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1. PURPOSE

The Family Educational Rights and Privacy Act (FERPA) is a federal law that protects the privacy of student education records, addressing when the disclosure of such records is permissible, and affording certain rights to parents and eligible students. This law applies to all education programs at all levels (K-12; postsecondary) that receive funds under an applicable program of the U.S. Department of Education. This document describes the *policy* and *procedures* by which the University of Georgia Institutional Review Board (UGA IRB) will address FERPA requirements when student education records are to be used in *human subjects research*.

2. DEFINITIONS

- 2.1. **Education records:** those records that are directly related to a student and maintained by an educational agency or institution or by a party acting for the agency or institution. For a detailed description of education records including exceptions, see http://www.ecfr.gov/cgi-bin/text-idx?rgn=div5&node=34:1.1.1.1.33#se34.1.99_13.
- 2.2. **Eligible student:** as defined by FERPA, a student who has reached 18 years of age or is attending a postsecondary institution at any age.
- 2.3. **Student:** as defined by FERPA, any individual who is or has been in attendance at an educational agency or institution and regarding whom the agency or institution maintains education records.

3. POLICY

- 3.1. The researcher is responsible for requesting and obtaining education records from UGA or from any other educational institution, and for identifying to the educational institution if the researcher desires access to such records without *informed consent*. In response to the researcher’s request, the educational institution should determine if the requested access to and/or use of education records is permitted by FERPA. Generally, an educational institution may disclose education records without consent in the following circumstances:
 - 3.1.1. **Directory Information** (as defined by the educational institution) may be disclosed by the educational institution without consent under FERPA. At UGA, directory information is defined at: <https://apps.reg.uga.edu/FERPA/>. NOTE: Under FERPA, students may file a request to prevent disclosure of directory information, commonly known as “opting out.” An institution may not release a student’s directory information without consent if a student has “opted out,” unless another exception applies.
 - 3.1.2. **School Officials with Legitimate Educational Interest** (as defined by the educational program) may receive education records without consent under FERPA. NOTE: A School Official’s desire to

access education records for human subjects research purposes does not necessarily constitute a legitimate educational interest.

3.1.3. **Studies Authorized by the Educational Agency or Institution** to develop, validate, or administer predictive tests, administer student aid programs, or improve instruction may receive access to education records without consent under FERPA.

3.1.4. **Education Records without Personally Identifiable Information** may be disclosed without consent under FERPA.

3.2. If FERPA does not allow the disclosure of the requested education records without consent, then a signed and dated consent form must be obtained from the eligible student or the parent/legal guardian if the student is a **child**. The consent form must explicitly authorize the educational institution to disclose education records to the researcher.

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

3.3. Compliance with FERPA is the responsibility of the researcher and the educational institution holding the education records.

3.4. If an educational institution denies a researcher access to education records protected by FERPA, the UGA IRB cannot overrule that decision. At UGA, the Office of the Registrar determines whether to approve or deny a researcher's request for access to education records.

3.5. Where an educational institution has agreed to provide a researcher with education records, the researcher must comply with all conditions and requirements imposed by the educational institution. In addition, where an educational institution has agreed to provide a researcher with education records without consent, the IRB may still determine that consent is necessary under other requirements, including the IRB's general mandate to ensure the welfare of human subjects.

4. PROCEDURES: Researchers

4.1. If a researcher plans to access education records in any manner during the conduct of research, those education records must be specified in the IRB submission, and the researcher must also identify who will have access (e.g., which study team member/s) and how and when identifiable education records will be de-identified (where applicable).

4.2. If the researcher's access to FERPA-protected education records is conditioned upon the researcher obtaining consent, or if the IRB otherwise determines consent is required, the submission must describe the process to obtain a signed and dated consent form from each eligible student or, if the subject is a **child**, the submission must describe the process to obtain a signed and dated permission form from a parent or legal guardian.

4.3. If required, the consent form or permission form must include the following:

4.3.1. a description or list of the specific education records that will be disclosed;

4.3.2. the purpose of the disclosure; and,

4.3.3. the individual(s) or group(s) that will have access to the identifiable records.

4.4. If the project includes ongoing access to identifiable education records after a child becomes an **adult**, the process for gaining consent from the now-adult participant must be described in the IRB submission. See *Policy and Procedure: Informed Consent Process*.

4.4.1. Alternately, the researcher may request a waiver of the requirement to obtain consent from the now-adult participants or describe a process to de-identify data once the participants reach the

age of 18.

4.5. The researcher must obtain a letter of authorization from any educational institution that provides the researcher with education records, and the researcher must provide the IRB with that letter of authorization. See [Template: School Authorization to Conduct Research \(Ed. Dept. Support\)](#) or [Template: School Authorization to Conduct Research \(Non Ed. Dept. Support\)](#).

5. PROCEDURES: Institutional Review Board

- 5.1. The IRB will review the submission to determine if education records will be accessed.
- 5.2. If education records will be accessed, the IRB will review the letter of authorization from the educational institution to determine if signed consent is required.
- 5.3. If the disclosure requires signed consent, the IRB will ensure that the consent document contains the required elements. See *Worksheet: FERPA Compliance*.
- 5.4. If applicable, the IRB will determine if there are processes in place to ensure that education records are either de-identified in a timely manner or that the researchers have a practical process in place to obtain consent from children as they become adults.
- 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 as necessary to address FERPA compliance.
- 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 for FERPA compliance.
- 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, in the meeting minutes by recording the motion to approve for research reviewed by committee.
- 5.8. Upon request, IRB Staff will respond to educational institution queries pertaining to the approval of research projects involving access to/use of identifiable education records by verifying the specific information approved by the IRB for access/use and the identity/ies of the researchers approved to have access to the information.

6. MATERIALS

- 6.1. WORKSHEET: FERPA Compliance
- 6.2. [Template: School Authorization to Conduct Research \(Ed. Dept. Support\)](#)
- 6.3. [Template: School Authorization to Conduct Research \(Non Ed. Dept. Support\)](#)

7. REFERENCES

- 7.1. FERPA: <http://www2.ed.gov/policy/gen/reg/ferpa/index.html>
- 7.2. Policy and Procedure: Informed Consent Process