



UNIVERSITY OF  
WEST GEORGIA

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Area Academic and Research (Procedures)  
Chief Or Responsible Office Chief Research Officer

## FERPA and Use of Education Records for Research

Authority for Procedure granted by UWG Policy #[2014, Research and Sponsored Projects](#).

### A. Purpose

The Family Educational Rights and Privacy Act (FERPA) is a federal law that protects the privacy of Student Education Records, addressing when the disclosure of such records is permissible, and affording certain rights to parents and eligible Students. This law applies to all educational institutions (i.e., K-12 and postsecondary) that receive funding under programs administered by the U.S. Department of Education (DOE).

This procedure describes the process the University of West Georgia (UWG) Institutional Review Board (IRB) follows to ensure compliance with FERPA requirements when Student Education Records are accessed or used in Human Subjects Research.

### B. Use of Education Records Without Consent

Researchers may receive or use Education Records without Consent **only** when a specific FERPA exception applies. FERPA strictly limits these circumstances, and Researchers shall not assume that Research qualifies as an exception unless explicitly permitted by the educational institution and supported by applicable law.

The primary FERPA exceptions that may allow **disclosure without Consent** for Research-related purposes include:

#### 1. Directory Information

[Directory information](#), as defined by the educational institution, may be used and disclosed without Consent. At UWG, Directory Information is defined by the University System of Georgia Academic and Student Affairs Handbook, [03.02 Student Privacy](#), and published on the [UWG FERPA for Students webpage](#).

- Students may exercise their right to “opt out” of Directory Information disclosure.
- If the Student has opted out, Directory Information may not be released without Consent unless another FERPA exception or law applies.

To request UWG Directory Information, email [openrecords@westga.edu](mailto:openrecords@westga.edu).

## 2. De-Identified Records

De-identified Education Records may be used and disclosed without Consent. These are records from which all Personally Identifiable Information (PII) has been removed, making it impossible to identify a specific Student. Examples include:

- **Grade distributions** for a course (e.g., “25 A’s, 15 B’s, 10 C’s”) without any Student names or ID numbers.
- **Aggregated retention or graduation statistics** at the program, department, or institutional level.
- **Survey results** where no names, Student IDs, email addresses, or indirect identifiers (e.g., unique characteristics) are included.
- **Anonymized test scores** where individual Student scores are listed only as random codes that cannot be linked back to Students.
- **De-identified course evaluation data** stripped of names, Student emails, or any comments containing personal references.
- **Summary analytics from a Learning Management System** (e.g., average time spent on a module) without user-level identifiers.
- **Research datasets** in which direct identifiers have been removed, and indirect identifiers have been generalized or suppressed (e.g., age ranges instead of specific ages).

## 3. Officials with Legitimate Educational Interest

Institutions may grant access to Education Records to School Officials who have a Legitimate Educational Interest, as defined by the institution.

***Important:** This exception does not apply to Human Subjects Research because:*

*Researchers are **not accessing records to perform their institutional job duties**, and Research activities **do not automatically constitute a Legitimate Educational Interest**.*

## C. Use of FERPA Exception in Human Subjects Research

### 1. General Rule

Most Human Subjects Research requires written Consent, as FERPA permits disclosure of PII without Consent only in limited, defined circumstances (i.e., Directory or De-identified information).

## 2. Authorized Studies Exception

The FERPA **Studies Exception** (34 CFR § 99.31(a)(6)) permits disclosure of PII without Consent **only** when the Research is conducted *for or on behalf of* an educational institution and directly supports institutional functions, such as:

- **developing, validating, or administering predictive tests;**
- **administering Student aid programs;** or
- **improving instruction.**

To rely on the Studies Exception, **all** of the following regulatory conditions must be met:

- Execution of a **written agreement** between the disclosing educational entity and the Research organization.
- **Protection against Re-identification.**  
*The agreement includes protections against Re-identification and limits access to Officials who have a Legitimate Educational Interest in the study.*
- **Destruction of PII** when no longer needed for the study.

If a study does **not** meet every condition above, Researchers must obtain **written Consent** from each subject or use **De-identified data**.

## 3. Disclosure Recording Requirement

Educational institutions must record all disclosures of PII made under the Studies Exception, as required by 34 CFR § 99.32.

## D. Responsibilities

This section outlines the responsibilities of both Researchers and the institution to ensure that all Human Subject Research involving Student Education Records complies with FERPA and applicable institutional requirements.

### 1. Researcher Responsibilities

Researchers seeking access to Education Records must:

- **Identify each educational institution involved** from which Education Records are sought (**without or without Consent**).  
(See IRB Submission Requirements.)
- **Obtain institutional authorization.**  
Secure written authorization from each institution that will provide Education Records. *UWG provides Institutional Authorization templates on the [IRB Forms webpage](#) to assist Researchers in obtaining required approvals.* (See Institutional Authorization and IRB Submission Requirements.)
- **Obtain written Consent when required.**

Researchers must obtain written and dated Consent from the eligible Student or from the parent, if a Minor, when FERPA does not permit disclosure of Education Records without Consent. (See Consent and IRB Submission Requirements.)

- **Obtain Education Records directly from the applicable educational institution.**  
Researchers must receive Education Records only from the applicable educational institution (e.g., UWG or another institution). Records may not be supplied informally or through intermediaries.
- **Comply with all institutional conditions.**  
Researchers must follow all terms, conditions, and restrictions imposed by the institution providing Education Records, including storage, security, De-identification, and destruction requirements.

## 2. Institutional Authorization

The institution that maintains the Education Records determines whether disclosure of the records is permitted under FERPA. At UWG, the **Office of the Registrar** reviews requests for **system-level access** to FERPA-protected Education Records and determines whether disclosure is allowed.

Researchers seeking access to Education Records containing PII without Consent must obtain a **FERPA exception**. At UWG, the **Office of Legal Affairs** reviews these requests and determines whether a FERPA exception allowing disclosure of PII for Research will be issued.

**Important:**

*Even when FERPA permits disclosure without Consent, the IRB may still require Consent to protect Human Subjects or meet other regulatory obligations.*

*If an educational institution denies access to FERPA-protected records, the UWG IRB **shall not overrule that decision**.*

*Access to records is at the discretion of the institution that maintains them.*

## E. Consent and IRB Submission Requirements

When FERPA does not allow disclosure of **Education Records without Consent**, Researchers must obtain appropriate written authorization **before** accessing PII. IRB submissions that involve access to Education Records **must fully document**:

- **How Consent will be obtained**, including the process and materials used,
- **How Education Records will be accessed, used, stored, and protected**, and
- **How FERPA requirements will be met throughout the study.**

UWG institutional authorization templates are available on the [UWG IRB Forms webpage](#).

### 1. Consent Requirements

If FERPA does not allow the use of Education Records without Consent, the Researcher must obtain written and dated Consent from the **eligible Student** or the **parent** if a Minor (i.e., under age 18).

A valid FERPA Consent must:

- **Explicitly authorize the educational institution to disclose Education Records** to the Researcher(s);
- **List or describe the specific records** to be disclosed;
- **State the purpose** for which the records will be used; and
- **Identify** the individual(s) or group(s) **who will receive and access** the identifiable records.

UWG's FERPA [Consent to Release Educational Records](#) form (PDF) is available on the [FERPA for Students](#) webpage and may be used to obtain individual UWG Student Consent.

## 2. Alternative Documentation of Consent

The IRB may approve an **alternative Consent method** if the educational institution providing the Education Records confirms that the method is acceptable. For example, identifiable electronic **Consent submitted from an institutionally assigned email account** (e.g., a UWG employee account or a student @my.westga.edu account) may be permitted.

## 3. IRB Submission Requirements

IRB submissions involving access to Education Records must include all **required documentation** and **explain** how the Researcher will comply with FERPA and institutional requirements. The submission must **fully describe and document** the following:

- **Specific Education Records to Be Accessed**  
Provide a clear list or description of the exact records to be disclosed and include all institutional authorization letters.
- **Study Team Access**  
Identify which study team members, by name and role, will have access to identifiable Education Records.
- **De-identification Plan** (if applicable)  
Describe how and when PII data will be De-identified.
- **Consent or Parental Permission Process**  
If Consent is required, *either eligible Students or for Minors*, explain:
  - **how Consent will be collected**, and
  - the **method of documentation** (e.g., written form, approved electronic method).

If access to PII will continue after a Minor subject reaches age 18 (i.e., adulthood), the IRB submission must include **one** of the following:

- **Process for obtaining Consent from the now-adult subject**, ensuring that continued use or access to their Education Records is authorized;
  - **Request for a waiver of Consent for subjects who reach age 18**, with justification for why obtaining new Consent is not practicable; or
  - **Process for De-identifying all data once the subject turns 18**, ensuring that no PII continues to be accessed or maintained.
- **Secure Storage and Destruction**

Describe how Education Records will be securely stored during the study and how records will be destroyed upon study completion.

## F. IRB Review Process

### 1. Initial Review

During initial review, the IRB shall:

- **Determine Whether Education Records Are Involved**  
The IRB will assess whether the proposed project includes access to Education Records subject to FERPA.
- **Review Institutional Authorization**  
If Education Records are proposed, the IRB will evaluate the institutional authorization letter(s) to determine:
  - whether the institution permits disclosure, and
  - whether written Consent is required.
- **Verify FERPA Consent Requirements**  
When written Consent is required, the IRB will verify that the submitted Consent documents include all the FERPA required elements (See IRB Submission Requirements).

### 2. Safeguards for Minors

When applicable, the IRB shall determine whether adequate procedures are in place to:

- **De-identify Education Records** in a timely manner; or
- **Obtain Consent from Minors as they reach adulthood**, and
- **Destroy Education Records** upon completion of the study.

### 3. Review Outcomes

For **non-committee reviews**, IRB staff shall provide the investigator with written review correspondence identifying any additional information, materials, or revisions required to ensure **FERPA compliance**.

For **committee reviews**, IRB staff shall provide written review correspondence outlining any missing information or required modifications necessary to achieve FERPA compliance.

IRB staff shall document determinations that FERPA requirements have been satisfied as follows:

- **For non-committee reviews**, documentation shall be recorded in the **review history**; and
- **For committee-reviewed Research**, documentation shall be reflected in the **meeting minutes** through the recorded motion to approve.

## G. Institutional Inquiries

Upon request, IRB staff shall respond to inquiries from educational institutions regarding approved

Research involving access to identifiable Education Records by verifying:

- The **specific Education Records approved** for access and/or use; and
- The **identity of authorized Researcher(s)**.

## Definitions

**Consent** - written or electronic consent, signed by the Student or otherwise verified by the Student if electronic, is dated and specifies the specific records to be disclosed, the party to whom the records are disclosed, and the purpose of the disclosure.

**De-identify** - the process of editing a document to conceal or remove confidential information before disclosure or publication.

**Directory Information** - information in a Student's Education Record generally not considered harmful or an invasion of privacy if disclosed.

**Education Records** - shall have the same meaning as 20 U.S.C. 1232g(a)(3): those records, files, documents, and other materials (in handwriting, print, tapes, film, computer, or another medium) which contain information directly related to a Student and are maintained by UWG or a party acting for the University, including a Student's admissions, disciplinary, academic, financial, employment, etc. For a detailed description of education records, see the [Definition](#) section of the Family Educational Rights and Privacy Act (FERPA) procedure.

**Human Subjects** - "living individual(s) about whom an investigator conducting research obtains: (1) data through intervention or interaction with the individual; or (2) identifiable private information" (§ 46.102(f)). Humans are considered subjects and covered by Federal regulations if the researcher: (1) interacts or intervenes directly with them; or (2) collects identifiable private information. If one of these two conditions applies and if the project or study qualifies as research, then institutional approval is needed before any work is undertaken.

**Learning Management System (LMS)** - a centralized web-based software application utilized to manage, deliver, track, and report on educational courses, content, and learner progress. Examples of such platforms are D2L Brightspace (CourseDen), Moodle, Blackboard Learn (Anthology), etc.

**Minor** - an individual under the age of 18 who has not attended a postsecondary institution as defined by FERPA. For FERPA purposes, *attendance* includes participation in any instructional activity, whether in person or by paper, online, video conference, satellite, or other electronic means at a postsecondary institution.

*A postsecondary institution* is any college, university, or other institution that provides education beyond the secondary (high school) level and receives funding from the U.S. Department of Education. When a student attends a postsecondary institution at any age, they become an "eligible student," and FERPA rights transfer from the parent to the student.

**Personally Identifiable Information (PII)** - Information that can be used to distinguish or trace an individual's identity, either alone or when combined with other information that is linked or linkable to a specific individual. Personally Identifiable Information shall have the same meaning as 34 CFR § 99.3.

For a detailed description of PII, see the [Definition](#) section of the Family Educational Rights and Privacy Act (FERPA) procedure.

**Re-identification** - the process by which data that has been de-identified is matched with other information to determine the identity of an individual. In the context of FERPA, re-identification occurs when a person's identity can be reasonably determined from a dataset that was intended to remove or obscure Personally Identifiable Information (PII). Re-identification is prohibited when education records are disclosed under FERPA exceptions, including the "Studies Exception."

**Research** - The Common Rule defines **research** as "systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to general knowledge" (§ 46.102(d)). This means that a project or study is research if it: (1) is conducted with the intention of drawing conclusions that have some general applicability; and (2) uses a commonly accepted scientific method. The random collection of information about individuals that has no general applicability is not research.

**Student** - any individual who **is or has been in attendance** at an [educational agency or institution](#) and for whom the agency or institution maintains [education records](#). For FERPA purposes, UWG considers an admitted student to be "*in attendance*" upon the first day of the full semester. The term "*student*" does not include individuals who have applied, been accepted, or registered for classes but did not attend University instructional activities.

**University Official with a Legitimate Educational Interest** - any person employed by the University who requires access to an Education Record to fulfill their official responsibilities on behalf of the University. These persons may include administrative, supervisory, academic, support staff, the law enforcement unit, and/or health staff; a person or company with whom the University has an affiliation or contract; the USG BOR; a person employed by System Administration; or an individual assisting another University Official in performing their tasks (such as a volunteer or committee member).

## Forms

Institutional Authorization templates and forms are accessible on the [IRB Forms](#) webpage.

The **Consent to Release Educational Records (PDF) form** is available on the [FERPA for Students](#) webpage.

## Guidelines/Related Material

Family Educational Rights and Privacy Act (FERPA): <http://www2.ed.gov/policy/gen/reg/ferpa/index.html>

National Archives, [Code of Federal Regulations webpage](#) - FERPA "*Studies Exception*" 34 CFR § 99.31(a)(6)

[U.S. Office of Research Integrity \(ORI\) webpage](#)

[UWG PL 5003, Family Educational Rights and Privacy Act \(FERPA\)](#)

[UWG FERPA webpage](#)

- [FERPA for Students](#)
- [FERPA for Parents and Guardians](#)
- [FERPA for Employees, includes Researchers](#)

## Approval Signatures

Step Description	Approver	Date
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