



*FERPA Regulation Changes  
Effective December 2008*

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# *What is FERPA?*

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- ★ The Family Educational Rights and Privacy Act of 1974 (FERPA) affords students certain rights concerning their student educational records.



# *Students' FERPA Rights*

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Students have 4 basic rights under FERPA:

- ★ The right to control disclosure of their educational record
- ★ The right to inspect and review their educational record
- ★ The right to request amendment of their educational record
- ★ The right to file a complaint with the U S Dept of Ed regarding an alleged FERPA violation



# *Recent Changes to FERPA*

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- ★ Released in December 2008
- ★ No changes to basic rights of students or responsibilities of institutions
- ★ Clarifications and interpretations



## *Health or Safety Disclosures*

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- ★ Information from student record can be disclosed without student consent if a student is judged to present an “articulable and significant threat to the health or safety” of himself or others
- ★ Permits disclosure to those who can assist the student



## *Health or Safety Disclosures*

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- ★ Does not permit disclosure on a routine, non-emergency basis to law enforcement
- ★ Must record the “articulable and significant threat” and parties to whom the information was disclosed



## *Other Recent Changes*

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- ★ “In attendance” includes students in online courses
- ★ Permits return of record to provider or creator of record without student consent (e.g. suspected fraud)



## *Other Recent Changes*

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- ★ Requires school to use “reasonable methods” to ensure school officials have access to only those records they need
- ★ Must use “reasonable methods” to authenticate parents, students, faculty and staff prior to release of records (e.g. password, token)





## *Other Recent Changes*

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- ★ “School officials” may include third parties under contract who provide services or functions the institution would normally provide
- ★ Allows release without consent to organizations conducting research studies
  - School must agree with purpose of study
  - Requires written agreement with organization conducting study



## *Other Recent Changes*

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- ★ De-identified data may be released without consent
- ★ De-identified data must not include any data that “would allow a reasonable person in the school or its community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty”



## *Other Recent Changes*

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- ★ SSN may not be defined as directory information
- ★ Student ID number may be directory information only if it cannot be used by itself to gain access to educational records
- ★ Peer graded papers/exams are not considered part of the educational record prior to recording of the grade in the faculty grade book



## *Other Recent Changes*

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- ★ Confidentiality requests are in effect permanently until rescinded by the student, even after student is no longer enrolled
- ★ Confidentiality does not permit student to be anonymous in classroom nor to impede classroom communication



## *Other Recent Changes*

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- ★ Exception to consent allowed in the case of ex parte court order to collect education records relevant to an investigation or prosecution of an act of domestic or international terrorism (Patriot Act)
- ★ Exception to consent allowed under a community notification program concerning a student who is required to register as a sex offender in the state (Campus Sex Crimes Prevention Act)



## *Other Recent Changes*

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- ★ Clery Act requires a school to inform the accuser and the accused of the outcome of a school's disciplinary proceeding of an alleged sex offense
- ★ Schools may not require the accuser to execute a non-disclosure agreement or otherwise interfere with the redisclosure or other use of information disclosed under the Clery Act



## *Other Recent Changes*

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- ★ Suggested response for data breaches and other unauthorized disclosures
- ★ In the event of a data breach or unauthorized disclosure, contact the Privacy Office [Privacy@psu.edu](mailto:Privacy@psu.edu) or (814) 863-3049



# *Resources*

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Registrar's Office Web site

★ [Confidentiality/FERPA](#)

★ [Faculty and FERPA brochure](#)

★ [FERPA tutorial](#)