Fun with FERPA

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If you take one thing from this presentation please let it be this...

If in doubt, don’t give it out!
What is FERPA?

• The *Family Educational Rights and Privacy Act* is the federal law protecting the education record.

• It provides a framework for what institutions *must* do and what we *may* do with information contained in the education record.
What’s an education record?

• An education record is a compilation of records, files, documents, and other materials that contain information directly related to a student and maintained by education agencies or institutions, or by individuals acting on behalf of the agencies.

• Any information about a student recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche.
Types of Information in the Education Record

- Directory Information
  - We **may** release without consent

- Non-Directory Information
  - We may release **only** with consent unless it’s...
    - To University officials (including third parties under contract) with legitimate educational interests
    - To comply with a judicial order or lawfully issued subpoena
    - To appropriate parties in a health or safety emergency in order to protect the student or others
    - To parents in cases of drug or alcohol violation when the student is under 21
Directory Information

- **May** be released at our discretion:
  - Student Name(s) and Spirit Number
  - Address Information (local, permanent, and email)
  - Telephone number (local and permanent)
  - Date and place of birth
  - Program major(s)/concentration(s), and minor(s)
  - Student activities including athletics
  - Dates of attendance
  - Date(s) of graduation, degrees sought/conferred, and other academic awards
  - Most recent previous school attended and/or High School
  - Academic awards and scholarships, including Dean’s List
  - Full or Part-time status
Non-Directory Information

- Sometimes referred to as *Personally Identifiable Information (PII)*, but that can be misleading

- Non-Directory information is everything NOT listed as Directory
  - GPAs and Grades
  - Transcript(s)/academic history
  - Student schedules
  - Class attendance
  - Gender, race, SSN, etc.
Special Note

- Law Enforcement Records are purposefully kept separate from Education Records
  - Institutions may disclose information from law enforcement unit records to anyone, including outside law enforcement authorities, without student consent.
  - University security officers are considered "school officials" with a "legitimate educational interest” but must protect the privacy of education records it receives and may disclose them only in compliance with FERPA.
What about the “Waiver”?

- FERPA allows students to designate a “proxy”
  - This person can be anyone the student wishes to designate - parent, sibling, friend

- When a student “Waives FERPA” it means the institution can treat that person as if he/she were the student...
  - If the student is in my office with photo ID or provides a signed release, I can share non-directory information
  - If the person named on a waiver is in my office with photo ID or provides a signed release, I can share non-directory information
Let’s have some real fun!
QUESTION:

Patty Peacock’s mom called to ask if Patty is coming to my class.

I don’t know if Patty has waived FERPA to her Mom.

Can I tell her I haven’t seen Patty since last month?

ANSWER:

Short answer: NO!

Long answer: Both Class Registration and Class Attendance are considered Non-Directory Information and cannot be released without photo ID or a signature regardless of any waivers on file.

What to do:
Explain to Mom that you cannot release that information but that you will ask the Registrar’s Office to reach out to Patty.

We all want the best for Patty – we just need to do it in a way that respects the rules.
QUESTION:

I’d like to contact all Wiccan undergraduate students to see if they’d be interested in a minor I’m working on.

Can the Registrar’s Office give me their email addresses?

ANSWER:

Short answer: YES but...

Long answer: Email addresses are considered Directory Information but...
Religious affiliation is Non-Directory and cannot be released without the student’s permission.

What to do:
Design the communication for all enrolled students and use the University sanctioned email group for mass communication.
QUESTION:

Paul Peacock is the recipient of the *Fantastic Student of the Year Award*.

Can I announce his GPA at the ceremony?

ANSWER:

*Short answer:* NO but...

*Long answer:* The GPA is Non-Directory no matter how good it is. The student would need to give you written permission to release it.

*What to do:*
Omit the GPA from your speech, or ask the student if he will write you a note granting permission for you to release it.

Stating the GPA criteria for the award is fine: “Fantastic Students must have a GPA of at least 3.99.”
QUESTION:

I am going to Antarctica for the winter break and won’t be back until the first day of the Spring semester.

Can I leave an envelope of final exams on my door and have the students pick out theirs?

ANSWER:

Short answer: NO!

Long answer: Recorded grades are Non-Directory information and cannot be made public without the student’s written consent.

What to do:
Either make arrangements for the Enrollment Services Center to distribute the exams in your absence, or – if you’d like - tell the students that if they wish to receive their exams before you return to campus they can provide you with a stamped addressed envelope.

Then make sure you pack plenty of warm clothes...
QUESTION:

Penelope Peacock asked me to email her final grade.

Can I do that?

ANSWER:

Short answer: YES but...

Long answer:
Emailing Non-Directory Information is “discouraged” because of the ability to forward.

Email from a Saint Peter’s account to a Saint Peter’s account has an implied level of security but if the email leaves our server, who knows what could happen to it.

What to do:
It’s just good practice to NOT email Non-Directory Information, but can you? Yes.
BONUS QUESTION:

Can I have my students grade each other’s tests?

ANSWER:

Short answer: YES!

Long answer: Grades issued by another student are not, at that stage, records "maintained by an educational agency or institution or by a person acting for such agency or institution," and thus do not constitute "education records" under the Act.

What to do:
Be thankful there are people in Washington to call when things like this come up....
If in doubt, don’t give it out!
Any questions for me?