

### How do FERPA requirements impact my research?

The Family Educational Rights Privacy Act (FERPA) was established in 1974 to protect the rights of students (20 U.S. Code 1232g). The law applies to all schools (i.e. elementary, secondary, and higher education institutions) that receive funds under an applicable program of the U.S. Department of Education. The IRB of the University of North Georgia bases its FERPA policies on an interpretation of [Title 34 CFR Part 99](#). FERPA impacts researchers in that data not included in the student directory information cannot be utilized in research without the permission of the IRB and the research participant. Keep in mind, however, that the IRB cannot overrule the institution's decision to deny access, and if the IRB disapproves the proposed research, the institution may not approve disclosure of information associated with the research.

### What information is protected by FERPA?

Items that do not fall under student directory information cannot be utilized in research without going through the proper channels. FERPA requires that students be given the option to “opt out” of allowing directly information to be shared, and if students choose to opt out, this information may not be disclosed (99.37). **Note:** For a general definition of the term “directory information” please see [34 CFR 99.2](#) and [1232g\(a\)\(5\)\(A\)](#). To see what UNG considers directory/non-directory information please refer to the [UNG Registrar's website](#).

Researchers need to receive consent from student research participants in order to utilize information that falls under FERPA's definition of education records (for definitions of “education record” or “records” please refer to 34 CFR 99.2 and/or 1232g(b)(3),(b)(5)(a)(4)). This includes – but is not limited to – end-of-course grades or any other grades or assignments produced within a class. In other words, instructors cannot use information to which they might have natural access for purposes other than instruction and evaluation without informed consent. Course grades are considered part of the students' official records and thus belong to the student, and permission of the student should be obtained through informed consent, along with permission of the Registrar. Other information not typically in a student directory could include race, gender, birthdate, GPA, country of citizenship, social security number, residency status, and financial aid (including PELL Grants or HOPE Scholarship) or academic status. This list, however, is not exhaustive.

### Does this mean that I cannot use my students' grades or coursework in my research without IRB approval?

Yes, FERPA regulations apply even when using your “own” records. Unless you have received a waiver (see UNG IRB Guidelines 1.4), you must receive IRB approval and student consent in order to utilize any grades and/or work completed within your class, including assignments such

as papers, journals, projects, and tests (34 CFR 99.2). In practical terms, this means that you will need to obtain student consent either by securing access to educational records contained in UNG's directory (see IRB Form 7.1) or – if this is not possible – by obtaining consent via established informed consent procedures (see Form 3.1). Irrespective of the consent route, however, student research participants need to be informed about the following three issues so they know what they are consenting to: (1) nature of records that will be disclosed/used, (2) the purpose of the disclosure, and (3) the identification of the part of class or parties to whom the disclosure may be made (34 CFR 99.30).

### **What if my study is large-scale and consent for release of data not included in student directory information is difficult to obtain?**

For large-scale research projects where consent is difficult and/or impossible to obtain, you may want to consider applying for a waiver. While the IRB will consider requests for waivers on a case-by-case basis, all requests should be made during the regular IRB application process. Keep in mind, however, that your ability to use this data will remain contingent upon IRB approval and student consent. Note: If the IRB grants the waiver, a designated school official will strip any personally identifiable information (PII) before the dataset will be shared with you (for a definition of the term “PII” please see federal regulations [34 CFR 99.3](#) or [20 U.S. Code 1232g](#)). Examples of PII include – but are not limited to – student names, student identification numbers, grade lists, place of birth, ethnicity, course schedules, academic status, and advisor names. The waiver, however, does not absolve you of the responsibility to notify the students of the possibility to opt out of research project. Students retain this right to their educational records even if they no longer attend UNG (34 CFR 99.37).

### **How does FERPA apply to proposed prekindergarten through 12-grade research?**

FERPA applies to all research projects conducted within local PK-12 schools and school districts. The PI is responsible for obtaining IRB approval from the University of North Georgia, and s/he also needs to comply with any additional safeguards that have been put into place by individual school districts. While the UNG IRB will not require PIs to submit school district approvals with their IRB applications (also see UNG IRB Guidelines 1.8), PIs need to understand, meet, and gain approval of *both* ethical research boards before their research can begin. Also, keep in mind that the IRB cannot override a school district's decision to deny access to certain information to the researcher.

### **Are there research projects involving access to data not typically included in student directory information that do not require informed consent from participants?**

Educational institutions may disclose, without consent, student data to those conducting studies for, or on behalf of, educational institutions to (1) develop, validate, or administer predictive tests; (2) administer student aid programs; or (3) improve instruction (34 CFR 99.31). Educational records may be released, as well, for institutional research; however, individuals proposing to publish or publicly disseminate such research would need IRB approval before proceeding.

*If you need this document in another format, please email [irbchair@ung.edu](mailto:irbchair@ung.edu) or call 706-867-2969.*