**Family Educational Rights and Privacy Act (FERPA) Guidance and Worksheet**

FERPA is a federal law that protects the privacy of personally identifiable information (PII) contained within a student’s education record. FERPA applies to all schools (K-12 and postsecondary institutions) that receive funds under various programs from the U.S. Department of Education.

As a general rule, schools must have written permission from the eligible student (i.e., a student either of 18 years of age or matriculated into a postsecondary institution), or the parent of a minor student in a primary institution, to release information from a student's education record. Unless the research, involving the use or disclosure of PHI contained with an education record, qualifies for an exception under FERPA, the IRB cannot waive consent.

FERPA defines “education records” as records containing information (in any medium – paper, electronic, microfilm, etc.) that *directly relate to a student* **and** *are* *maintained by an educational institution or by a party acting for the institution.* FERPA also governs the use and disclosure of student health records maintained by an educational institution that are created by a healthcare provider and used only in connection with treatment of the student (i.e., “Treatment Records”); if used or disclosed for any purpose other than treatment, these records become “education records” and must follow the rules for use and disclosure under FERPA.

Therefore, at Emory University, FERPA not only applies to records pertaining to students that are held by traditional academic and administrative units of the University, but also University-maintained student health records, such as those maintained by Emory University Student Health and Counseling Services (EUSHCS). Note, health records maintained by Emory Healthcare or non-University healthcare providers that pertain to a student do not fall under FERPA (but such records do fall under HIPAA).

Under FERPA, the term personally identifiable information (PII) includes but is not limited to:

* Student’s name and other direct personal identifiers, such as the student’s social security number or student identification number;
* Indirect identifiers, such as the name of the student’s parent or other family members; the student’s or family’s address, and personal characteristics or other information that would make the student’s identity easily traceable;
* Date and place of birth and mother’s maiden name;
* Biometric records, including one or more measurable biological or behavioral characteristics that can be used for automated recognition of an individual, including fingerprints, retina and iris patterns, voiceprints, DNA sequence, facial characteristics, and handwriting;
* Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; and
* Information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates

**Investigator:** This worksheet lists the various scenarios in which the research use of an education record may be subject to FERPA regulations (per 20 U.S.C. § 1232g; 34 CFR Part 99). Please fill out the following form to determine whether the research study falls under an exception to FERPA restrictions. Upload this form in the miscellaneous section of the Smartform.

IRB number:

PI Name:

Study Title:

Investigator completing this form:

**Q1: Are the data to be utilized sourced from a *student’s record* maintained by a school that is subject to FERPA?**

No

Yes, i.e. student medical or academic records maintained by the academic institution

Add a description of the data to be used here: Click here to enter text.

*If you answered yes above, continue to Q2. Otherwise, the educational data is not subject to FERPA.*

**Q2: Are the data to be utilized "identifiable"?** (See outline of PII above).

No, data are de-identified and anonymized.

No, data are de-identified and coded by a person authorized to access the records (i.e: a school official with legitimate access, other than the researcher), and then provided to the researcher. **Note:** the following requisites must be met to use coded data: (1) neither the code key or information about how the code was generated/assigned will be provided to the researcher or other recipients; (2) the code can’t be used by the recipient to ascertain PII about the student; (3) the code is not based on the student’s personal information.

Yes

Add a description of any identifiers associated with the data. Also include how and by whom the identifiers will be removed, if applicable. : Click here to enter text.

*If you answered yes above, continue to Q3. Otherwise, the use of the educational records is permissible under FERPA.*

**Q3: Will the data be used in any of the following manners:** (check any that apply)

The release is to an authorized representatives of state / local educational authorities for an audit or evaluation of federal or state supported education programs, or for the enforcement of or compliance with federal legal requirements related to those programs. (Investigators must provide IRB with evidence that they are acting as authorized representatives of a state or local educational authority and that their audit or evaluation meets the conditions).

The release is to organizations conducting studies for or on behalf of educational agencies or institutions to develop, validate or administer predictive tests; administer student aid programs; or improve instruction.

The release is to appropriate officials in cases of health and safety emergencies.

[ ] The only data to be used or disclosed are the following “Directory Information”: student’s name; whether or not the student is enrolled; student’s school or division and class/year; dates of enrollment including full-time or part-time status; degrees earned, dates of degrees, major area of concentration and academic honors received; awards of merit and participation in officially recognized activities and sports; address and telephone number; email address. NOTE: This exception may only be used if NO OTHER DATA about the student will be used or disclosed with the Directory Information and the student has not opted out of the “directory”.

OR

No, none of the above exceptions apply.

*If none of the above exemptions apply, continue to Q4.*

**Q4: Written consent has or will be obtained for the research.**

Yes

No

*If you answered yes above, continue to Q5. If you answered no, the research is not permissible under FERPA.*

**Q5: Does the written consent have all the following elements:**

Specify the records that may be disclosed;

State the purpose of the disclosure; and

Identify the party or class of parties to whom the disclosure may be made.

Include a place for a date and signature of the student (who is either 18 years of age or older or who is attending a postsecondary educational institution), or his/her parent or guardian for minors attending a primary educational institution.

*If the written consent has all of the above elements, the research use of the education records is permissible under FERPA. If an element is missing from the consent, the research use is not permissible.*