

# FERPA

(Family Educational Rights  
Privacy Act of 1974)



## Protecting Student Privacy

Presented by Diane M Traversi  
Director, Admissions & Enrollment Services

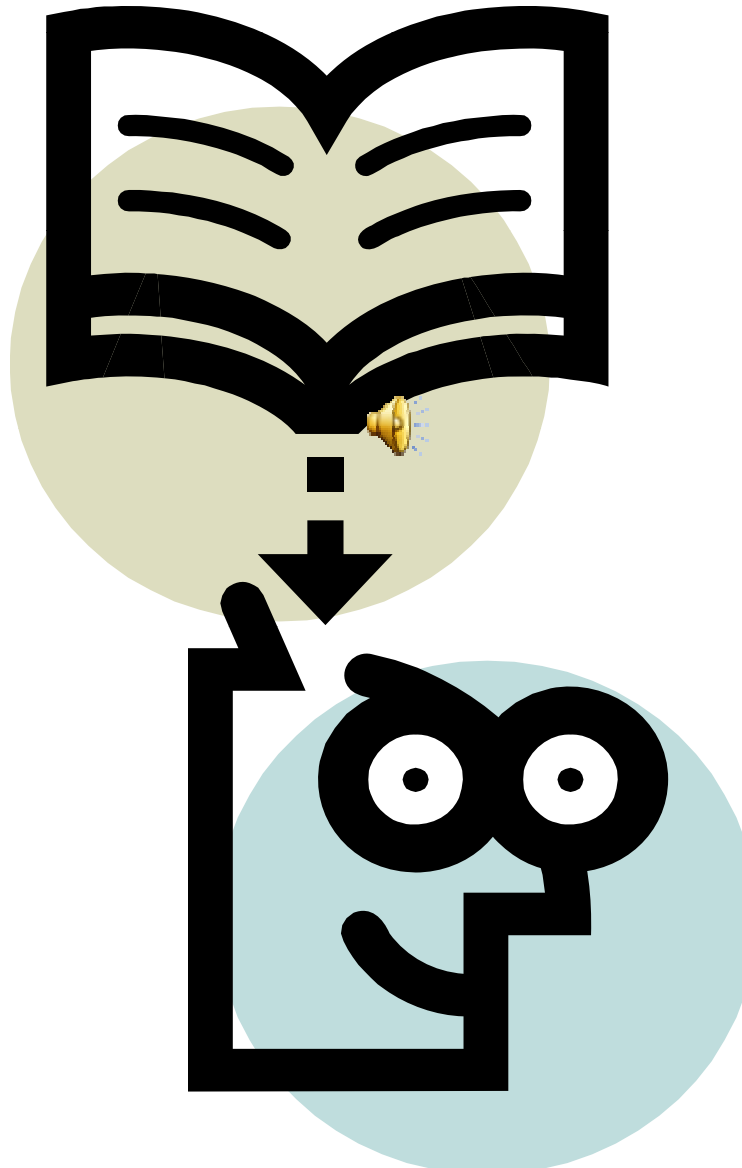


SANTA ROSA  
JUNIOR COLLEGE

FERPA FERPA FERPA



What is YOUR FERPA IQ?



Four decorative circles are arranged horizontally at the top of the slide. From left to right: a solid light purple circle, a white circle with a light purple outline, a white circle with a light purple outline, and a solid light purple circle.

# What is FERPA?

## And why do we have to adhere to it's regulations?

- The Family Educational Rights and Privacy Act of 1974, also known as the Buckley Amendment, is the primary law that protects the confidentiality of students' records in academic environments.
- If a member of the academic institution violates FERPA, the Department of Education could take away federal funding.
- It's the right thing to do.
- Our students depend on us to keep their information confidential.

# Whose records are protected under FERPA?

- FERPA protects both **current** and **former** students' records.
- Any record created during a student's time at your institution is considered their education record and is FERPA-protected.
- FERPA rights generally begin when the student's application for admission is accepted. However, each institution has the right to define this.

# Definition of an “Education Record”

Education records are defined as ALL records that are:

- Related directly to a student,
- Maintained by the institution or a staff member, and
- Kept in ANY format.



**BEWARE**



This includes: Formal and informal documents, communications, computer data, computer screens, and paper files. Nearly every piece of student-related information, regardless of its location or the medium of its presentation, is considered to be part of the student's education record.



# Question # 1

- One of your faculty reports that a particular student in his/her class, has asserted that one of his FERPA rights is the 'right to remain anonymous in class.' Does the instructor need to comply?



Answer..

- No
- This new regulation clarifies that a right to opt out of directory information does not include a right to remain anonymous in class, and may NOT be used to impede routine classroom communications and interactions. This applies whether it is a face-to-face class or on-line through electronic communications. Section 99.37(c).



# To avoid FERPA violations, DO NOT:

- Post grades using SSN or SID or personally identifiable data.
- Link a student's name with his/her SID, SSN in any public manner.
- Leave graded tests in a stack for pick-up.
- Circulate a printed class list with names, SID, SSN, or grades as an attendance roster.
- Do not assist anyone in finding a student on campus other than an eligible institutional employee.
- Do not provide anyone with a list of students enrolled in classes for any commercial purpose.
- Discuss the progress of any student with anyone (including parents) other than the student without the student's consent.
- Do not provide anyone with a student's schedule.



# FERPA Student Rights

Students' rights regarding their education records are as follows:

- The right to inspect and review any of their education records within a reasonable timeframe, but no later than 45 days after their initial request.
- The right to seek to have their education records amended.
- The right to control the disclosure of their education records to any third party.
- The right to address any privacy-related complaints.

# Question # 2

- Education records may be released without consent if all personally identifiable information (PII) has been removed.  
True or False?

- Answer

- True - Provided that the PII has been removed, including the following:
  - SSN or SID number
  - All names
  - All addresses
  - Any personal characteristics
  - Any other indirect identifiers
  - Biometric indicators – handwriting, facial characteristics, fingerprints, retina and iris patterns, DNA sequence, and voiceprints.
- Section 99.31(b).

# Obligation to Release Directory Information?

- An institution is not obligated to release directory information to anyone. FERPA states only that an institution **MAY** release information, but there is no obligation to do so.
- **WHEN IN DOUBT ~  
DON'T GIVE IT OUT.**



# Test your knowledge - Question #3

- The DSPS Office calls your A & R Dept. and requests a list of students that includes their full SSN, because they need to upload them to a “Filer” program that only accepts SSN’s. Can you provide such a list?
- Answer:
- **No** - High Risk records, such as SSN’s or other information that could be used for identity theft, should generally receive greater or more immediate protection than medium or low-risk records. The risk outweighs the possible ‘legitimate educational interest’ as the exposure to many other individuals whose hands or eyes it may land, poses a high risk of identity theft. Section (99.31(a)(1)(ii) , and (99.37(d)).

# Suggested Ways to Safeguard Student Records:

- Photo ID – every time in order to access student's files.
- Password-protect your computer in which you store students' records.
- When you have finished a computer task involving student data, exit all files, sign off all applications, and close all application windows.
- Use only your assigned computer accounts and do not share it with other individuals. You are solely responsible for all actions taken using your account.
- Respond only to inquires that you are authorized to field, even if you may have access to the information that is being sought.
- Shred, SHRED, SHRED, SHRED!

# Parental Rights .. Do they have any?





Yes – in **some** cases they do:

- Parents have the right to expect that information such as their own financial records and related financial information will be held confidential. These cannot be released to the students or others, without the parents authorization.
- Parents access to information from their children's education records is carefully restricted, unless the student provides prior consent for data release to a parent. Otherwise, the only information that can be released to parents is the Directory Information, provided the student has not opted out of it's release.



# Question # 4



- There has been an earthquake with a magnitude of 6.6 on the Richter scale has just shook the San Francisco Bay Area, lasting approximately 32 seconds. This is slightly less in magnitude than the Loma Prieta quake of 1989 which devastated public and private structures. At the initial assessment, your College appears to have suffered only mild to moderate damage and several minor injuries requiring First Aid only.
- Phone calls from parents begin almost immediately, wanting to locate their sons and daughters, and inquire about injuries. Can your staff relay any personal information to a parent in this situation?



Answer

- YES – you may.
- If the school determines that there is an articulable and significant threat to the health or safety of a student or other individuals, it may disclose information from education records to appropriate parties whose knowledge of the information is necessary to protect the health and safety of the student or other individuals. Section 99.36.



## THREE Current Regulations....

When an institution MAY allow parents access to child's education record:

1. The student is a dependent for Federal income tax purposes, Section (99.31 (a)(8)).
2. The disclosure is in connection with a health or safety emergency as defined by Section (99.36).
3. For post-secondary students, if the student has violated any Federal, State or local law, rule or policy regarding the use or possession of alcohol or controlled substance, Section (99.31(a)(15)).

# Clarification and Bottom Line

- Institutions should understand that while they MAY choose to follow a policy of not disclosing information to the parents of eligible students, FERPA does not prevent them from doing so in most circumstances.
- Note – It is always best to err on the side of NOT disclosing without prior consent.



# New Regulations and Updates

## Final Rule – 34 CFR Part 99

- Current version – December 2008 publish date.
- Comprehensive document that clarifies, and defines unchanged regulations, and also explains and emphasizes changes.
- <http://www.ed.gov/policy/gen/guid/fpco/pdf/ht12-17-08-att.pdf>, is a shorter summary – 15 pages!
- Good shorter summary called “Dear Colleague...” @ <http://www.ed.gov/policy/gen/guid/fpco/hottopics/ht12-17-08.html>.