



Understanding FERPA

Sandra Navarro

Credit ESL

Adjunct Mentor 2015-2016

What is the purpose of this presentation?

- ▶ As part of my role as Adjunct Mentor in Credit ESL, I put together the following information in an attempt to understand, in practical terms, what FERPA means and how it applies specifically to faculty. My suggestions are advisory. I am not an attorney, but I am sharing the information that I gathered in order to inform our Credit ESL instructors about FERPA.

What is FERPA?

Family Educational Rights and Privacy Act (FERPA)

<http://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html>



Whom Does FERPA Protect?

- ▶ Any postsecondary student is protected by FERPA. Privacy rights transfer to individuals automatically at age 18. Until age 18, parents hold the privacy rights of the minor. However, once an individual becomes a postsecondary student, the privacy rights transfer to that student regardless of age.

“Jump Start” Students

enrolled in both high school and college courses

- ▶ If a student is attending a postsecondary institution - at any age - the rights under FERPA have transferred to the student. However, in a situation where a student is enrolled in both a high school and a postsecondary institution, the two schools may exchange information on that student. If the student is under 18, the parents still retain the rights under FERPA at the high school and may inspect and review any records sent by the postsecondary institution to the high school.
- ▶ The following slide has an exception.

Parents Who Pay the Bills

- ▶ As noted previously, the rights under FERPA transfer from the parents to the student once the student turns 18 years old or enters a postsecondary institution at any age. However, although the rights under FERPA have now transferred to the student, a school may disclose information from an "eligible student's" education records to the parents of the student, without the student's consent, if the student is a dependent for tax purposes. Neither the age of the student nor the parent's status as a custodial parent is relevant. If a student is claimed as a dependent by either parent for tax purposes, then either parent may have access under this provision.

Why is knowledge of FERPA important?

- ▶ "The breadth of FERPA is so large that it covers everything from preventing faculty from leaving students' papers in boxes outside their offices to influencing how we respond to media inquiries," says Gordon Stables, assistant dean of student affairs at the Annenberg School at USC. (LA Times OP-Ed, September 8, 2015)
- ▶ Think about it: In what ways could you accidentally violate student privacy?

What information about FERPA does GCC have for faculty?

- ▶ GCC has a FERPA Board Policy which you can read by searching FERPA on the home page and getting this link: [Glendale Community College District 5040 Board Policy RELEASE ...](#)

In People Soft, there is a short message for faculty:

Faculty Center:

FERPA Message for Instructor/Advisor

- **FERPA Restrictions** Educational records are kept by University offices to facilitate the educational development of students. Faculty and staff members may also keep informal records relating to their functional responsibilities with individual students.
- A federal law, the Family Educational Rights And Privacy Act of 1974 (also known as FERPA, and the Buckley Amendment) as amended, affords students certain rights concerning their student educational records. Students have the right to have some control over the disclosure of information from the records. Educational institutions have the responsibility to prevent improper disclosure of personally identifiable information from the records.
- WHEN IN DOUBT, err on the side of caution and do not release student educational information. Contact the Office of the Registrar for guidance.

[U.S. Department of Education Family Educational Rights and Privacy Act \(FERPA\)](#)

What policies do other campuses have?

- ▶ Examples of other FERPA policies:
- ▶ <https://www.calstatela.edu/its/itsecurity/ferpa/index.php>
- ▶ <http://www.smc.edu/EnrollmentDevelopment/Admissions/Pages/FERPA.aspx>
- ▶ <http://www.registrar.ucla.edu/faq/ferpafaq.htm>
- ▶ If you check out these pages, you will see that the FERPA information for faculty on these campuses is quite extensive and detailed in comparison to GCC's FERPA information. Hopefully, this presentation of information will lead to a better understanding of FERPA for GCC ESL faculty. Therefore, I have focused on the areas of FERPA of particular concern to ESL.

Email

I would advise that you correspond with students only through myGCC email addresses **and state this policy on your syllabus**. You should not respond to messages from Yahoo, Hotmail, etc. If a student sends an email from an unauthorized location, you can email them through the GCC system to remind them of the policy and ask that they redirect the email to you from their student email account.

- In addition, here's the GCC Guild contract language regarding the use of GCC email for faculty and administrators (Article IX, Section 13, page 127):
- **Section 13. District Enforcement/Disciplinary Action**
- **It is mandatory that each faculty member use the Glendale Community College E-mail system to receive official notices and communication from administrators and their Division Chair. Such notices and communications shall be identified in a different manner than routine emails. Each faculty member must use the College Website to access and submit rosters.**
- Because of the strong language in the contract to faculty regarding use of the GCC e-mail system, it would seem wise to correspond with your students through the same system. The following slide contains the official GCC Student Email Procedures.

Student Email and FERPA

- ▶ <http://glendale.edu/modules/ShowDocument.aspx?documentid=5236>
- ▶ Here is an excerpt from this document:
- ▶ **8. Privacy**
- ▶ **Email users should exercise extreme caution in using email to communicate confidential or sensitive matters and should not assume that email is private and confidential. It is especially important that users be careful to send messages only to the intended recipient(s). Particular care should be taken when using the “reply” command during email correspondence, because many mailing lists are configured to deliver replies to the entire list, not just the author of a given message.**
- ▶ **Confidentiality of student records is protected under the Family Educational Rights and Privacy Act of 1974 (FERPA). All use of email, including use for sensitive or confidential information will be consistent with FERPA.**

Canvas

- ▶ Canvas is the GCC supported course management system. No **student information** should be posted on any other systems. Doing so could lead to problems for the faculty member. Here is information from the University of Oakland about the use of non-supported systems:
- ▶ The University of Oakland legal department stated Moodle (GCC uses Canvas) is the supported and secure course management system at OU. Using other systems (e.g., Weebly) of non-institute supported course management could have serious consequences for the faculty. Any subpoenas and litigation discovery requests that require preservation of course materials, course activities, and other information will be provided by the institution. However, if a faculty member decides to use other tools, the burden of compliance in the event of subpoena or litigation discovery will be with the faculty.
- ▶ <http://lists.oakland.edu/pipermail/casap/2015-January/000399.html>
- ▶ Canvas is the GCC supported course management system. No student information should be posted on any other systems.

Peer Editing and Peer Grading

- ▶ Although the following case involved peer grading not editing, it serves as a warning to how far FERPA can be taken.
- ▶ In a 2002 landmark case, *Owasso ISD v. Falvo*, the parents of students felt that peer grading, where students exchanged papers so they could correct them as the teacher gave the correct answers to the class, humiliated the children. This case went to the Supreme Court, and their decision is given below:
- ▶ In a unanimous opinion delivered by Justice Anthony M. Kennedy, the Court held that Peer grading does not violate FERPA. The Court reasoned that peer-graded items did not constitute education records protected by FERPA until a teacher collected the grades on the students' papers or other items and recorded the grades in the teacher's grade book. In reaching its conclusion, the Court noted that peer-graded items were not "maintained" within in the meaning of FERPA, as the student graders only handled the items for a few moments. Moreover, the Court stated that each student grader, by grading assignments, did not constitute a person acting for an educational institution within FERPA. (end nglf: case.conclusion (Feb. 2002))
- ▶ However, I would recommend using caution. If a student objects to participating in peer editing, you should let them opt out.

Desk Drawer Records


- ▶ These are records that are kept in the sole possession of the maker, and are not revealed or accessible to another person. These could be notes to yourself about students, (e.g., notes used as a personal memory aid). However, they are not protected from disclosure during the discovery phase of litigation. Again, you should use caution with any student records.

Additional Suggestions

- ▶ Never share any information about a student with anyone but the student. Even the student's class schedule cannot be shared.
- ▶ You cannot provide the class roster to any unauthorized individuals.
- ▶ You may not provide your class roster to anyone for any commercial purpose.
- ▶ Never post grades by student name or ID.
- ▶ Use caution when returning papers so other students don't see the grades.
- ▶ Don't leave grades or student papers unattended in the classroom.
- ▶ Don't leave unattended computer screens with private information displayed or accessible.
- ▶ Because students can access the class assignments from Canvas, there is no need to ask students to exchange personal information with each other. This should be left to individual students to decide and not be required or suggested by the instructor.

Last, but Not Least

- Remember, you may be watched or recorded at any time, anywhere. Therefore, use caution discussing students with other faculty.
- Gossip among school personnel is not protected by qualified privilege; therefore, school personnel should refrain from aimless chatter involving a third party regarding confidential information on student records.



Hopefully this has been helpful to you. Please feel free to contact the Credit ESL office if you have any further questions.

