

## WHAT IS FERPA?

The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records.

Passed by Congress in 1974, the Act grants four specific rights to our students with respect to the privacy of his or her education records:

- The right to see the information that the institution is keeping on the student
- The right to seek amendment to those records and in certain cases append a statement to the record
- The right to consent to disclosure of his or her records
- The right to file a complaint with the FERPA Office in Washington, D.C.

## EDUCATION RECORDS

What constitutes an “education record”?

Information recorded in any form that is directly related to a student and maintained by the college or by those acting for the college.

What does **NOT** constitute an “education record”?

- Informal records and observations of the student, which are kept in the sole possession of the recorder and not revealed to anyone;
- Records relating to persons who are employees;
- Records kept and maintained by a health care professional, used solely in connection with treatment and disclosed only to individuals providing treatment; or
- Records which include information about an individual after he or she is no longer a student.



## WRITTEN CONSENT

Written consent must:

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.

When is consent **NOT** required?

- For legitimate educational purposes.
- To officials at an institution in which student seeks to enroll.
- To comply with a court order or subpoena.
- In connection with a health or safety emergency if necessary to protect the student or others.
- To parents of students who are dependents for income tax purposes.
- To parents of a student younger than 21 years of age if the disclosure concerns discipline for violation of the campus drug and alcohol policy.



## **IN A NUTSHELL**

It is helpful to treat all clinical education paperwork with the same privacy standards that we use with the medical records of our patients. Similar to HIPAA, there are situations in which you do not need a student's consent to share his/her education records. Some of those situations include:

- Sharing the student's status with the school or ACCE
- Sharing the student's status with another Clinical Instructor who needs the information
- Internal/external audits

Likewise, information pertaining to a student should only be shared on a need-to-know basis. Therefore, it is important to limit information shared with receptionists, rehab aides, patients and other healthcare providers who are not directly responsible for the student.

## **FERPA ADDRESS:**

Family Policy Compliance Office  
U.S. Department of Education  
400 Maryland Ave, S.W.  
Washington, D.C. 20202-5901

## **ADDITIONAL QUESTIONS:**

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## **LEGITIMATE EDUCATIONAL PURPOSES**

The disclosure is to other school officials, including teachers, within the agency or institution whom the agency or institution has determined to have legitimate educational interests.

## **FERPA VERSUS HIPAA**

The HIPAA Privacy Rule excludes from its coverage those records that are protected by FERPA. Records that are protected by FERPA are not subject to the HIPAA Privacy Rule.