FERPA
Q & A for Banner Users

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FERPA tutorial

  – FERPA = Family Educational Rights and Privacy Act

• The tutorial provides a basic understanding of the rules governing release of student information at Dartmouth College
  – For more information, or consultation regarding specific situations, you may contact [Meredith.Braz@dartmouth.edu](mailto:Meredith.Braz@dartmouth.edu) or [Kevin.D.OLeary@Dartmouth.edu](mailto:Kevin.D.OLeary@Dartmouth.edu)
Quick review – basic rights

• A student's right to inspect and review educational records that an educational institution is keeping on the student;
• A student's right to challenge the content of his or her records;
• A student's right to limit disclosure of his/her records;
• The institution's obligation to notify students of their rights under FERPA and its regulations;
• Recourse for students and the federal government when an educational institution violates the Act or regulations
Quick review - What is an educational record?

• Just about any information directly related to a student and maintained by Dartmouth College or by a person acting for the College is considered a student educational record. Any record related directly to a student should be held in confidence.

• Forget about the word “educational” and just think “record.”
Quick Review - Examples of educational records

- grades / transcripts
- student schedules
- names of students' advisors
- papers / student thesis / tests
- records of student discipline
- personal information such as social security number, age, parent's name
Quick Review - Educational records are **NOT**:

- sole possession records (not accessible or revealed to any other person)
- law enforcement records, as defined in FERPA
- employment records
- medical records
- post-attendance records
Directory Information

• Can be released without the student’s permission
• Student can “opt out” by informing the Dean of the College Office
  – it will be flagged in the student's Banner record by activation of the “confidential” flag
• You *may* release directory information but do not have to
• List of Dartmouth’s Directory information is included in the Student Handbook (online) – see [http://www.dartmouth.edu/~deancoll/student-handbook/ferpa.html](http://www.dartmouth.edu/~deancoll/student-handbook/ferpa.html)
Legitimate Educational Interest

- You have access to non-directory information educational records only for legitimate use to discharge your responsibilities as a College employee. "Need to know" is the basic principle.
Release to 3rd parties

• Parents of students do not have automatic rights; however, if the student is a dependent we may release records information unless the student has indicated otherwise.

• Dartmouth College's policy is to view the student as an adult, and generally, you should not be releasing information to any third party unless you have obtained permission of the student.

• It is also important to know the identity of the requestor and if any restrictions have been made on the release of information. To view whether the student has restricted release on directory information, check in Banner (not DegreeWorks) to see if there is a confidentiality flag.
How to avoid FERPA violations

Do not:

• use the Social Security Number of a student in a public posting of grades or link the name of a student with that student's social security number in any public manner;

• leave graded tests in a stack for students to pick up by sorting through the papers of all students;

• circulate a printed class list with student name and social security number or grades as an attendance roster;

• discuss the progress of any student with anyone other than the student (including parents) without the consent of the student or verifying that the student has granted access to the third party by contacting the Dean of the College Office;
How to avoid FERPA violations

Do not:

• provide anyone outside the college with lists of students enrolled in classes;
• provide anyone with student schedules or assist anyone other than College employees in finding a student on campus;
• provide a letter of recommendation for a student that includes information from a student record unless you have received written consent from the student to release this information for this explicit purpose.
FERPA Q&A

• What does it mean to “maintain” a record?
  – It does not matter what medium it is stored in, e.g. it could be electronic, paper, etc.
  – Someone has to have made a conscious decision to keep that record.
  – Students calling out grades in class are not FERPA protected because they are not yet being “maintained.”
FERPA Q&A

• Is E-mail an educational record?
  – Is it directly related to a student? – could be (e.g. name, address, id number)
  – Is it maintained? Messages residing in faculty and staff mail boxes are maintained by the College and therefore would be considered an educational record.
FERPA Q & A

• Is it allowable to have a student work as a teaching assistant and grade student work in a particular class?
  – Yes, because the student is acting in the capacity of an employee, with legitimate educational interest. Any student worker with a “need to know” may have appropriate access. They should take the FERPA tutorial and sign a confidentiality agreement.
If I make a note to myself that I am going to grade a student 20% on class participation, is this an educational record?

– No, because it is a “sole possession” record which I do not plan on sharing with anyone else, and is just a “memory jogger.”
FERPA Q & A

• I hired an employee who is now taking a course which is a benefit offered by Dartmouth. Is she FERPA protected?
  – No, because she is an “employee first, and a student second.” If being a student were a requirement of employment, then she would be covered by FERPA.
FERPA Q & A

• I have records that were created after a student in our department graduated, and has to do with the student's time post-graduation. Are they FERPA protected?
  – No, however if they relate back to the time when he or she was a student, it is an education record.
FERPA Q & A

• Students in my class are grading each other’s papers. Are those education records?
  – Grades on peer-graded papers are exempt from FERPA until collected and recorded.
FERPA Q & A

• "I am uncomfortable with a person who is inquiring about a student. Do I need to provide information about the student to this person, since what they are asking is directory information and the student has not opted out?"

  – No, you *may* provide directory information about a student but you never are required to do so.
FERPA Q&A

• If someone calls me and provides me with a student’s social security number, can I release directory information about that student to the caller based on the SSN?
  – No, because you would then be confirming the student’s social security number. You could respond “we have a student here by the name of “John Smith” who is enrolled, etc. without matching to the SSN
FERPA Q & A

• How do I know what is “legitimate” educational interest? For example, can a student say he doesn’t want to give his records to a college official because it is not in his own best “interest?”
  – The Institution decides what is legitimate educational interest, not the individual
  – If the person requires it to perform his or her job, it is legitimate
  – Does not have to be “educational”
• I received a phone call from a reporter from a news syndicate who is writing a story on an alum who majored in my department. Can I provide information about the courses he took?
  – Not if the information source is a student record. If you or a department member wishes to share memories of the student or personal impressions, that is not from a record, it is ok, however you may want to contact Public Affairs for guidance.
FERPA Q & A

• How do I know when someone calls that they are the person (parent or student) that they claim to be?
  – Ask questions that only the student could answer
    • Date of birth, mother's maiden name
    • Where are you at 11:45 on Wednesdays?
    • What is the cell phone number of your emergency contact?
  – Whatever you have access to and can verify that only the student/parent would know.

• When in doubt, do not give information.
FERPA Q & A

• Can a student sue me for violating FERPA?
  – No, there is no private right of action.

• All students can do is go to the Family Policy Compliance Office (FPCO) and FPCO may terminate an institutions’ education-related federal funding or take "any other legally available enforcement action" **IF:**
  – The institution violates FERPA, and (of course we all violate FERPA)
  – The violation represents a "policy or practice," and
  – “compliance cannot be secured by voluntary means within a reasonable period of time”
FERPA Q & A

• Basically when the Family Policy Compliance Office comes to investigate, they review the situation, give advice, and the institution makes the needed change.

• FPCO has never taken a penny away.
FERPA Guides

• **AACRAO 2012 FERPA Guide**  
  Table of Contents and Introduction  
  $90 Members/$120 Non-Members; LeRoy Rooker and Tina Falkner; 2012; Item #0135  
  For over 35 years, AACRAO’s FERPA Guide has provided valuable guidance and training materials to help institutional record-keepers and other school officials understand and comply with the Family Educational Rights and Privacy Act of 1974, as Amended (FERPA). In addition to relevant issues contained in previous editions, the AACRAO 2012 FERPA Guide provides updates throughout based on the recently revised FERPA regulations that became effective in January 2012.

• **AACRAO 2013 FERPA Quick Guide**  
  Table of Contents and Introduction  
  $50 Members/$65 Non-Members; LeRoy Rooker and Tina Falkner; 2013; Item #0137  
  Designed to give staff and faculty members key facts on their role in FERPA compliance, this short publication provides a basic overview of the Family Educational Rights and Privacy Act of 1974, as Amended. It includes the full text of the recently revised FERPA regulations that became effective in January 2012, along with a summary of major revisions to the regulations. This Guide highlights how the Act applies to various school officials, including brief outlines of key terms and issues and a short quiz for self-assessment.