1. PURPOSE

1.1. The Family Educational Rights and Privacy Act (FERPA) is a federal law that protects the privacy of students’ educational records, as well as affords certain rights to parents and eligible students. This law applies to all education programs that receive funds under an applicable program of the U.S. Department of Education. The following policy applies to a researcher that plans to access or use educational records in conduct of their human subjects research, and describes the procedures that should be followed in order to comply with FERPA.

2. DEFINITIONS

2.1. Eligible Student: Any student that is 18 years of age or older, or is attending an institution of postsecondary education.

2.2. Education Program: any program principally engaged in the provision of education, including, but not limited to, early childhood education, elementary and secondary education, post-secondary education, special education, job training, career and technical education, and adult education.

2.3. Educational Records: Any records that are directly related to a student, maintained by an educational agency or institution or by any party acting for the agency or institution. Please note that treatment records are excluded from this definition unless they are disclosed for some purpose other than treatment.

2.4. Record: Any information recorded in any way, and includes, but is not limited to handwriting, print, computer media, video or audio tape, film, microfilm and microfiche.

2.5. Personally Identifiable Information: This includes the name of a student, their parent or other family members, the address of a student or their family, a student’s social security number, student ID number or any biometric record, a student’s date of birth, place of birth or mother’s maiden name. Additionally, any other information that alone or in combination with other information is linked or is linkable to a specific student that would allow a reasonable person in the school community who does not have personal knowledge of the relevant circumstances to identify the student with reasonable certainty. This furthermore includes information requested by a person who the school or institution reasonably believes knows the identity of the student to whom the record pertains.
2.6. Disclosure (disclosed): Access is/was permitted or there has been a release or transfer of personally identifiable information by any means.

2.7. Directory Information: This refers to information in an educational record that would not be considered harmful or an invasion of privacy if disclosed. This includes, but is not limited to, name, address, phone number, email, photo, birthdate, birthplace, major, grade level, enrollment status, dates of attendance, participation in any school activities (including sports), weight and height of athletes, degrees, honors, awards and most recent institution attended.

3. POLICY

3.1. UGA researchers are responsible for complying with FERPA, as well as any institutional policies of the institution from which they are seeking educational records. See http://www2.ed.gov/policy/gen/reg/ferpa/index.html and WORKSHEET: FERPA

3.1.1. If an institution denies a researcher access to information protected by FERPA, the UGA IRB cannot overrule that decision. At the University of Georgia, the Office of the Registrar has the authority to review requests for disclosure and to deny access to educational records.

3.1.2. If the IRB disapproves the research, the institution may not approve the disclosure associated with the research.

3.2. If a researcher plans to use educational records in any manner during the conduct of research, the specific records being sought should be outlined in the IRB submission.

3.3. A signed and dated consent form must be obtained from either the parent or eligible student before personally identifiable information from education records may be disclosed.

3.3.1. The consent form must specifically state any records that may be disclosed, the purpose of the disclosure and the identity of the individual or group of individuals to whom the records may be disclosed.

3.3.2. The UGA IRB may approve an alternate method of consent documentation if the institution providing the educational records indicates that it is acceptable. For example, the UGA Office of the Registrar will accept electronic consent if it can be identified as belonging to the individual participant such as consent obtained via e-mail.

3.4. Educational agencies or institutions may disclose, without consent, the following:

3.4.1. Directory Information

3.4.1.1. It should be noted that FERPA requires students be given the option to “opt out” of allowing their directory information to be disclosed. If a student “opts out,” their information will not be released.

3.4.1.2. Please note that directory information does not include the following (along with other personally identifiable information): race, gender, social security number, grades, GPA, country of citizenship or religion.

3.4.2. Educational records for institutional research

3.4.2.1. Please note that this does not include human subjects research that is meant to contribute to a broader application than the institution itself, or to contribute to generalizable knowledge.
3.4.3. *Educational records* to organizations conducting studies for, or on behalf of, educational agencies or *institutions* to develop, validate or administer predictive tests, administer *student* aid programs or improve instruction.

3.4.3.1. Please note again that this does not apply to a broader application of the *research* than to the *institution* itself, and it does not apply if it contributes to *generalizable knowledge*.

3.4.4. *Educational records* that have had all *personally identifiable information* removed by an agent from the educational *institution* that is not engaged in the *research* study.

4. **PROCEDURES: Researchers**

4.1. *Research* procedures must be compliant with *FERPA* laws as well as any institutional policies in place at the *institution* from which educational records are sought. See Policy and Procedure: External Sites.

4.2. A description of the *educational records* that will be accessed and who will access them as well as how and when the records will be de-identified must be included in the submission.

4.3. Consent forms must be signed and dated by an eligible *adult* student. If the subjects are *minors*, the Permission Form must be signed and dated by a parent.

4.3.1. The consent form or parental permission should describe or list the specific records that will be collected, the purpose or proposed use of the records being obtained and the identity of any individual(s) or group(s) that will be able to access the records.

4.3.1.1. If a minor reaches 18 years of age while *research* is still being conducted on identifiable *educational records*, the now-*adult* participant must provide informed consent to allow for continued analysis. The process for gaining this consent must be described in the IRB submission. See Policy and Procedure: Informed Consent Process.

4.3.1.2. If you will not be able to gain consent from the participants as they reach the age of 18, the data must be de-identified in order to continue analysis and/or *research* using the *educational record*.

5. **PROCEDURES: Institutional Review Board**

5.1. The IRB will review the submission to determine if *educational records* will be used.

5.2. If *educational records* are being used, the IRB will determine if consent is properly obtained and documented.
5.3. If applicable, the IRB will determine if there are processes in place to ensure that data is either de-identified in a timely manner, or that the researchers have a practical process in place to gain consent from minors as they become adults.

5.4. The IRB will review the research design and procedures for compliance with FERPA, however, the IRB is not the final authority.

5.5. For non-committee reviews, IRB staff will offer the investigator the opportunity to provide additional information/materials and/or to revise the submission in appropriate review correspondence.

5.6. For committee reviews, IRB staff will offer the investigator the opportunity to provide additional information/materials and/or to revise the submission in appropriate review correspondence that describes missing information or required modifications.

5.7. IRB Staff will document information pertaining to determinations that the requirements of this policy have been met in the review history for non-committee reviews and, for research reviewed by committee, in the meeting minutes by recording the motion to approve.

6. MATERIALS

6.1. WORKSHEET: FERPA

7. REFERENCES


7.2. Policy and Procedure: External Sites

7.3. Policy and Procedure: Informed Consent Process