

## **Guidance on FERPA-Covered Records Release for Research at University of Mississippi**

### **Background:**

The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) governs how student Education Records are protected. FERPA regulates the disclosure of Personally Identifiable Information from Education Records in all public elementary and secondary schools, school districts, intermediate education agencies, state education agencies and any public or private agency or institution that uses funds from the U.S. Department of Education. This guidance provides procedures related to research access for Education Records covered by FERPA.

Education Records include, but are not limited to, course grades and graded coursework, transcripts, class lists, student course schedules, health and athletics records, student financial information, and student discipline files. These records may be recorded in any format such as handwritten, printed, computer media, videotape, audiotape, film, microfilm, microfiche, and e-mail.

Faculty, staff, and administrators have access to student Education Records for the purposes of conducting the duties of their job. Faculty, staff, and administrators cannot use this natural access for other purposes, such as research. When student Education Records are used for research purposes FERPA applies, and written permission is required, unless there is an applicable exception, as outlined below. Many researchers who are also educators are surprised to learn that when conducting research, they no longer have a “legitimate educational interest” in the records they otherwise handle on a regular basis (e.g., tests, journals, written assignments, etc.).

An educational institution has the authority under FERPA to determine what information may be accessed from an Education Record. If a researcher is denied access to information in an Education Record by the University, the IRB cannot overrule the decision.

Researchers are responsible for maintaining compliance with FERPA, human research regulations (Institutional Review Board requirements), and University policy when accessing Education Records for the purpose of research. If a complaint is filed regarding violation of FERPA, an investigation will be conducted by the appropriate federal office. Failure to resolve a FERPA noncompliance can result in loss of federal funding.

### **Authorization for Release of Records:**

FERPA and IRB requirements are typically met if a parent or student 18 years or older signs a consent form to participate in a project, which also authorizes the release of the student Education Records for research purposes.

1. A written, signed, and dated release is required for investigators to obtain student records from the Registrar. The release must a.) specify exactly what student information is to be released; b.) specify the purpose of the disclosure; and identify which investigators will have access. Undergraduate investigators cannot have access to identified student records.
2. An electronic alternative to a signed release, (e.g., using student emails for identity verification), may be allowed in some cases. The email release must comply with the same requirements as a signed paper release.

## The University of Mississippi

### **Release of Records without Authorization Exceptions:**

Access to student Education Records without obtaining signed consent for research purposes can occur under certain stipulations.

1. FERPA allows schools to designate and disclose, without consent, certain items of information as “directory information,” such as student names, addresses, telephone numbers, dates and places of birth, honors and awards, and dates of attendance. Each educational institution designates what information is considered directory information. Therefore, the researcher should contact each institution from which they propose to access student Education Records and follow that institution’s FERPA policy and procedures when accessing directory information.
2. A researcher can also gain access to Education Records without consent if a school official with legitimate access (other than the researcher) strips the records of any identifying information prior to release of that information.
3. An institution may grant an exception and disclose personally identifiable information from a student Education Record without written consent if disclosed to an organization conducting research for, or on behalf of, the institution to:
  - a. Develop, validate, or administer predictive tests;
  - b. Administer student aid programs; and/or,
  - c. Improve instruction (34 CFR §99.31)
    - i. If the researcher is a school official with legitimate education interest (34 CFR §99.31(a)(1); or,  
If the researcher is conducting studies for or on behalf of the school (34 CFR §99.31(a)(6).

### **Researcher Responsibilities to Protect FERPA data:**

Approval to use student Educational Record data in research is contingent on the researcher:

1. Using the information only for purposes of the approved research. New usage of the information will require a new approval.
2. Providing adequate protection for the student Education Record to ensure that it is not compromised or subject to unauthorized access.
3. Ensuring that only research team members who have a legitimate educational interest access student Education Records without signed permission from the parent or eligible student.
4. Ensuring that no one outside of research team members who are specifically listed on the protocol have access to the personally identifiable information.
5. Ensuring that all data shared in aggregate form is properly de-identified to avoid unauthorized disclosure to third parties. The University’s disclosure avoidance procedure is to restrict reporting any cell size (n-number) that is smaller than 10 when paired with restricted data.

### **Records Retention:**

The investigator must retain a copy of the release for 7 years (scanned / electronic copies are acceptable).