

**FERPA: A View From Far and Near**

A Presentation to the Advising Resource Center  
January 31, 2013

**Looking Down From 30,000 Feet**

I. What is FERPA?

The **Family** Educational Rights and Privacy Act

II. What's in it?

Generally students have the following three rights as to their "**education records**":

- to control their release or the information derived therefrom
- to inspect and review
- to seek amendment

III. What's an "education record"?

- 1) **directly related** to a **student**
- 2) maintained by the institution or an outside contractor acting on its behalf

IV. Give me examples:

- What's included: Think broadly. Education records can be handwritten, printed, computer media, video or audiotape, film, microfilm, microfiche, etc. Examples include transcripts, exams, student submissions (homework, research papers), disciplinary records, disability accommodation records, etc.
- What's excluded:
  - information that is not recorded (i.e., personal knowledge)
  - sole possession records (the "post-it" note exception)
  - law enforcement records (unless shared)
  - employment records – but only if student status is not a job requirement
  - treatment records (unless shared)

V. It's federal law; of course there are definitions imbedded within definitions.

- student: anyone who is or has been in attendance, including by correspondence

- directly related to a student: contains **personally identifiable information** about the student
  - personally identifiable information: anything that makes the student's identify easily traceable (e.g., name, address, SSN, student ID number, etc.)
  - example: the 6'4" red-headed woman who lives in Delta Delta Delta

### **A Bird's Eye View (aka – What do I really need to know to do my job?)**

VI. When can education records be disclosed?

A. With the student's consent

What does the consent look like?

- in writing
- signed and dated
- specifically identifies:
  - the records that may be disclosed
  - for what purpose
  - to whom

Don't re-invent the wheel. Use the University's consent form. See <http://registrar.arizona.edu/ferpa/formsindex.htm>)

B. Absent student consent, education records can only be disclosed under certain enumerated circumstances.

1. To **school officials** who have **legitimate education interests** in accessing the records

- school officials: persons we employ and contractors to whom we have outsourced services that we would otherwise perform in-house
- legitimate educational interest: what you need to know to do your job (apply the straight-face test)

2. The health and safety exception (again, apply to the straight-face test)

3. Other important exceptions:

- directory information – information about a student that would not generally be considered harmful or an invasion of privacy if disclosed (see attached), unless the student elects to prohibit release

- to the parents of a dependent student – ask to see the parents' most recent tax return to verify the student's dependent status

## VII. Miscellaneous

There is no private “cause of action” for a FERPA violation, but the UA can be fined by DOE for violations.