FERPA Overview

BASIC CONCEPTS

INSTITUTIONAL RESPONSIBILITIES

Carlos S. Lobato, CISO
Information Technology Services

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New Mexico State University
Basic Concepts/Institutional Responsibilities

• What is FERPA?
• Rights of Students
• Responsibilities of the NMSU system
• Consent Requirements
• When Consent May Not Be Required
• Record Keeping
• Enforcement
• NMSU Policy and Resource
What is FERPA?

• The Family Educational Rights and Privacy Act (FERPA)
• Federal Law that protects Student Educational Records
• Institutions that receive funds under a program administered by the U.S. Department of Education (ED) must comply with FERPA.
• FERPA does apply to virtually every postsecondary institution in the United States.
Rights of Students
At the postsecondary level, FERPA affords eligible students these rights with respect to their education records:

- To inspect and review the student's education records maintained by the school;
- To request amendment of any education records that they believe to be inaccurate or misleading; and
- To consent to the disclosure of personally identifiable information (PII) from the student's education record to third parties, subject to certain exceptions.

An "eligible student" is defined in FERPA as a student who has reached 18 years of age or is attending a postsecondary institution at any age.
Responsibility of NMSU system

Note: Financial Aid Funding at risk if not compliant
Responsibility of NMSU system

3. The Institution agrees to comply with --
   a. Title VI of the Civil Rights Act of 1964, as amended, and the implementing regulations, 34 C.F.R. Parts 100 and 101 (barring discrimination on the basis of race, color or national origin);
   b. Title IX of the Education Amendments of 1972 and the implementing regulations, 34 C.F.R. Part 106 (barring discrimination on the basis of sex);

https://eligcert.ed.gov/eapp/ppa_doc?ope=002657&id=47833

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PPA. OPE ID: 00265700. PPA Expiration Date: 06/30/2022

Note: Compliance requirement with FERPA and GLBA
Responsibility of NMSU system

The GLBA requires institutions to, among other things:

- Develop, implement, and maintain a written information security program;
- Designate the employee(s) responsible for coordinating the information security program;
- Identify and assess risks to customer information;
- Design and implement an information safeguards program;
- Select appropriate service providers that are capable of maintaining appropriate safeguards; and
- Periodically evaluate and update their security program.
Responsibility of NMSU system

Under these GLBA requirements, Presidents and Chief Information Officers of institutions should have, at a minimum, evaluated and documented their current security posture against the requirements of GLBA and have taken immediate action to remediate any identified deficiencies.

Finally, we also are informing institutions that the Department is beginning the process of incorporating the GLBA security controls into the Annual Audit Guide in order to assess and confirm institutions’ compliance with the GLBA. The Department will require the examination of evidence of GLBA compliance as part of institutions’ annual student aid compliance audit.
Consent Requirements

A student must consent to disclosure of his or her information. If consent is required, the student must provide a **signed and dated written consent** before a college or university may disclose PII from the student's education records. The written consent must include —

• The specific records that would be disclosed;

• The purpose of the disclosure; and

• The identity of those individuals or groups who would have access to the records.
Consent May Not Be Required

• Schools may disclose PII **without consent** —
  • To **school officials** with legitimate educational interest
  • To schools where student seeks to enroll
  • To Federal, State and local educational authorities conducting audit, evaluation or enforcement of Federally or State-supported education programs
  • In connection with financial aid applied for or received, if information is needed for **certain purposes**
  • To victim or alleged perpetrator of certain crimes
  • To organizations conducting studies to improve instruction and for certain other purposes
  • To accrediting organizations
  • To parents of dependent student
  • To comply with judicial order or subpoena
  • In health or safety emergency
  • **Directory information** – Annual Notice – Can Have on Website
Record Keeping

Schools must maintain a record of each request for access to PII and of each disclosure of PII from the education records of each student. For each request or disclosure, the record must —

- Identify the parties requesting or receiving PII from the education records; and
- Include the parties' legitimate interests in requesting or obtaining the information.

- A school must keep a record of all requests and disclosures with the student's education records for as long as it maintains the education records.
Enforcement

The Family Policy Compliance Office (FPCO) investigates, processes and reviews timely FERPA complaints filed by parents and eligible students. FPCO also provides technical assistance to schools on FERPA compliance.

**Enforcement options** against an educational agency or institution that has a practice of improperly disclosing PII from an education record include —

- Withholding further payments under any applicable program;
- Issuing a complaint to compel compliance through a cease-and-desist order; and
- Terminating eligibility to receive funding under any applicable program.

FPCO works with educational agencies and institutions to bring them into voluntary compliance with FERPA before applying the previously mentioned enforcement options. For this reason, FPCO encourages voluntary self-reporting of breaches and FERPA violations.
NMSU Policies and Resources

- 5.40 – Access to Student Educational Records – FERPA Compliance
- Registrar is the Responsible Administrator
- CIO, IT Compliance and CISO will handle Data Breaches
- CPO and CISO available to answer questions
- CISO can reach out to PTAC
Contact Information

Carlos S. Lobato, CISO
Information Technology Services
Information Security

575-646-5902 or Teams
clobato@nmsu.edu