

FERPA Fun for UMACRAO and WACRAO

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Agenda

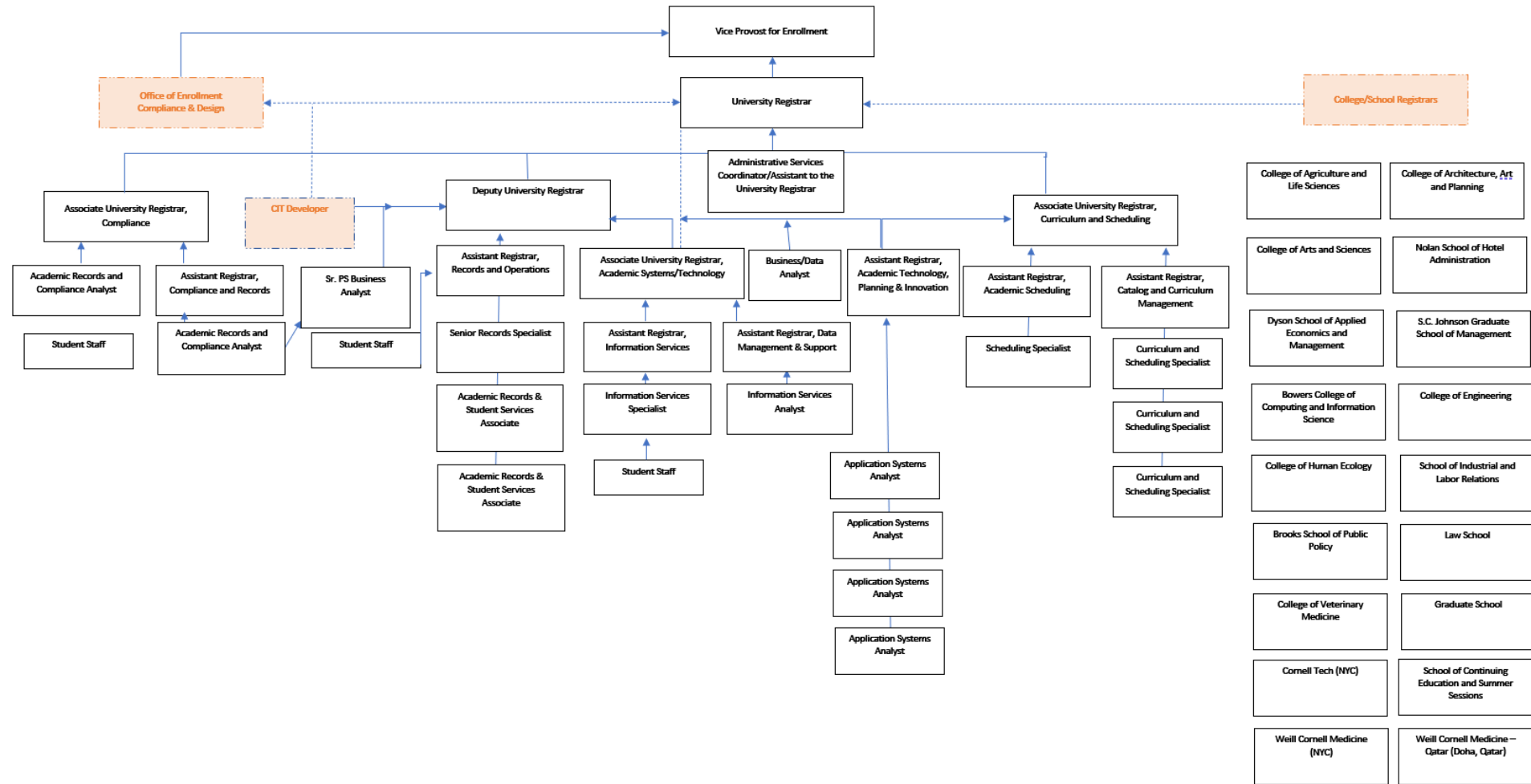
- How did I become a FERPA nerd?
- Level set
- FERPA chat (ongoing)
- Sample FERPA training slides
- FERPA hot topics
- FERPA on your campus
- Resources
- Questions and scenarios

How did I get here (become a FERPA nerd)?

- Professional experiences in Residence Life, Financial Aid, Student Retention Management, Supplemental Instruction, First Year Experience and Career Life Planning Instructor, and Admissions before I found “my people”
- NDSU: August 1999 – January 2020
 - Began in Registrar’s Office in 2004
 - Assistant Registrar, Associate Registrar, Interim Registrar, and Registrar (July 2014 – January 2020)
- Cornell: January 2020 - 😊
 - University Registrar

Cornell University

- Founded in 1865
- Located in Ithaca, NY, with locations in Geneva, NY, New York City, Qatar, Washington, D.C., and Rome
- 16 Schools and Colleges
- 15,800+ Undergraduate students
- 10,100+ Graduate/Professional students
- 10,500+ Full-time Faculty and Staff
- New York State's Land Grant University
- Member of Ivy League and AAU



How did I get here (become a FERPA nerd)?

- UMACRAO
 - New Member Committee, Local Arrangements Committee, Program Committee, Membership Chair, President Cycle
 - Presented/co-presented many sessions
 - Favorite: “FERPA: The “Stuff” You Can’t Make up: Part I and Part II” with Tina Falker
- AACRAO
 - Annual Meeting Co-Chair of Volunteers, Nominations and Elections Committee, BOD Vice President at Large, President Cycle
 - Presented/co-presented many sessions
 - Favorite: “FERPA: The “Stuff” You Can’t Make up: Part I and Part II” with Tina Falker and Rebecca Mathern

Let's level set!

- FERPA can be complicated and hard – it is murky at times, but there are also lots of clear answers to many FERPA FAQ's
- Many FERPA violations stem from a lack of understanding – the good news there is help!

Knock knock
Who's there? ~FERPA

FERPA who?

Sorry, I can't tell you
that....

som^{ee}cards
user card



FERPA Chat

- What FERPA issues give you pause?
- What do you hope no one ever asks you regarding student educational records because you have no idea how to answer it?
- In what areas of FERPA do you get the most pushback?
- Where do you believe you need the most FERPA ‘exercise’ to feel competent?

FERPA: We are in this together

- Basic sample slides

Why should I care about FERPA?

- FERPA is your responsibility!
- As member of the educational community at Cornell University, you have a legal responsibility under FERPA to protect the privacy of student education records in your possession or have access to.
- Your position places you in a position of trust and you are an integral part of ensuring that student information is handled properly.

“Need to know” is the basic principle of FERPA.

What are the basic student rights under FERPA?

- 1. Right to inspect and review their education records except:**
 - Information about other students
 - Financial records of parents
 - Confidential letters of recommendation if they waived their right of access
 - Have up to 45 days to inspect after request is made
- 2. Right to seek amendment to records they believe are incorrect**
- 3. Right to have some control over disclosure of education records**
 - Consent to disclosure to third parties
 - Restricted directory information
- 4. Right to file a complaint with Student Privacy Policy Office within the U.S. Department of Education**

When is a student a student at Cornell?

- When a student reaches the age of 18 or begins to attend a post-secondary institution, regardless of age, all FERPA rights belong to the student
 - For elementary and secondary students, if they are under 18 and not in a postsecondary setting, the FERPA rights belong to the parents/guardian
- FERPA begins for a Cornell student on the first day of classes/semester or attendance, whichever comes first, and the student continues to be protected by FERPA for their lifetime

What are education records?

- Any record directly related to the student (regardless of format or medium) maintained by the institution, or by a party acting for the agency or institution
- May not be released to a third party without a student's explicit written consent
- Records subject to FERPA are not subject to the HIPAA Privacy Rule
 - Health records on students, including immunization records, maintained by an educational agency or institution subject to FERPA are “education records”
- Examples:
 - Personal/biodemographic information (SSN, race/ethnicity, gender, nationality, student ID, etc.)
 - Enrollment records
 - Grades
 - Class list
 - Disciplinary records
 - Class Schedules
 - Student exams or papers
 - Financial aid information
 - Emails maintained by anyone at the institution, provided they are related to the student

What is NOT an education record?

- Records in “sole possession of maker”
- Law enforcement records created for a legal purpose
- Employment records, unless employment is based on student status (work-study, graduate teaching assistants)
- Medical/psychological treatment records
- Alumni records (created after student was enrolled)

What is a sole possession note?

- Made by one person as an individual observation or recollection and are kept in the possession of the maker (e.g., memory jogger)
- Notes taken in conjunction with any other person are not sole possession notes
- Sharing the notes with another person or placing in an area where they can be viewed or accessed by others makes them “education records” and they would be subject to FERPA
- Emails are never sole possession notes
- All information recorded in Salesforce and CUESR, including notes and reports, are part of the educational record
 - Follow guidelines from Salesforce Documentation Best Practices Committee for how to document student exchanges
 - Information available at <https://cornell1.force.com/cep/s/article/Advising-Portal-Documentation-Best-Practices>

FERPA Pro Tip:

Dance like no one is watching;
email/take notes

like it may one day be read aloud
in a deposition or appear on the front page
of your local newspaper.

What is Directory Information at Cornell?

- Directory information is an exception under FERPA that permits for the release of information in a student's educational record that is not considered to be harmful or an invasion of privacy if disclosed.
- Items that may be released without student consent (unless student has a FERPA flag):
 - Student name
 - Campus E-mail address
 - Local and cell phone numbers
 - Photograph
 - Major field of study and college attended
 - Academic level
 - Dates of attendance
 - Enrollment status (withdrawn, less than half-time, half-time, three-quarter-time, full time)
 - University assistantship status (e.g. teaching assistantship, graduate research assistantship, research assistantship, graduate assistantship)
 - Participation in officially recognized activities and sports
 - Weight and height (of members of athletic teams)
 - Any degrees earned and awards received
 - Date of birth and local address (for the sole purpose of federal census data responses)
 - **Note: Address information is not considered directory information at Cornell.**

“Just because you can, doesn't mean you should”


FERPA Reminders

- **FERPA indicates we MAY, not MUST release directory information – if in doubt, do not release.**
- It is ok to take time and circle back to someone requesting information.
- Other institutions may identify directory information differently than our institutional practices and that's ok!

What about health and safety emergencies?

- Can disclose to appropriate officials in a health or safety emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals
- Typically working through a Crisis Manager/Dean of Students; contact the Office of the University Registrar with questions

What is a FERPA flag in PeopleSoft?

- Students have the right to suppress directory information from public release; students suppress all or none of their information
- Everyone at the institution must respect a student's record suppression
- This icon, found on the Peoplesoft Student Record, indicates the student has a FERPA flag/directory suppression on file
 - Text within this flag indicates language to say: “I have no information to release on this individual.” 

Is it ok to share education records with others on campus?

- Institutions may disclose education records, without consent of the student, if the disclosure is to school officials (including faculty and staff), whom the institution has determined to have a **legitimate educational interest**.
 - Faculty/Advisors
 - Campus Security/Police
 - Disability Services
 - Student Affairs/Academic Affairs
 - Alumni Relations
 - Athletics
 - Information Technology
 - College/School Offices
- Annual Notification of FERPA Rights includes criteria for determining who constitutes a school official and what constitutes a legitimate educational interest
 - Legitimate educational interest generally means a “need to know”: the school official needs access to the education records in order to fulfill their professional job responsibilities
 - Emailed to students annually; also included in Courses of Study

What is written consent?

- To disclose education records, a student must provide a signed and dated written consent
 - The consent must:
 - Specify record that may be disclosed;
 - State purpose of disclosure; and
 - Identify party or class of parties to whom disclosure may be made
- Each college manages this process differently; as of now, there is not a centralized solution or form

What is written consent, continued?

- Some examples of exceptions to written consent requirement:
 - Directory information
 - School official with a legitimate educational interest
 - Seeks or intends to enroll at an institution
 - Audit (OUR notes in PeopleSoft)
 - Health or safety emergencies (must be documented)
 - Accrediting organization (OUR notes in PeopleSoft)
 - Complying with a judicial order or subpoena

How can I share education records appropriately?

- Review CIT's Regulated Data Chart to determine FERPA usability for various products (permitted/restricted/prohibited)
 - <https://it.cornell.edu/regulated-data-chart-0>
- Utilize CIT's Secure File Transfer
 - <https://sft.cornell.edu/login>

What happens when there is a FERPA breach?

- A FERPA breach is when an education record is shared where it should not have been – big or small
- Reach out to college registrar or OUR
- Will need to know date, time, impact of breach, methodology, any additional appropriate details, remediation plan
- OUR reports to CIT's DPIRT for review and action
- University Registrar is a DPIRT member

Are there FERPA considerations with social media?

- Be cautious about posting any course related information on social media, including information about grades, course enrollments, class schedules or asking students to “check in” with a location
- Avoid taking/posting photos of students in class activities where they are identifiable and named specifically by course, unless signed permission is obtained from each student

FERPA! FERPA!

FERPA!

FERPA Hot Topics

- Breaches
- Data integrations
- External data requests
- FERPA rights cease?
- General counsel
- Guests in the classroom
- Health and safety emergencies
- IRB
- Power of Attorney
- Program reviews
- Related legal requirements
 - HEA
 - GLBA
 - Open records laws
 - Contracts
 - SAIG
- Social media
- State privacy laws
- Subpoenas

FERPA on your campus

- Data governance review/approval process
- Variety of training approaches
 - Ideally, FERPA training is tailored for the audience (faculty, advisors, TA/GAs, academic staff, non-academic staff, etc.)
 - Targeted training towards situations relevant to someone’s role on campus
 - Make FERPA accessible
 - What works for one campus may not work for yours
- Find your FERPA friends and create a network to share “the ‘stuff’ you can’t make up!”

Key Resources

- American Association of Collegiate Registrars and Admissions Officers (AACRAO)
 - <http://www.aacrao.org/>
- U.S. Department of Education's Student Privacy Policy Office (SPPO)
 - <https://studentprivacy.ed.gov>
 - Data Breach Checklist:
https://studentprivacy.ed.gov/sites/default/files/resource_document/file/checklist_data_breach_response_092012_0.pdf
 - Photos and Videos: <https://studentprivacy.ed.gov/faq/faqs-photos-and-videos-under-ferpa>
- SPPO and Privacy Technical Assistance Center (PTAC) hosting the National Student Privacy & Data Security Webinar Series
- FERPA Applicability to Research
 - With permission from Rebecca Mathern at Oregon State University
 - <https://research.oregonstate.edu/irb/policies-and-guidance-investigators/decision-trees/ferpa-applicability-research>
- FERPA Jeopardy, FERPA Feud also available

Contact Information

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