

FERPA FACULTY AND STAFF TUTORIAL

The Family Educational
Rights and Privacy
Act of 1974

What is FERPA?

The Family Educational Rights & Privacy Act of 1974 (FERPA) sets forth requirements regarding the privacy of student records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education.



FERPA REGULATIONS

- FERPA regulations require institutions to notify students of their FERPA rights. SWIC notifies students through their student email accounts, through annual student handbook distribution and through the college catalog.
- FERPA as stated in the SWIC catalog:

In compliance with the Family Educational Rights and Privacy Act of 1974, Southwestern Illinois College students may review their records by submitting a formal written request to the Enrollment Services Office.

What is FERPA?

- Under FERPA students have the right to:
 - Inspect & review their education records
 - Request to amend their education records
 - Limit the disclosure of personally identifiable information (aka directory information)

Who Does FERPA Protect?

- FERPA protects the privacy of student education records.
- FERPA does not apply to:
 - Individuals who have applied but have not yet attended
 - Deceased students


What is an Education Record?

- An education record is any record, file, document, or other materials which contains information directly related to a student and is maintained by the institution, or a person acting on behalf of the institution. This includes, but is not limited to, grade information, disciplinary documentation, billing, and financial aid data. Education records can appear in a variety of forms, including:
 - Handwritten documents
 - Email
 - Video or Audio Tape
 - Computer Media
 - Film
 - Printouts
 - Microfilm/Microfiche
 - Verbal exchanges

Exceptions to Education Records

- *Sole Possession Records*-Those records or private notes held by a school official that aren't accessible or related to other staff.
- *Law Enforcement Records*-Records created/maintained for a law enforcement purpose.
- *Employment Records*
- *Medical Records*-Records made and maintained in the course of treatment and disclosed only to those individuals providing treatment.
- *Alumni Records*-Records that only contain information about a student after he or she is no longer at the institution.

So What Information Can We Disclose?

- As long as the student has not requested a restriction, we can release a student's directory information without violating FERPA.
- Directory information is information that if disclosed, is not generally considered harmful or an invasion of privacy.
- FERPA restrictions are indicated on the student's record in the student center by a window shade icon 

Directory Information at SWIC

- *Student's Name*
- *Address*
- *Enrollment Status(full or part-time)*
- *Dates of Attendance at SWIC*
- *Honors (including honor roll)*
- *Degrees conferred (including dates)*
- *Sports Participation (past and present)*
- *Physical Factors of Athletes (height and weight)*

If a student chooses to restrict the disclosure of directory information, a Request to Prevent Disclosure of Directory Information form must be submitted to Enrollment Services.

<https://www.swic.edu/students/student-affairs/ferpa/>

What is Non-Directory Information?

- Non-directory information is any education record not classified at Southwestern Illinois College as directory information. This private information must not be released to anyone without a proper written consent from the student. A proper written consent must be signed and dated by the student, specify the records to be released, the purpose of the disclosure, and to whom the records are being disclosed.
- This applies to all education records, whether or not directory information has been suppressed. Staff may access this information only if they have a legitimate educational need to use it in fulfillment of official duties.

Non-Directory Information Cont.

Non-directory information at SWIC includes, but is not limited to the following information:

- *Student social security number*
- *Student Identification number*
- *Student Email Address*
- *GPA (cumulative and semester)*
- *Course Grades*
- *Class Schedule*
- *Hours enrolled and earned*
- *Academic probation information*

Guidelines for Learning Management Systems

If student participation in the discussion board is required, and if your educational institution reasonably views students in different sections of the same course as being enrolled in the same class, then under 34 CFR § 99.37(c)(1) students would not have the right under FERPA to opt out of having their names disclosed as a result of participating in the same class. Thus, in these circumstances, it would not violate FERPA for students in sections of the same course to be able to view the names of other students who post to the discussion board in the LMS.

Learning Management Systems

Guidelines Cont.

However, if student participation in the discussion board is required and your educational institution does not reasonably view students in different sections of the same course as being enrolled in the same class, then, in these circumstances, it would violate FERPA if your educational institution were to require an eligible student, who has opted out of the disclosure of his or her name as directory information, to participate in the discussion board on the LMS, thereby compelling the disclosure of the student's name and course enrollment to students in other classes.

Learning Management Systems Guidelines Cont.

In that event, your educational institution may wish to consider as a valid option that we believe would comply with FERPA, providing the student with unique identifier (though not the student's Social Security number or a student identification number that would allow others students to gain access to that student's education records) in place of the student's name such that the student would not be identifiable to the other students in the discussion board on the LMS, but would remain identifiable to the teacher.

Learning Management Systems Guidelines Cont.

If your educational institution requires students to post to the discussion board on the LMS and determines that the foregoing option is not a viable option for your educational institution and that there are no other viable alternatives for eligible students who have opted out of having their names disclosed as directory information, then your educational institution must limit any required LMS discussion board participation to students who are in the same class.

Access to Student Records

- The access provided for staff to do their jobs does not overlap into information that is not required of the position. Use a “need to know” approach when accessing students' education records. College officials at SWIC must have a legitimate college related educational or administrative interest and a need to review an education record in order to fulfill their professional responsibility..
- Staff may not disclose any information about any student to anyone who does not need this information to do his or her job and the College.

Access to Student Records Cont.

- Staff should check the student's record on the student information system or contact the Enrollment Services Office to see if the student has requested nondisclosure before releasing directory information about the student to someone who is not a college official with a need to know.

When Is Consent NOT Needed?

Consent is not needed for disclosure of information to:

- School Officials who have a legitimate educational interest
- Federal, state & local authorities involving an audit or evaluation of compliance with educational programs
- In connection with financial aid, including Veterans' benefits
- Organizations conducting studies for or on behalf of an educational institution

When is Consent NOT Needed

Cont.

- Accrediting organizations
- Comply with a judicial order or subpoena
- In a health or safety emergency
- Release the results of a disciplinary hearing to an alleged victim of a violent crime
- Release directory information

Your Responsibilities

- If you have access to education records, you are responsible for its proper handling. No matter what the form or content, you are accountable for handling education records in accordance with the law.
- Beyond any legal requirements, the college is bound by professional ethics to safeguard the integrity and confidentiality of education records. This applies to all college employees, regardless of role or classification. All College employees must be in compliance with FERPA regulations and College policy in order to maintain, report and make available information included in education records.

Your Responsibilities Cont.

- Faculty and staff may not browse through education records, whether in paper or online format, for information about students at random or for information about persons they know.
- Faculty and staff must take reasonable precautions to safeguard access to education records.
- Faculty and staff should immediately refer all Freedom of Information Act (FOIA) requests to FOIA Officer Anna Moyer. <https://www.swic.edu/about/college-profile/mission-and-values/filing-a-freedom-of-information-act-foia-request/>

Your Responsibilities Cont.

- Reasonable precautions include but are not limited to:
 - a. Properly disposing of education records that are no longer required to be kept; including shredding of paper education records
 - b. Not sharing computer ID's and passwords
 - c. Not leaving your computer or the student information systems running and accessible when away from your work station
- Education records may be shared among College faculty and staff as necessary to carry out the responsibilities of their position. However, take precautions to guarantee the security of the student data being shared.

Your Responsibilities Cont.

Posting of grades and other non-directory information in a public place without written consent of the student is a violation of federal law.

- This includes the posting of grades down a hallway or on a class/institutional website and applies to any public posting of grades for students taking distance learning classes.
- Placing graded papers or tests at the front of the room for students to pick up or passing graded papers down a row of students is also a violation of FERPA.

Your Responsibilities Cont.

- Notification of grades via a postcard violates a student's privacy.
- Notification of grades via SWIC student e-mail is slightly more secure than a postcard, however, there is no guarantee of confidentiality on the Internet.

A Brief Review

- You are responsible for protecting education records in your possession
- Education records may not be released without the written consent of the student, or as permitted by law
- Individual directory information may be released without written consent except when the student has filed a “Request to Prevent Disclosure of Directory Information.” In this instance, no information about the student may be released
- Always take appropriate measures to ensure that education records are protected



Test Time

So, how well do you really know
FERPA??

Let's find out!!!



Question #1

True/False

“Education records” include only those records contained in a student’s permanent file.



FALSE

With specific exceptions, “education records” are those maintained by the institution in any format that is identifiable to the student.

Question # 2

True/False

Faculty has the right to inspect and review the education records of any student.



FALSE

All faculty and staff must show a legitimate educational interest or need to know within the context of their role to have appropriate access to education records.

Question #3

True/False

If a student discloses in an open forum that he/she has been suspended and that he/she feels the suspension is unwarranted, the school may infer that it has been given implied consent for openly discussing the suspension.



FALSE

There is no implied consent in FERPA. The school will need to follow regular guidelines for releasing this student's record information

Question #4

True/False

A faculty member does not have to allow a student to inspect and review personal notes the faculty member has written about the student that are held in a file in the desk in the faculty member's office.

TRUE

Sole possession records are an exception to the definition of education records and are therefore not accessible by the student.

Question #5

True/False

A student has the right to inspect and review an essay submitted by the student, even if the instructor does not intend to return it to the student or to permanently maintain it.

TRUE

So long as the record exists, it would be part of the student's education record. The student has the right to access it.

Question #6

True/False

Professor Kashmir has posted the grades of all the students in his class on the wall outside of his office. This is a violation of FERPA.

MAYBE

It depends on HOW he posted the grades. If by name, Student ID number, SSN (or part thereof), or something else that can be fairly easily interpreted by a third party, then it is a violation.

However, if the grades are posted by some “code” known only by the student and the instructor, then it is not a violation.

Question #7

True/False

A student's degree can be confirmed to some external (outside of your college) source without first obtaining the permission of the student as long as "degree" is identified by the institution as directory information.



TRUE

The degree can be confirmed as it is considered “directory information” by SWIC.

Question #8

You receive a phone call asking to verify (1) that a currently enrolled student: attends your institution, (2) what his address was at the time of attendance, (3) enrollment status (full-or part-time) , and (4) his gpa. According to FERPA, you can verify all of these except the student's

- A. attendance at the institution
- B. address during the time of attendance
- C. enrollment status (full-or part-time)
- D. gpa

D. GPA

- The correct answer is D (gpa), the other items, (attendance at the institution, address during the time of attendance and enrollment status (full-or part-time)) are all considered directory information.

Question #9

As defined in FERPA, "legitimate educational interest" refers to:

- A. A faculty member's need to provide feedback to student in the form of grades/evaluations.
- B. A school official's need to review student education record information to fulfill a responsibility as part of her contract.
- C. The registrar's need to obtain education record information from faculty to produce a student's transcript.
- D. A school official's right to obtain information only about students he is advising or teaching during the current year.

Answer: B

- The correct answer is B, a school official's need to review student education record information to fulfill a responsibility as part of her contract. This is the definition provided by FERPA.



SO...

How did you do??

Refer Questions to Enrollment Services

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Additional Resources

AACRAO

www.aacrao.org

US Department of Education

www.ed.gov/policy/gen/guid/fpco/index.html

Enrollment Services Office

<https://www.swic.edu/students/swic-cares-about-you/ferpa/>