

# **FERPA Basics**

Specially Designed

for

P. K. Yonge

2011-12 School Year

# Quick Review - FERPA

- **The Family Educational Rights and Privacy Act**, also known as the “Buckley Amendment” is a federal law that gives parents certain rights with respect to their children’s education records.
- **Under FERPA, parents have the right to:**
  - **Inspect and review** their child’s education records within 30 days after the request has been received (according to PKY’s Handbook).
  - **Request to amend** inaccuracies or misleading information in their child’s records.
  - **Limit disclosures** of personally identifiable information from their child’s records.
  - **File a complaint** with the Family Policy Compliance Office if they feel their child’s FERPA rights have been violated.
- **These rights transfer to the student** when he or she reaches the age of 18 or attends a school beyond high school level.
  - FERPA applies to any and all educational institutions receiving funds from the United States Department of Education, from kindergarten through university level.

# Quick Review - Florida Statutes

- F.S.1002.22: Education records and reports of K-12 students; rights of parents and students; notification
  - “All public educational institutions shall comply with the FERPA with respect to the education records of students...”
- F.S. 119.071 General exemptions – Public Records
  - Prohibits the use of Social Security Numbers as a form of identification unless it is required by law (or has been approved by UF Administration).
  - The Privacy Office has implemented a procedure for requesting permission to collect SSN’s, when necessary. See our website.

# Quick Review - Florida Statutes

- F.S. 817.568: Fraudulent Use of Personal Identification Information - PII
  - Prohibits the use of PII without authorization
    - Any name or number that may be used, alone or in conjunction with any other information, to identify a specific individual.
- F.S. 817.5681– Security of Personal Information
  - Requires notification of individuals if the security of their unencrypted electronic personal information is breached.
    - Social security number;
    - Driver's license or Florida ID Card numbers;
    - Account, credit card, or debit card numbers, in combination with any code or password that would permit access to an individual's financial account.

# What Are Education Records?

- Education Records are:
  - Any information or data,
    - Recorded in any medium,
      - Directly related to present or past students, and
        - » Maintained by the institution or its designee
- *Maintained* means: Recorded and retained in any medium for use by school personnel for official school business or for carrying out the school's mission.
- *Directly related* means the record expressly identifies the student, or the student's identity could be deduced from the information in the record.
- *Recorded in any medium* includes: print, handwriting, typing, electronic data, e-mail, video, audio recordings, film, microfilm, sticky-notes, paper napkins, clay tablets, cave paintings...

# Disclosures

- In general, information **recorded in**, or **derived from**, a student's education records may not be disclosed.
- There are three exceptions:
  - The information is **Directory Information**,
    - Publicly available information about a student that is not considered harmful or an invasion of privacy if disclosed.
  - The student has given **consent** for the disclosure, or
  - The **law provides an exception** for disclosure without the student's consent.

# Directory Information at PKY

Under FERPA, **directory information** includes certain categories of information, generally considered to be public.

Each institution can then designate what it considers to be directory information.

The definition must be included in an annual notice to the students.

- The student's name
  - The parent's name
  - Address (Child or parent not specified)
  - Telephone number (listed/unlisted not specified)
  - Date and place of birth,
  - Major field of study,
  - Participation in officially recognized activities and sports,
  - Weight and height of members of athletic teams,
  - Dates of attendance,
  - Degrees and awards received,
  - Most recent previous school attended.
- "The District may disclose any of these items without prior written consent, unless notified in writing within 30 calendar days of the start of school or within 30 days of the first day of attendance, whichever occurs last."

# Disclosure Exceptions By Law

Information may be disclosed, without consent, under these conditions:

<b>Academic Issues:</b>	<ul style="list-style-type: none"><li>• <b>School officials</b> with a legitimate educational interest</li><li>• <b>Other schools</b> to which a student is transferring</li></ul>
<b>Financial Issues:</b>	<ul style="list-style-type: none"><li>• If the student applied for or received <b>financial aid</b>, disclosure is permitted if needed to determine eligibility or the amount of aid, or to enforce the terms and conditions of the aid.</li></ul>
<b>Operations Issues:</b>	<ul style="list-style-type: none"><li>• For <b>accrediting, audit, or evaluation</b> purposes</li><li>• Organizations conducting studies <b>on behalf of</b> the school</li><li>• Appropriate officials in cases of <b>health and safety emergencies</b></li></ul>
<b>Law Issues:</b>	<ul style="list-style-type: none"><li>• To comply with a <b>judicial order</b> or lawfully issued subpoena</li><li>• For <b>mandated disclosures</b> to state and local authorities – report of crime, abuse, etc.</li></ul>



# Academic Issues – School Officials

Under FERPA, a school official has a legitimate educational interest in a student's record when access to the record is required to perform his or her duties.

- **A school official is:**
  - An agent of the institution in an administrative, supervisory, academic, research or support staff position;
  - A member of a committee, board and/or councils
  - A person under contract to the institution to perform a special task, such as an attorney or auditor.
- A school official has a legitimate educational interest in a student's education records, if the official is:
  - Performing a task that is specified in his/her position description or contract;
  - Performing a task related to a student's education or discipline;
  - Providing an authorized service or benefit related to the student or student's family; or
  - Maintaining safety and security on campus.

# Faculty Responsibilities

- **All teachers and staff** are considered school officials and are required by law to maintain the confidentiality of student records.
- **The release of any non-directory information** about a student to any person outside the P K Yonge community, or to any school personnel without a legitimate educational interest, violates federal and state law, as well as university regulations.
  - **Share graded papers and exams only with:**
    - the student,
    - school officials in the performance of official duties,
    - others only with the student's consent.
  - Students should **not have access to other students' grades**: do not leave student papers or exams in a pile or on a desk where students must look through all the papers to find their own.

# Health & Safety Concerns

- **Question:** May information from a student's education records be disclosed to protect health or safety?
- **Answer:** Yes. The laws permit disclosure of information “to appropriate parties in connection with an emergency, if...necessary to protect the health or safety of the student or other individuals.”
- **Limitations:** This exception does not authorize “knee-jerk” or “broadcast” disclosures,
  - but a limited disclosure to a limited number of people,
    - made on the basis of a good-faith determination,
      - in light of the facts available at the time.
- **Document the reasons** you made the disclosure at or near the time the disclosure is made.

# Safety & Personal Observations

- **Question:** May a school official disclose personal knowledge about a student, based on personal interactions with the student, to protect health or safety?
- **Answer: Yes.** Disclosure restrictions only apply to information derived from student education records, not to **personal knowledge derived from direct, personal experience with a student.**
  - For example, a faculty or staff member who personally observes a student engaging in erratic and threatening behavior is **not prohibited** from disclosing that observation.
- The official's observation should generally only be made **to professionals** trained to evaluate and manage the concern.

# Security of Education Records

- **Security and Privacy go hand-in-hand** – you can't have one without the other.
- To **avoid** becoming a data-loss statistic, include these points in your written procedures:
  - **Store electronic restricted information on secure servers**, never on your workstation.
  - **Password protect** your computer and set your screensaver to come on automatically.
  - Avoid providing restricted data over the **telephone or by email**.
  - **Cross-shred** all restricted data documents before throwing them away.
  - Keep conversations quiet – make sure they cannot be overheard when exchanging restricted data.

# Security: Record Retention & Storage

- Do not retain records longer than you need to.
  - The retention requirement for student records other than transcript data is three years.
- Inactive records containing restricted data may be stored on-campus or in approved off-site storage facilities that are environmentally controlled and meet UF's security policies.
  - Approved facilities do not include commercial mini-storage units, your mother-in-law's attic, or a mobile home in Alachua...

# Security: Record Disposal

- **Reminder:** Follow UF policies and procedures to **obtain permission** before destroying records
  - All UF records are state property and must only be destroyed in accordance with state laws.
  - Obtain permission to destroy records from the Records Management office: Dennis Kozak.
- **Disposing of documents, films, cassette and video tapes, CD's or disks containing restricted data:**
  - Preferred Method: Shred, deface, demagnetize, or destroy immediately
  - Next Best: Use an approved document/media destruction company for shredding and recycling (UF currently has a negotiated agreement with Cintas for this purpose.)

# Technical Safeguards: Electronic Devices

- Security Applications – not optional!
  - Use encryption software to prevent unauthorized reading or changing of electronic data
  - Install software to **detect, contain or remove** viruses, trojans, and other malicious software.
- Use auto-shutdowns and screen-savers
  - Set your computer to automatically turn on a screen-saver after a short period of inactivity
  - Require a password to re-enter
- Loss Prevention
  - Label all portable devices – engraving is best
  - Lock up devices when they are not in use
  - Do not leave devices in your vehicle!



# Security: Computer Disposal

- **All electronic equipment must be professionally purged** before being discarded, if the device:
  - Contains an internal memory device, **and**
  - Was used for purposes that included UF restricted data.
- **Reformatting or erasing information is not sufficient!!**
- Equipment includes, but is not limited to:
  - Desktops, Laptops
  - PDA's, Blackberries
  - Any other portable or non-portable computing devices
- Contact your Unit Information Security Manager or Administrator for instructions.

# Other Security Steps You Can Take Now

- **E-mail:** Restricted information about students may be included in email:
  - Only within the ufl.edu system - Only for official business purposes
  - Include as little identifiable information as possible:
    - For more than one or two items, put the restricted data in a separate file, encrypt it, and send as an attachment.
- **Never include Social Security Numbers in emails!**
- **Faxing:** use standard **confidentiality procedures:**
  - A Cover Sheet with a Confidentiality Disclaimer Statement on every fax to protect yourself, PKY, and UF
  - Pre-programmed Numbers in your fax machine (to avoid misdials)
    - Check the numbers periodically to be sure they are still correct!!
  - Verification procedures when needed:
    - Send the cover sheet first -- call and verify that it was received -- then send the rest of the documents

# Requests for Information

- Scenario 1: A local reporter calls asking you for information about one of your students. She has already interviewed your student and his parents for a story and wants to confirm some of the facts with you. The parents have told the reporter the student's GPA and grades.

What can you tell the reporter?

# Requests for Information

- Scenario 1 continued: A local reporter calls...

How would you answer if you knew the student's parents had placed a letter of non-disclosure in his record at the beginning of the school year?

# Legitimate Educational Interest

- Scenario 2: Joe is a senior student in your class who recently turned 18. His father, a personal friend of yours, is a faculty member in the College of Medicine. He wants to find out how Joe is doing in school, so he calls you to find out how to access Joe's records.

How should the you respond?

# Paperwork

Scenario 3: You need a little more time to finish your students' final grades, which are due tomorrow. So, you download all the necessary information to your personal flash drive so you can work on it at home. When you arrive at home, you can't find the flash drive.

What should you do now?

# Who Are the Experts?

- The following people and websites are available to you:
  - The Privacy Office
    - <http://privacy.ufl.edu>
    - 352-273-5094
    - (Toll-free Hotline) 866-876-4472
  - The Office of General Counsel
    - <http://www.generalcounsel.ufl.edu/about/>
    - 352-392-1358