

Guidance for Research Involving FERPA and PPRA

This guidance provides information about research involving student records or activities subject to FERPA and/or PPRA regulation.

1. What is FERPA?

The Family Educational Rights and Privacy Act (FERPA) (34 CFR Part 99) is a federal law that governs access to and protects the privacy of student education records. FERPA regulations apply to all schools that receive funds under any applicable program of the U.S. Department of Education. FERPA regulates the disclosure of personally identifiable information from education records in all public elementary and secondary schools, intermediate or state education agencies, and any public or private institution that uses Department of Education funds.

FERPA generally pertains to the following:

- FERPA requires institutions receiving funding from ED to develop and adopt policies controlling the use and release of data from student records.
- FERPA regulates the disclosure of personally identifiable information from education records in all public elementary and secondary schools, intermediate or state education agencies, and any public or private institution that uses ED funds.
- FERPA grants parents a set of rights with respect to their children's education records. These rights transfer to the student when they reach the age of 18 or attend an institution beyond the secondary level. In general, a school or institution must have written authorization from the parent or eligible student to release identifiable information from the student's education record.

2. What is PPRA?

In some cases, a researcher may also need to consider the *Protection of Pupil Rights Amendment (PPRA)*. PPRA (34 CFR 98) applies to all students under the age of 21 in primary or secondary educational programs receiving funds under any applicable program of the U.S. Department of Education (ED) (which includes, but is not limited to public educational institutions). PPRA also applies to any research funded by ED. Key points for researchers:

- PPRA requires schools to notify parents or legal guardians and obtain written consent from parents or legal guardians for a specific set of activities, including student surveys or evaluation involving "protected information."
- PPRA requires schools to develop and adopt policies regarding the parents right to inspect surveys and instructional materials prior to use.
- The IRB does not have the authority to approve a waiver or alteration of informed consent for any studies falling under the purview of PPRA. The IRB may also not contravene PPRA policies set by an educational institution.

3. When does FERPA require written authorization for research?

Researchers must obtain written informed consent authorizing the release of education records for research purposes, unless the disclosure falls under one of the following exceptions (though written informed consent may still be required by the IRB if 45 CFR 46 is applicable). Copies of records disclosed must be made available to parents or legal guardians, or eligible students, upon request. Written consent must be obtained from the parent or legal guardian, or eligible student, unless:

- The disclosure is to organizations conducting studies for, or on behalf of, educational agencies or institutions to develop, validate, or administer predictive tests; administer student aid programs; or improve instruction. This exception can be executed under a written agreement including the terms outlined in 34 CFR 99.31 between LU and the educational institution disclosing data.
- The data are “Directory Information” as defined by the institution releasing the data, and the student or parent has not placed a hold on release of these data.
 - Lindenwood University defines “Directory Information” as: Full name; Local and home addresses; Local and home telephone numbers; Email address; Date and place of birth; Most recent educational institution attended; Enrollment status; Class level; Dates of attendance; Degrees, awards, and honors received; Participation in officially recognized activities and sports; Weight and height of athletic team members; Photographs.
- All personally identifiable data have been removed, provided that the educational agency or institution or other party has made a reasonable determination that a student's identity is not personally identifiable, whether through single or multiple releases, and taking into account other reasonably available information. (An identifying code made be retained by an honest broker, as long as the code does not contain a student’s social security number or other personal information.)

In addition to the elements of consent present on the LU IRB Consent and Assent templates, written consent for research involving FERPA regulated educational records must:

- Be obtained from the parent or legal guardian, or eligible student.
- Specify the records that may be disclosed
- State the purpose of the disclosure
- Identify the party to whom the disclosure may be made

Important definitions for understanding an applying FERPA regulations include:

- *Directory Information*: Information such as a student's name, address, telephone number, date and place of birth, honors and awards, and dates of attendance.
- *Education Records*: Records, files, documents, and other materials which contain information directly related to a student and are maintained by an educational institution.
- *Eligible Student*: Any student who has reached 18 years of age or is attending a postsecondary education institution.
- *School Official*: A "school official" is not defined in the statute or regulations, Lindenwood University interprets the term to include parties such as: professors; instructors;

administrators; health staff; counselors; attorneys; clerical staff; board members; members of committees and disciplinary boards; and a contractor, volunteer or other party to whom the school has outsourced institutional services or functions.

- *Student*: Any individual who is or has been in attendance at an educational institution and regarding whom the institution maintains education records.

4. When does PPRA require written authorization for research?

Researchers must obtain written informed consent from written consent from parents or legal guardians for research on students involving surveys, psychiatric evaluation, testing, or treatment, psychological evaluation, testing, or treatment, in which the primary aim is to collect “protected information” concerning one or more of the following. These requirements are applicable even when only anonymized or deidentified data are collected:

- *Political affiliations or beliefs of the student or student’s parent*
- *Mental or psychological problems of the student or student’s family*
- *Sex behavior or attitudes*
- *Illegal, anti-social, self-incriminating, or demeaning behavior*
- *Critical appraisals of others with whom the students have close family relationships*
- *Legally recognized privileged relationships, such as with lawyers, doctors, or ministers*
- *Religious practices, affiliations, or beliefs of the student or parent*
- *Income, other than as required by law to determine program eligibility*

5. When is written authorization not required for research involving educational records or protected information?

The IRB can waive the requirement to obtain and document consent, which would include the requirement for written authorization under FERPA, only when the study meets one of the three exclusions described in 3 above. The IRB cannot waive the requirement to obtain and document consent when requirements for written authorization under PPRA applies.