

Federal Educational Rights and Privacy Act



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Statement

FOR IMMEDIATE RELEASE

May 22, 2006

A Statement from the Department of Veterans Affairs

The Department of Veterans Affairs (VA) has recently learned that an employee, a data analyst, took home electronic data from VA, which he was not authorized to do. This behavior was in violation of our policies. This data contained identifying information including names, social security numbers, and dates of birth for up to 26.5 million veterans and some spouses, as well as some disability ratings. Importantly, the affected data did not include any of VA's electronic health records nor any financial information. The employee's home was burglarized and this data was stolen. The employee has been placed on administrative leave pending the outcome of an investigation.

Consider.....



- ❑ Your best friend approaches you wanting to pay his daughter's tuition and he asks for the amount she owes the college...
 - ❑ A Fayetteville Observer reporter wants directory information about a graduate of our Early Childhood Education program who has been charged with felony child abuse...
 - ❑ The Cumberland County Sheriff, investigating a horrific murder, is in your office and wants you to tell him what your best student ever confessed to you...
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Consider...



- You are entering data into Datatel and you hear your colleagues laughing in the hallway. You leave your office to investigate....
 - A potential employer wants information about a former student...
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Consider...

- A student comes to you and confesses homicidal desires...
 - You are served with a subpoena asking for copies of attendance records...
 - An agent of the CDC tells you that a student is believed to have contracted a deadly communicable disease. The agent wants to know the student's class schedule and GPA...
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**See any
Potential
Problems?**

The Federal Educational Rights and Privacy Act

- A.K.A. FERPA
 - 1974 Federal Law
 - FERPA is intended to permit students unfettered access to their educational records while preventing the release of educational records to others.
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FERPA (Family Educational Rights & Privacy Act)

- An **educational record** is any information that is maintained by an institution which directly relates to a student including, but not limited to:

Demographic Information

Admission Records

Grades

Disciplinary Records

Class Schedules

Printed Class Lists

Graded Test Papers

Medical Records

Any portion of an SSN or Student ID Number

FERPA

- ❑ An Educational Record does not include:
 - ❑ Sole possession notes (unless disclosed to a third party)
 - ❑ Law enforcement records
 - ❑ Employment records (but a work-study students records are not employment records for the purposes of FERPA)
 - ❑ Treatment records (unless disclosed to a third party)
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FERPA (Family Educational Rights & Privacy Act)

The method of storing the educational record does not diminish the protection required by FERPA. A student's educational record isn't just paper. The record may be:

- ✓ A file in the registrar's office;
- ✓ Data displayed on an administrator's computer screen;
- ✓ Information on an instructor's desk; or,
- ✓ In an email, videotape or audio recording.

Essentially, any type of media in any location.

The Family Educational Rights and Privacy Act: Five Rights Granted to Students

1. The right to be informed of rights granted by FERPA;
 2. The right to inspect and review their educational records;
 3. The right to request the amendment of inaccurate educational records;
 4. The right to consent to disclosure of their educational records; and,
 5. The right to file a complaint with the U.S. Department of Education.
-

The student's right to be informed of FERPA rights...

- ❑ It's DONE!
- ❑ Administrative Procedures Manual Policy Number III-12.4.



The student's right to inspect...

- ❑ It's DONE, too!
- ❑ A student may inspect their educational record by following the procedure provided in the Administrative Procedures Manual, Policy Number III-12.6.



The student's right to request an amendment...

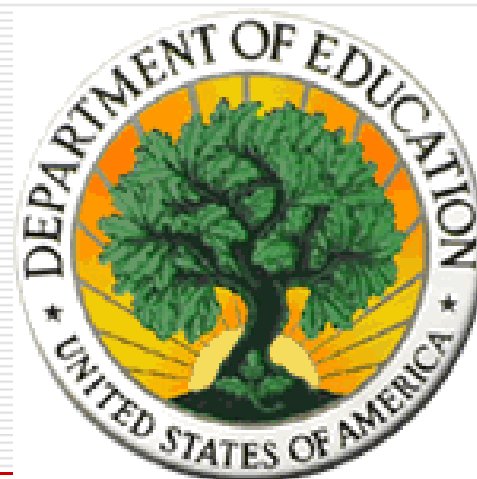
- Students requesting an amendment should follow the procedure described in APM III-12.11.
 - This is not an opportunity for the student to change a low grade...unless the grade reflected in the record is wrong...
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The student's right to consent to the release of educational records

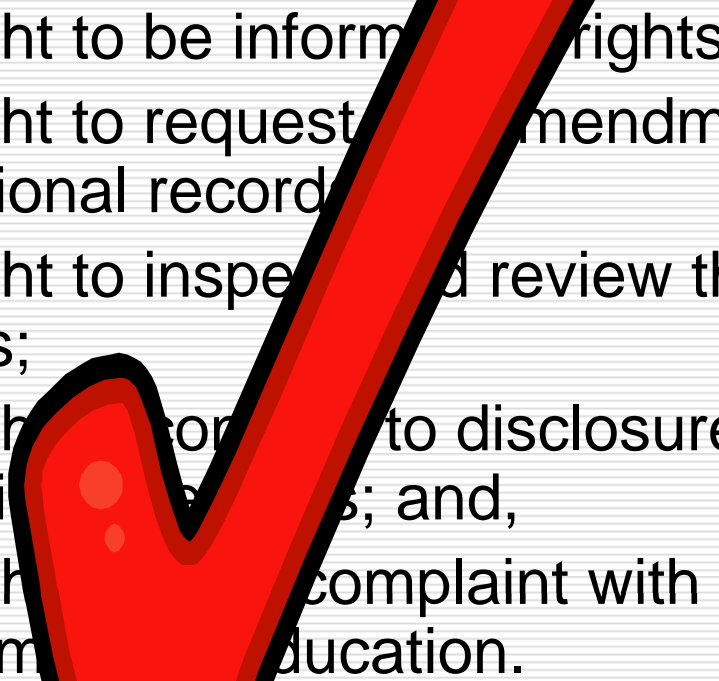
- Consent must:
 - Be in writing, signed, and dated;
 - Specify the records to be disclosed;
 - State the purpose of the disclosure; and,
 - Identify the party or class of parties to whom the disclosure may be made.
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The student's right to complain...

- ❑ Student may file a complaint with the Family Policy Compliance Office with the US Department of Education...aka Family Education Rights and Privacy Act Office.
- ❑ See APM III-12.3(4).



The Family Educational Rights and Privacy Act: Five Rights Granted to Students

1. The right to be informed of rights granted by FERPA;
 2. The right to request amendment of inaccurate educational records;
 3. The right to inspect and review their educational records;
 4. The right to control disclosure of their educational records; and,
 5. The right to file a complaint with the U.S. Department of Education.
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FERPA.....

THE GOLDEN RULE

Without written consent, all students educational records are generally protected from disclosure!



FERPA

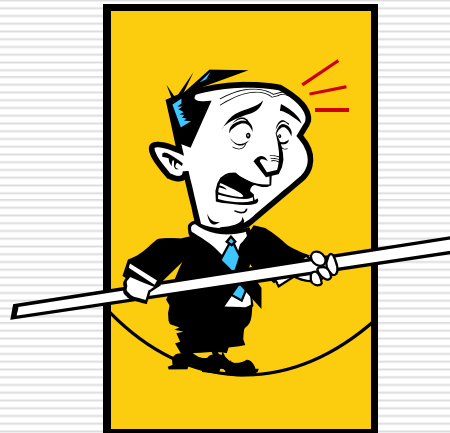
- Somebody must have pressed the “easy button”...but is it really that easy?



Staples, Inc. 2008

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**The exceptions to the
GOLDEN RULE
are numerous...but specific.**



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Exceptions Permitting Disclosure

- ❑ Sharing information within the educational institution to others with legitimate educational interests.
 - The FTCC Academic Procedures Manual defines “legitimate educational interest” in III-12.9.
 - In essence, if you are performing the duties in your position's job description, then you have a legitimate educational interest.
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Exceptions Permitting Disclosure

- ❑ **Disclosure in connection with a health or safety emergency. Circumstances must indicate imminent threat to life or safety.**
 - Usually involves disclosure to law enforcement personnel, public health officials, and trained medical personnel.
 - Records to be disclosed must be reasonably needed to reduce or eliminate the threat.
 - Imminent threat is required! This exception does not authorize the release to law enforcement personnel conducting a routine investigation.
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Exceptions Permitting Disclosure

- ❑ Disclosure to comply with a subpoena or court order.
 - Student must be given notice prior to the release of records demanded by subpoena.
 - If you receive a subpoena (about something related to the college), talk with the college's attorney.
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Exceptions Permitting Disclosure

- ❑ Disclosure to parents of students who are dependent on their parents for federal tax purposes.
 - Permitted by the Academic Procedures Manual
 - Examination of most recent tax filing permitted.
 - See Registrar or attorney for assistance.
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Exceptions Permitting Disclosure

- Disclosure in connection with an internal disciplinary proceeding.
 - Disclosure to accrediting organizations in connection with accreditation.
 - Disclosures connected with financial aid determinations.
 - Disclosures to entities with a written contract with FTCC to accomplish some function of FTCC.
 - Disclosures about a student to a school which also enrolls the FTCC student. (Formal agreement about the sharing of information should be in place.)
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Exceptions Permitting Disclosure

- Disclosures to organizations conducting studies for the college to develop, validate, or administer predictive tests, administer student aid programs, or improve instruction.
- When disclosing to a parent of a student under the age of 21 regarding the student's violation of law or policy governing alcohol or controlled substances.



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Exceptions Permitting Disclosure

□ When disclosing DIRECTORY INFORMATION.

- Directory Information cannot be released if the student has given notice to the college that the student's directory information is to be withheld.
 - At FTCC, our Curriculum Registrar maintains a list of those students who have requested that their directory information not be disclosed.
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DIRECTORY INFORMATION???

Pursuant to FTCC Policy, directory information includes:

- ✓ Students' name;
 - ✓ Student's Curriculum;
 - ✓ Student's Enrollment Status;
 - ✓ Student's Dates of Enrollment;
 - ✓ Degrees earned by a student;
 - ✓ Student's mailing address;
 - ✓ Student's e-mail address.
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FERPA

Exceptions Permitting Disclosure

Directory information never includes:

- ✘ Any portion of a SSN or student ID number
 - ✘ Gender
 - ✘ Race
 - ✘ Religious preference
 - ✘ Grades and GPA
 - ✘ Class schedule
 - ✘ Country or citizenship
-

The Golden Rule of FERPA ...

**Maintain Educational
Records in the
Strictest of Confidence!**



What happens if a college does not comply with FERPA?

- ❑ The Family Policy Compliance Office of the U.S. Dept. of Education is designated to investigate, process, and review complaints and violations under FERPA.
 - ❑ If a school is in violation, the Compliance Office advises college of compliance issues and the case remains open until the school is in compliance.
 - ❑ If compliance is not achieved, the U.S. Dept. of Education has the authority to:
 - Withhold payments to institution;
 - Issue a complaint to compel compliance through a cease-and-desist order; or
 - Terminate the institution's eligibility to receive funding under any applicable program.
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Consider.....

- ❑ Your best friend wants to pay his daughter's tuition and he asks you for help in determining the amount owed...
 - ❑ A Fayetteville Observer reporter wants directory information about a student who is believed to have engaged in voter fraud...
 - ❑ The Cumberland County Sheriff, investigating a horrific murder, is in your office and wants you to tell him what your best student ever confessed to you...
-

Consider...

- You are inputting attendance records into Datatel and you hear your colleagues laughing loudly. You leave your office to investigate....
 - A potential employer wants information about a former student...
 - A student comes to you and confesses homicidal desires...
-

Consider...

- ❑ An agent of the CDC tells you of one of our students that is believed to have contracted a deadly communicable disease. The agent wants to know the student's class schedule and GPA...
 - ❑ You are served with a subpoena asking for copies of a attendance records...
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QUESTIONS?????



FERPA RESOURCES

- ❑ Family Policy Compliance Office

<http://www.ed.gov/policy/gen/guid/fpco/index.html?exp=0>

- ❑ 34 CFR 99

<http://www.gpoaccess.gov/cfr/index.html>

- ❑ Council on Law in Higher Education

<http://clhe.org/>
