FERPA
Family Educational Rights and Privacy Act of 1974
(also known as the Buckley Amendment)

Winthrop University
Office of Records and Registration
1. Review the basics rights under FERPA

2. Look at federal clarifications

3. Discuss some case studies

4. Take a FERPA quiz
What is FERPA?

A Federal Law designed to protect the privacy of education records.

Three basic FERPA rights:

1. Students have a right to inspect & review their educational record.
   a) Inspect and review within 45 days of the request to inspect.
   b) Students do NOT have the right under FERPA to inspect:
      - financial records of parents;
      - letters of recommendation when the student has waived, in writing, their right of access;
      - information about other students
Three basic FERPA rights, continued:

2. **Students have a right to seek to amend** - address perceived inaccurate and misleading data.
   
   - Right to a hearing if school refuses to amend record.
   - Right to insert a statement.
   - This is NOT a right to dispute unsatisfactory grade by a teacher.
3. Students have a right to have some measure of control over disclosure of information from their educational record.

   a) Student’s written permission is required before releasing information from their record.
   
   b) Consent must:
   
       ○ Specify the records that may be disclosed (e.g. grades, health, advising, disciplinary)
       ○ State the purpose of the disclosure
       ○ Identify the party or class of parties to whom a disclosure may be made
New employees who work in Banner are expected to complete basic FERPA training before being given access to student information.

Access to student records in **Banner (INB and Wingspan)** and **DegreeWorks** requires signing a security policy which outlines appropriate use and consequences for inappropriate use.
KEY FERPA TERMS

- eligible student
- education record
- directory information
- personally identifiable data
- school official
An **eligible student** is a student who is or has **been** enrolled at WU.

The Registrar defines “enrolled” as “registered for classes” (and therefore has FERPA rights)

**Applicants for admission have limited FERPA rights.**

- Records for freshman applicants can be discussed with parents.

- However, transcripts from other institutions are covered.
FERPA is in effect - regardless of age.

- Once a student enrolls, FERPA rights revert from parent to student.
- High school students taking college classes have FERPA rights.
- However, the high school & postsecondary institution may exchange information on student without student’s written consent.
- Parental access would be gained through the high school.
“EDUCATIONAL RECORD”

Educational records are:

1. Any record or materials which contain information where a student can be personally identified **AND**
2. Are maintained by any office, employee, or agent of the university.

- **Electronic** - an email, video conference, internet, other electronic data.
- **Printed.**
- **Handwritten notes.**
- **Film, CD's, etc.**
- **Graded tests, papers, assignments, instructors' grade books.**
A. **Sole Possession Notes**: (aka Sole Source Notes)

- Kept in the sole possession of the person who created them.
- Notes an instructor or staff member keeps -
  - notes on a student that no one else sees, never shared.
  - no one else was involved when creating the notes.

- Once shared with someone, or placed in an area where may be accessed by others they become educational records – and subject to FERPA and to subpoena.
MORE EXCEPTIONS TO “EDUCATIONAL RECORD”:

B. Law Enforcement Records.
- Kept apart, only for law enforcement purposes.
- Once shared with WU administrators/staff/faculty (e.g. submitted for a committee to review) they become part of student’s educational record.

C. Medical Treatment Records.
Records created by a WU health facility but used only by professionals and disclosed only to individuals providing treatment.
- Can become educational record if provided by student, e.g. to a committee or to an instructor.
- Disclosure of “treatment records” are subject to FERPA not HIPAA. Any record subject to FERPA is not subject to HIPAA.
- Disability records are educational records, not treatment records.
More exceptions, cont.

D. Alumni Records:
- Only that information which is acquired after student has left the university. (For example, where the alum is now employed.)
- All information gathered during time the alum was a student remains protected by FERPA as part of the educational record.

E. Employee Records:
- Unless the employment is contingent upon school attendance, (e.g. GA records, work study records) then human resource records are not subject to FERPA.
Winthrop defines “directory information” as:

1. Student’s name
2. Address (*but never residence hall address*)
3. Telephone number
4. Email address
5. Place of birth (date of birth was removed as of November 2014)
6. Major and minor fields of study
7. Participation in officially recognized activities and sports
8. Height/weight of athletic team members
9. Date of admission
10. Dates of attendance (enrollment verification)
11. Classification (Freshman, etc.)
12. Degrees and awards received
13. Eligibility for honor societies
14. Most recent educational institution attended
15. Photographic, video or electronic images of students

*If it is not on this list – don’t release it!*
FERPA rules regarding directory information:

- **Students must be notified of the items of directory information.** (This info is in the catalog and on our website, and students are notified by email each semester.)

- If a data element isn’t explicitly defined as directory information, it is not directory information.
  - It cannot be released **without** the student’s written permission.
  - Unless the release can be justified under one of the exceptions in FERPA *(e.g. school officials, regarding financial aid application, subpoena).*
DIRECTORY INFORMATION RULES.....

• Students must be given the opportunity to request that directory information **NOT** be released.

  ➢ At WU this is the Banner **CONFIDENTIALITY** flag.

  ➢ Banner CONFIDENTIALITY flag applies to non-disclosure of directory information only.

  ➢ CONFIDENTIALITY is requested, in writing, at the Office of Records and Registration and once in effect remains so until revoked by the student, in writing.

  ➢ All or nothing – can’t pick and choose directory items.
Directory Information Rules.....

If you see the Confidentiality note in Banner:

- Suggested response:
  - “I have no information that I can release related to that individual.”

- Do not even confirm they are a student.

- Sometimes these are situations involving personal safety.
Confidential notation in Banner

This will appear on every screen in Banner:
**Confidential Notation in Wingspan:**

- The word “Confidential” will appear by the student’s name.

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<tr>
<th>Record Number</th>
<th>Student Name</th>
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<td>Confidential</td>
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</tbody>
</table>
By law, these are **never** directory information:

- Student ID number
- Social Security Number
- Race/ethnicity
- Gender
- Grades
- GPA
- Country of citizenship/nationality
- Religion
- Academic Standing

*The above are always subject to FERPA protection!*
“PERSONALLY IDENTIFIABLE DATA”

1. A data element unique to that individual: Social Security Number or WU student ID number are “personal identifiers”.

2. Direct identifiers: name of the student, the student’s parent, or other family members.

3. Indirect identifiers: date of birth, place of birth, mother’s maiden name, etc.

4. The student’s campus (residence hall) or home address.

5. A list of personal characteristics or other information which alone or in combination would make the student’s identity easily traceable.

While some of these may be directory information, you cannot release any items that if disclosed alone, or together with another data element, would allow “a reasonable person to reasonably identify” an individual... per Jan.2009 US DOE FERPA clarifications.
Review: basic student FERPA rights

1. Right to inspect and review everything in their record. (Students have 24-hour access to grades through Wingspan/DegreeWorks.)

2. Right to request changes to their educational records and to appeal a decision of the university to not make requested changes.

3. Right of some control over the disclosure of information from their education record.

   • *Without a student's written permission, it is a violation of FERPA to release non-directory information to third parties (unless it’s one of the “exceptions”).*  
   
   ➤ *Parents are a “third party”.*
WHAT ABOUT PARENTS?

1. Right of access and control of information transfers from the parent, to the student, when a student *enrolls at a postsecondary institution* (regardless of age).

2. Parents may obtain non-directory information, (grades, etc.), by obtaining a *signed written consent* from the student.

3. Parents **may** obtain *non-directory information* (grades, etc.) after it has been determined that their child is legally their dependent, *(IRS Tax form)*, **at the discretion of the institution** - *not required to do so (“may” vs “must”).*
   
   - *WU allows parent access to their student’s information under this caveat.*
FERPA exceptions to written consent rule:

Written consent to release non-directory information is **NOT required from the student when it involves:**

1. A “school official” with a **legitimate educational interest** or education related "need to know“.
2. Other institutions where student has applied for admission, *e.g.* requesting information such as a transcript.
4. Student’s request for **financial aid**, *e.g.* sending data to National Student Clearinghouse.
5. Protecting the **health or safety of the student or others.**
   - When there is an “articulable and significant threat” to the health or safety of a student or other individuals.
   - In an emergency FERPA allows a school disclose information to appropriate parties without student consent (*e.g.* law enforcement, medical personnel).
6. State/local officials in conjunction with legislative requirements.

7. To comply with a judicial order or lawfully issued subpoena.

8. To the victim of an alleged perpetrator of a crime of violence, or nonforcible sex offense. *(Clery Act)*
   - Only the final results of the disciplinary proceeding conducted by the institution with respect to alleged crime/offense.

9. To parents of a student < 21 yrs., in connection with use or possession of alcohol or controlled substance in violation of law or policy.
Who is a “school official”......

A school official can be:

- A University administrator, faculty, or support staff, (including law enforcement and health staff personnel).
- A member of the Board of Trustees.
- A company or individual contracted by college to perform a special task such as the attorney, auditor, or collection agency.
- A student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks.
“LEGITIMATE EDUCATIONAL INTEREST” AT WINTHROP

• Definition: A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.

• FERPA dictates that a school official must have a "legitimate educational interest" or need to know the information before accessing an educational record.

➢ So.....no fishing expeditions about famous alumni, friends, or relatives allowed!
FERPA expectations of WU:

1. Expectation of security—that information in education records will be kept confidential.
2. Expectation that institutions use “reasonable methods” to limit access of “school officials” to only those records where there is a legitimate educational interest.
3. Expectation of tracking access to records – school is responsible for ensuring that it is taking appropriate measures to restrict and record access and disclosures.
4. Expectation of usage of “reasonable methods” to authenticate identity of parents, students, school officials, etc. to whom educational records are disclosed.
WU FERPA RESPONSIBILITIES:

1. Access to Banner, or any other repository of student records where you work, does NOT authorize unrestricted use of that student data.

2. Records should be used only in context of official business.

3. Curiosity does NOT qualify as legal right to know.

4. When in doubt, do not release information, directory or otherwise. Feel free to contact the Office of Records and Registration.

5. Oops!- an inappropriate release of information - could harm a student if they have a need for confidentiality or result in a violation of federal law and such complaints trigger federal FERPA audits.
Notes for Faculty & Staff:

GRADES:
- Protect a student’s grades from being accessible by others. Never post or leave in pick-up boxes with public access, or pass around the room.

RECOMMENDATIONS:
- Any recommendation that references grades or academic standing in a class must have the student’s written release. There is a form on the Rec and Reg website which can be used for this purpose.

EMAIL:
- Do not discuss a student’s academic record via email unless it is a Winthrop-issued email

STUDENT SPOUSES:
- Never release academic record information to a spouse without written permission of the student or power of attorney. Spouses have no rights to information.

When in doubt, refer the parent/guardian or spouse to the Registrar or Assistant VP for Academic Affairs.
Forms Online:

Please Note: These forms may NOT be submitted online because a signature is required. However, you may print, complete, and turn them in to the appropriate office. When completed, these forms may be faxed to Records and Registration at 803-323-4600 unless designated otherwise on the form.

The following forms are being made available to you as .PDF files unless otherwise noted. To access a form as a .PDF file, you must have the Adobe Acrobat Reader software which is available free of charge. (Install Acrobat Reader software.) Once you have installed the Acrobat Reader software, simply click on a form title below to open it in .PDF format:

* indicates typable PDF. Handwritten signature still required.

- Address Changes and Corrections Request *
- Application for Undergraduate Graduation *
- Application for Graduate Graduation
- Application for Undergraduate Readmission *
- Approval to Transfer Credit
- Change of Curriculum (Major/Minor/Concentration/Catalog)--Read Directions first!
- Citizenship Status Verification

Consent For Release (Used to allow faculty/staff to give recommendations for scholarships, job applications, and admission to graduate schools)
Balancing Student Privacy and School Safety.....the Patriot Act of 2001

• Permits educational institutions to disclose without the consent or knowledge of the student personally identifiable information from the student’s education records to the Attorney General of the United States in response to an \textit{ex parte} order in connection with the investigation or prosecution of terrorism crimes.

• \textit{Ex parte} order is an order issued by a court of competent jurisdiction without notice to a possible hostile party.
Balancing privacy and safety...continued

• As a result, FERPA, as amended, does not require a school official to record a disclosure of information from a student’s education record when the school makes that disclosure pursuant to an *ex parte* order.

• In other words, we don’t have to tell the student we made the disclosure.
Balancing Student Privacy and School Safety.....


**This amendment came out of the 2007 Virginia Tech shootings:**

A school official (includes faculty) can in general share with a **parent** personal knowledge or an observation about a behavior of a student **without** a student’s written consent.

*Examples:*

**OK** to speak to responsible parties about **observations** or direct information.

- You see two students get into a fight.
- A student tells you something directly, and you are concerned.

**Not OK** to share anything derived from their academic record.

- You know from personal knowledge that a student is failing.
Balancing Student Privacy and School Safety... continued

- A school official can share with medical personnel, law enforcement officials, and public health officials (as well as parents) records and information about a student without a student’s written consent.

- Only good for the time period of the emergency.
**Scenario:**
Local police call, a person claiming to be a student has been arrested.

- You know that the police has a policy of releasing an arrested student for minor infractions, (what is involved in this case), if they can verify that the person is a student.
- You check Banner and find the person is currently enrolled at WU but has a **CONFIDENTIALITY** flag.

**Do you verify to the officer that this person is a student?**
RESOLUTION...

You respond:

“I have no information that I can release on that individual.”

You are honoring the student’s FERPA right of non-disclosure.
Question...

True or False?

- Deceased student’s educational records are still protected under FERPA.
ANSWER:...

False.

- The privacy interests of an individual **expire** with that individual’s death.

- So, **NO**, deceased students are not protected by FERPA.
Consider this situation....

A faculty member has an emergency and must leave class before distributing test results to his students. He leaves the graded exams in a pile on the desk and instructs the student to pick them up themselves.

*Is this distribution method in compliance with FERPA?*
**ANSWER....**

**NO** – This method of grade distribution is a VIOLATION of FERPA and could subject the faculty and the University to a formal complaint.

Why? Because while trying to locate their own exam results the students would have access to other student’s data.
Question...

Someone calls claiming they are a student and wants you to discuss information from their educational record....they offer to give you the last 4 digits of the SSN as they do not remember their WU ID.

Can you verify their identity based upon the last 4 digits of the SSN, and their name?

Would this practice be FERPA compliant?
ANSWER...

NO – you may not do this.

“confirming directory information based on the last four digits of the SSN would not be permitted under FERPA. This equates to confirming the SSN which the new regulations specifically prohibit, absent written consent from the student.”

LeRoy S. Rooker, Senior Fellow AACRAO and former director of U.S. DOE FERPA Compliance Office.
A student has asked you to write a recommendation for a job. Which of the following can you disclose without the student specifying in their request?

A. Grades in your class
B. Work ethic
C. Grasp of the subject material
B and C

The student must specify if he or she wants her grade in your class to be released. The others are observations.
You go to the copier and find a student’s transcript on the glass. Do you:

a. Throw it in the trash
b. Take it back to your office and inform Records and Registration.
c. Put it back on the glass when you’re done with your own copying.
Answer...

B (take it back to your office and inform Records and Registration)
True or False:

1. A student has a right to inspect information in his or her file in the Registrar’s Office and in his or her academic home department or college. **TRUE**

2. Faculty have a right to inspect education records of any student attending WU without giving a reason. **FALSE = only if they have a legitimate educational purpose**

3. WU must release, to anyone, upon request, any information identified as directory information by the institution. **FALSE = they “may” --it is at the discretion of the institution**
4. Currently attending WU students have the right under FERPA to request that all of their educational records not be disclosed, to anyone, and WU must comply.

   **FALSE** = confidentiality rights only apply to directory information

5. Parents may obtain confidential information from their student’s academic record.

   **TRUE** = if student is a dependent, WU “may” legally decide to release information

6. A WU student’s degree can be confirmed to some external source without first obtaining the permission of the student.

   **TRUE** = degree is directory information
True or False—one more

7. A former student is involved in a lawsuit and some of his records have been made public. A reporter from the Herald calls and wants to discuss these records. It is OK to do this.

False
Review.......KEY FERPA CONCEPTS...

1. **Written permission required for disclosure of student education record:**
   - If it’s not Directory Information – don’t release it.

2. **Exceptions to written permission rule exist:**
   - Entities (school officials) with Legitimate Educational Interest
   - Financial aid providers and authorities

3. **Students have right to access & review their records, and due process for complaints.**

4. **Parents/parental disclosure –**
   - Parents may have access if they can produce current tax return which shows student is a dependent.
Office of Records & Registration

Our office hours are Monday through Friday, 8:30 a.m. to 6:00 p.m. (EST)

Mission Statement

The Office of Records and Registration supports the academic goals of Winthrop University by:

- Interpreting and communicating university academic policies;
- Serving as a liaison between faculty and staff and the Winthrop Community;
- Providing prompt, accurate and courteous administrative service in areas including, but not limited to, Cultural Events, Degree Audits, Graduation, Registration, Transcripts, and Veteran Benefits;
- Identifying and using effective technology to ensure efficiency in student and administrative services.

Our commitment to such guarantees the security, confidentiality, and integrity of institutional and student records.

Registrar's Welcome

As the one office on campus which interacts with every student and every faculty member every semester, we strive to provide the very best service possible to every person.

These pages are one way of giving our students, faculty, staff and the entire Winthrop...
AUTHORITATIVE SOURCES
This PowerPoint presentation used by permission from Tina Davis, Registrar, Eastern Kentucky University. It was revised and added to in order to fit Winthrop University’s practices.

- LeRoy Rooker, Senior Fellow AACRAO and former Director – US DOE Family Policy Compliance Office. One Dupont Circle, NW. Washington DC 20036

- AACRAO FERPA Guide. 2006. American Association of Collegiate Registrars and Admissions Officer. Dennis Hicks, managing editor.


- U.S. Dept. of Education. Family Policy Compliance Office.
  - ferpa@ed.gov;
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