

The Family Educational Rights and Privacy Act (or FERPA) is a federal law that protects the confidentiality of personally identifiable information contained in a student's educational record. The law applies to the use of educational records for scholarly research, as well as to institutional research on learning and teaching. FERPA regulations are published in the Code of Federal Regulations at 34 CFR 99.

Use with student/parent permission

In order to release information from a student's educational record, schools generally must obtain written permission from the student's parent or, if the student has either turned 18 or entered a postsecondary institution at any age, from the student him or herself. This requirement is typically met if the student or parent signs and dates a consent document and authorizes the release of his or her educational record for research purposes. The consent document must identify

- the records that may be disclosed
- the purpose of the disclosure parties
- and to whom the disclosure may be made

IRB process

Researchers who plan to utilize information protected by FERPA should ensure that their IRB application specifies

- which information from the student's educational records will be used for the research
- and whether any of this information is personally identifiable

The application must include documentation of the student's or parent's permission, even if the project qualifies for exemption from the federal Common Rule at 45 CFR 46.

Use without student/parent permission

FERPA allows, but does not require, schools to disclose educational records in three basic categories *without* a student's or parent's permission; these categories are:

- directory information
- deidentified information
- information that qualifies for a study exception

Directory information

FERPA defines *directory information* as information contained in a student's education record that would not generally be considered harmful or an invasion of privacy if disclosed. Examples of directory information include

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- the student's name
- the name of the student's school
- major course of study
- dates of attendance
- and other basic academic information

Deidentified information

Under FERPA, student information is considered deidentified if it omits any personally identifiable information, or PII; PII includes (but is not limited to):

- direct identifiers, such as the student's name, Social Security number or student ID
- indirect identifiers, such as family members' names
- birthdate or mother's maiden name
- biometric records such as fingerprints, retina and iris patterns, voiceprints, DNA sequence, facial characteristics, or handwriting
- and other information that, alone or in combination, might allow someone to identify the student

Study exception

The *study exception* applies in cases where an investigator is conducting a study for, or on behalf of, the disclosing institution. The purpose of the study must be to

- improve instruction
- develop predictive tests
- or administer student aid programs

IRB/MOU process at the University of Michigan

Research involving student information obtained without the permission of the student' or parent must be carried out in a way that does not allow individual students to be identified by persons who are not involved in conducting the study. The disclosing institution and investigator must enter into a written agreement – an MOU or Memorandum of Understanding that includes

- the purpose, scope and duration of the study
- the information to be disclosed
- the specific period of time in which personally identifying information will be destroyed once it is no longer needed for the research

Typically, the unit responsible for releasing the student information prepares the MOU. Procedurally, the study should first undergo IRB review and receive approval with contingencies; in the IRB application, the researcher should specify

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- which information from the student's educational records will be used for the research
- and whether any of this information is personally identifiable

Once the application has been granted contingent IRB approval, the unit responsible for releasing the study's information prepares an MOU acknowledging the parameters approved by the IRB. The researcher then submits the executed copy of the MOU to the IRB for final approval.

Use of student information from external institutions

When U-M investigators plan to use student information from an external educational institution, the IRB recommends that the researchers contact the external institution directly and follow that institution's FERPA policies and procedures. For the U-M IRB review process, investigators should obtain site approval documentation that describes any FERPA or other requirements associated with access to student information, and include that documentation with their U-M IRB application (even if a project qualifies for an exempt determination). Written permission may be obtained from students or parents as part of the informed consent, or through the use of a separate document.

In rare cases, a project conducted by U-M researchers at an external institution might qualify for release of student information under the FERPA study exception. The IRB recommends that the researcher obtain a data use agreement or MOU from the releasing institution that includes the required information and outlines the terms of use.

Information not protected under FERPA

Information not considered part of an educational record, and therefore not subject to FERPA, includes:

- records kept in sole possession of the creator, such as instructor's notes
- some law enforcement records
- employment records that relate exclusively to the individual as an employee
- records confined to information about an individual after he or she is no longer a student, such as information about alumni activities

Contact the IRB for more information about the Family Education Rights and Privacy Act.

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