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Office of General Counsel

FERPA Data Sharing

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MINNESOTA STATE

FERPA Generally



Identifying FERPA Protected Data

Educational Data is Protected by FERPA

- "Educational Data" means (almost) all data relating to a student.
- Educational Data is generally private data. This means that it cannot be disclosed without the student's written consent unless an exception applies.
- Educational Data remains private after a student is no longer enrolled due to graduation, transfer, etc.
- Educational Data does not include data collected after a student leaves the College or University (e.g. alumni data).

Definition of “Students”

- A “Student” is defined in the Minnesota Government Data Practices Act (MGDPA) as:
 - Individual currently or formerly enrolled;
 - Applicants for enrollment; or
 - Individuals who receive time shared educational services.
- Applicant data is private data. This is an MGDPA rule that is different from the default FERPA rule.

Non-FERPA Student Records

- “Sole-Possession” records:
 - Faculty’s notes, not shared with anyone, destroyed at the end of the semester;
- Records created and maintained by the school’s law enforcement division, if there is one;
- Employment records for student employees NOT receiving Federal Work Study;
- Alumni records created after graduation.

All of these records are subject to the MGDPA.



FERPA Exceptions



Directory Data

- “Directory Data” is public data under the MGDPA.
- Students can “suppress” directory data upon request. This makes it PRIVATE.
- Defined on a campus-by-campus basis.
- Common directory data include student name, dates of attendance, degrees received, and major defined as directory data.
- Colleges and Universities may freely share Directory Data internally and externally.

Limited Directory Data

- Colleges and Universities may choose certain categories of data to define as “Limited Directory Data.”
- This means that Colleges and Universities can define what external parties may obtain this data and for what purpose.
- System-wide IT projects/directories, sharing with LeadMN, sharing with foundations, etc.

FERPA Consent Exceptions

- “School Officials” (including designated contractors)
- Transfer exception
- Certain federal or state programs
- Financial aid exception
- Accreditation
- Health or safety emergency
- Solomon Amendment
- Certain disciplinary proceeding purposes
- Records with no personally identifiable data
- Research exception
- Pop quiz exception
- Local Elections Officials
- Court Order (Including Search Warrant)
- There are other exceptions. If you are not sure if an exception applies, ask your campus Data Practices Compliance Official.

School Officials



Legitimate Educational Purposes

School Officials may only access FERPA protected data for a “Legitimate Educational Purpose.”

- Legitimate Educational Purposes is not all encompassing. For example, the financial aid office may have a legitimate interest in student financial records, but a student’s academic advisor may not. This is situation specific.
- A School Official does not necessarily need to be paid by the college or university or have a contract with the college or university (although the latter is a best practice in most circumstances).

Who can be a School Official?

- Employees of the college or university
- Volunteers, including students
- Contractors
- Shared employees
- The System Office



De-Identified Data



De-Identified Student Data Generally

- Once student data is de-identified, it is no longer “Educational Data.”
- Minnesota State colleges and universities may share de-identified data freely with one another and with the public.

Cell Size Rule

- Certain combinations of data may identify students even without traditional identifiers in small data sets.
- For instance, nationality (private data), major, and school attended can identify an F-1 student at a smaller college.
- For this reason, in some circumstances, we do not disclose exact numbers for cell sizes above 10.

Sharing Between Institutions within Minnesota State



Sharing with the System Office

- The System Office is a “school official” for every campus.
- This means that data can flow freely between the System Office and your college or university if it is being used for a legitimate educational/business purpose.
- Additionally, your limited directory data definition should be updated to allow for system-wide sharing of student data for the purposes of IT projects and initiatives.

Department of Education Guidance on Data Sharing

- The US Department of Education has advised that large, state systems such as ours are multiple entities for FERPA data sharing purposes.
- This means that the colleges and universities need a FERPA justification to share private student data, and otherwise cannot do so.
- The guidance itself is linked in the chat.

Intra-Agency Data Sharing Agreements

- In some circumstances, it makes sense for two campuses to enter into a “data sharing agreement.”
- There still must be a FERPA compliant justification for the data sharing. Campuses cannot enter into a “data sharing agreement” without an independent justification.
- Some FERPA related sharing does not require an agreement at all (e.g. transfer, studies, financial aid, PSEO).

Limited Directory Sharing

- Colleges and universities can amend their limited directory data definitions to allow more data sharing with other campuses in our system.
- If your campus wishes to go this route, please contact the Office of General Counsel for guidance on how to amend your policies.
- We have a sample policy, feel free to inquire about it after this webinar.

Contact Information

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