

Educational Research and FERPA

By

Tracy Arwood

Director of Research Compliance

Clemson University

FERPA, or the Family Educational Rights and Privacy Act, which was established in 1974, often has to be considered when planning to conduct research involving the use of educational records. While FERPA seeks to provide parents or students with the rights to inspect files and request the correction of information they feel to be incorrect, the law also acts to ensure the privacy of such records. This guarantee of confidentiality of educational records often, by its very nature, has repercussions on those who wish to conduct research on educational practices.

While schools can release directory information without explicit consent, all other information is protected. Generally, any information outside of directory information may only be released with explicit, signed consent. Some important exceptions to this rule when considering educational research are the following:

- School officials with legitimate educational interest
- Organizations conducting certain studies for or on behalf of the school

Many educators who are also researchers are surprised to find that the student records they personally hold (e.g., tests, journals, written assignments, etc.) are considered part of the official educational records of a student. Even more surprising is the fact that, when they are conducting research, they may not be considered to have a legitimate educational interest in the records they otherwise handle on a daily basis.

Those who wish to obtain data from educational records beyond directory information, for the purposes of research, are generally limited to three options:

1. The researcher may contact and obtain written consent for each individual whose records will be accessed for research purposes;
2. A school official with legitimate access (other than the researcher) may strip the records of any identifying information and provide the data to the researcher; or
3. The holder of the record may invoke an exception to FERPA in order to release the records to the researcher.

Each option has its own considerations. Obtaining consent from each individual is often impractical given the sheer number of individuals who may have to be contacted, in addition to the fact that current contact information may not always be available. The second option, while often the most convenient for the researcher, may not be an option for overworked and understaffed school administrators. Researchers are often left with only the third option in order to obtain the data needed for their research.

When invoking an exception for the use of educational records, the holder of the records must specifically cite the exception to the regulation in writing. The exceptions that may be used for educational research are:

- If the researcher is a school official with legitimate educational interest [34 CFR 99.31(a)(1); or
- If the researcher is conducting studies for or on behalf of the school [34 CFR 99.31(a)(6).

When planning to conduct research involving educational records, the FERPA exception letter should be submitted to the Institutional Review Board (IRB) along with the IRB application. In most cases involving educational records held by elementary and secondary schools, this letter should come from the school district's superintendent. The University Registrar is usually the official from whom this letter should come for research involving educational records held by a university. The use of personal, identifiable data for research purposes must always be approved by the IRB prior to the researcher obtaining access to such data.

Additional information on FERPA may be found at the website of the Department of Education at <http://www.ed.gov/policy/gen/guid/fpco/ferpa>. The specific language of the Family Educational Rights and Privacy Act can be found at http://www.access.gpo.gov/nara/cfr/waisidx_04/34cfr99_04.html.

For specific questions regarding FERPA and research, please contact Office of Research Compliance at 864-656-1525.