*AND* it can only be released with the student's written permission,  
*OR* if the release can be justified under one of the exceptions to students' written permission found in FERPA.

# Restricting

## Directory Information at ISU:

Students at ISU may request that their records be blocked in one of two ways:

- Students can request an Address Block on their record to prevent their address information from being published or disclosed to 3<sup>rd</sup> parties.
- The full FERPA Block requires that a student complete and sign the “Non-Disclosure Declaration of Educational Information” form in the Office of Registration and Records and present a photo ID.

# Student FERPA Blocks at ISU

A = Address Block or F = Full FERPA Block

hp1 - Reflection for HP

File Edit Connection Setup Macro Window Help

MODE: F ACTION: Student Information System Scrn: SIQS201  
Clock: 17:03 06/23/2003 Student Information Lookup Vers: 12/02/2002

Id Nbr	089351	Name	TEST,0001	DOB	01/01/65	Sex	F			
Ethnic	1 Hcap-D	Vet		Class Lvl	MA HS-G-Yr	1995	HS-Gpa	0	CoreGPA	.00
Phone	-	Res-RNF	R	Address:	741 S 8TH					
Office	R	ISU Stat	C	Enr-type	F	AdmAct	A			
Div	A	Degree		GrdDate		POCATELLO, ID 83209				
Advisor	030997	SUPPLEMENTAL ADVISING/282-3277,								
Major	1914	GEOLOGY								
College	1	ARTS AND SCIENCES								
Res	040005	BANNOCK								
Last HS	ID0500	POCATELLO HIGH SCHOOL								
Citizen								Intl Status		

Academic CTech Graduate

Trn	Att	Psd	Pts	Gpa	Att	Psd	Pts	Gpa	Att	Psd	Pts	Gpa
ISU												
Cum												

01 Address Inq 02 Transcript/ISU 03 Class Sched 04 Acad Adms 05 Test Scores  
06 Trnscrpt 07 Transf/Eval 08 Grad Schl 09 Degree 10 Petitions

**DISCLOSURE OF ANY STUDENT INFO RESTRICTED - FERPA BLOCK**

Entry Find View Refresh Update Help Exit Previous  
E F LogEntry Ctrl-G US ?? ^^ ^

1, 15 HP70092 -- 134.50.254.1 via VT-MGR 00:11:37 Num



# What is “written consent”?

Institutions shall obtain written consent from students before disclosing any personally identifiable information from their education records

## The written consent must:

- Specify the records to be released
- State the purpose of the disclosure
- Identify the party or parties to whom disclosure may be made
- Be signed and dated by the student
- Fax signature is a legal signature

*Family Compliance Office is working on policy regarding use of username and password as a legal signature.*

# Requests & Disclosures

## *Recordkeeping Requirements:*

- All institutions are required to maintain records of requests and disclosures of personally identifiable educational record information.
- Disclosure logs will include the names and addresses of the requestor and his/her indicated interest in the records.
- Students have the right to inspect disclosure logs to view who has been given access to educational records.

# Requests & Disclosures Continued...

Records Do Not Have To Be Kept For:

- A. Requests from students for their own use
- B. Disclosures in response to written requests from students
- C. Requests made by school officials
- D. For records specified as directory information

Records of requests and disclosures are part of the student's education record...

- they will include the names and addresses of the requestor and his/her indicated interest in the records
- they must be retained as long as the education records to which they refer are maintained by the institution.

# Email and FERPA

- Email is not a written request and is not an acceptable means of receiving a written release.
- Email addresses have been listed as Directory Information at ISU. However, this does not mean that email can be substituted for in-person or by-mail signed requests.
  - Why?
    - Email is not a secure form of communication
    - ISU is not set up for encrypting (safeguarding and verifying) signatures

# What are exceptions regarding written consent to release?

- Directory information if there is no “*Non-Disclosure Declaration of Educational Record*” (FERPA Block) form on file in the Office of Registration and Records for a student;
- University officials with a “*legitimate educational interest*”;
- Federal Officer ( Sec of Ed., U.S. Attorney General, Comptroller of US, state and local educ authorities) as prescribed by FERPA;
- As required by state law;
- Research project on behalf of educational agencies, providing no personal identification of students.

# Exceptions continued ...

- Accrediting agencies for carrying out functions.
- In response to judicial order or lawfully issued subpoena – must follow ISU procedure.
- Schools where a student seeks or intends to enroll – must be documented.
- Agencies who provide financial aid to student (does not include payments made by parents).
- Parents of dependent students with IRS documentation.
- Disciplinary records which meet specific conditions outlined in FERPA.
- INS for meeting CIPRUS or SEVIS requirements.

# Exceptions Continued ...

- Agents acting on behalf of the institution (e.g. loan clearinghouse, degree verifiers, etc.).
- Military recruiters following the Solomon Amendment.
- IRS for purposes of compliance with Taxpayer Relief Act of 1997.
- Authorized representative of Veteran's Affairs for students receiving educational assistance.
- If a health or safety emergency involving a student exists. Written release is not required when resolution of emergency is imperative.

# Legitimate Educational Interest

- The demonstrated need to know by those officials of an institution who act in the student's educational interest, including faculty, administration, clerical and professional employees, and other persons who manage student record information.
- Requires that the individual seeking access must have the requested educational record information to perform their job duties.

# School Officials

- Employed by the college in an administrative, supervisory, academic, research, or support staff position (including law enforcement and health staff personnel);
- Elected to the board of trustees;
- 3<sup>rd</sup> party companies employed by or under contract with the college to perform a special task such as the attorney, auditor, or collection agency;
- Student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks.

# What About Parent/Spouse Rights?

- FERPA rights transfer to the student when they reach the age of 18 or begin attending a post secondary institution, regardless of age.
- Parents may obtain directory information only at the discretion of the institution.
- Parents may NOT obtain non-directory information (grades, attendance, GPA, etc.) unless they file a “Declaration of Dependence” form with the Office of Registration and Records and bring proof the student is legally their dependent. This form must be updated each year. ISU will notify the student that such a form is on file.
- Students may grant access of non-directory information to Parents/Spouses by signing and filing a “written consent” form with the Office of Registration and Records.

# Parent/Spouse Questions?

## What can Faculty and Staff do?

- Refer questions to the Office of Registration & Records.
- A spouse is considered an unrelated 3<sup>rd</sup> party as far as FERPA is concerned. They cannot conduct business for the student without written consent.
- A student's privacy right is assumed unless the appropriate documentation related to the student's financial dependent status has been filed.
- If a student has filed a full FERPA block, parents cannot have access to educational records even with proof of dependence.

# Grade Posting and FERPA

## Posting grades

- Student grades may not be posted by SSN, ISU ID, or name. The preferred method is to assign a unique code for each student known only to you and the individual student.
- Faculty CAN use WebCT for grade posting, because it is secured with password access.
- Faculty/Staff Tools and the MyISU portal may display grades because of secure password access and record view privilege restrictions.
- Do not post grades or return graded papers in a drop box accessible in an open area.

# Frequently Asked Questions

- Q – Can I include non-directory information in a letter of recommendation for a student?

*A – Only if the student has provided written permission to the person writing the letter.*

- Q – Can I send non-directory information (e.g. grades) to my students using email?

*A – Only if this procedure is outlined in your syllabus, and the students are given the opportunity to request that this method of delivery not be used.*

# FERPA for Faculty and Advisors

1. DO refer information requests for the educational record of a student to the proper education record custodian.
2. DO keep only those individual student records necessary for the fulfillment of your teaching and advising responsibilities.
  - Private notes of a faculty member concerning a student and intended for the faculty member's own use are not part of the student's educational records unless shared.
3. DO keep any personal professional records relating to individual students separate from their educational records.
  - \* Private records of instructional, supervisory, and administrative and ancillary educational personnel are to be kept in the sole possession of the maker.

# FERPA for Faculty and Advisors

4. DO change factual information regarding grades and performance in an educational record when the student is able to provide valid documentation that information is inaccurate or misleading.
  - \* The substantive judgment of a faculty member about a student's work, expressed in grades and/or evaluations, is not within the purview of students' right to challenge their educational records.
5. DO NOT put papers, graded exams books, or lab reports containing student names and grades in publicly accessible places. Students are not to have access to the scores and grades of fellow students or be given access to information in a way that allows other students to be identified.
6. DO NOT request information from the educational record custodian without a legitimate educational interest and appropriate authority.

# FERPA for Faculty and Advisors

7. DO NOT share student educational record information, including grades or grade point averages, with other faculty or staff members of the University unless their official responsibilities identify their "legitimate educational interest" in specific information for that student.
8. DO NOT share information from student educational records, including grades or grade point averages, with parents or others outside the institution, including in letters of recommendation, without written permission from the student.
9. WHEN IN DOUBT, err on the side of caution and do not release student educational information. Contact the Office of Registration and Records for guidance.

<http://www.isu.edu/areg/ferpastaff.shtml>

# Idaho State University

## FERPA resources:

- Idaho State's FERPA policy is on the web at <http://www.isu.edu/areg/ferpafacts.shtml>
- For questions contact:
  - ✓ Juli Hafen, Associate Registrar
  - ✓ Robin Wilson, ISU Records Manager
- AACRAO 2001 FERPA Guide is located on the AACRAO website at <http://www.aacrao.org>
- ISU FERPA Power Point is located on the web at: [http://www.isu.edu/areg/forms/ISU\\_FERPA\\_WS-2005.ppt](http://www.isu.edu/areg/forms/ISU_FERPA_WS-2005.ppt)