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Subject: Family Educational Rights and Privacy Act (FERPA) and Pupil Rights Amendment (PPRA) Guidance

Family Educational Rights and Privacy Act (FERPA) - 34 CFR Part 99

Research that will involve the use of educational records must consider whether or not the Family Educational Rights and Privacy Act (FERPA) will apply to the research.

If Researchers will obtain data from education records beyond directory information, for the purpose of research, they are generally limited to three options:

1. Researcher may contact and obtain written consent from each individual whose records will be accessed for research purposes.
2. School officials (other than the researcher) with legitimate access to the data or information may strip the records of any identifying information and provide the data to the researcher.
3. The holder of the educational records may invoke an exception to FERPA in order to release the records to the researchers.

As each institution may interpret FERPA differently, the participating school must make a determination of whether an exception may apply in number 3 above or whether the school would prefer that the researcher obtain written consent. When using the exception in option #3 above, the holder of the records must specifically cite the exception to the regulation in writing in a signed letter to the Researcher or IRB. The letter should also include a statement regarding the school's adherence to FERPA. This letter should accompany the IRB application at time of submission. The holder of the records is usually the school superintendent for K-12 schools and from colleges or universities this may be the university registrar.

The exceptions that may be used for education research are:

- If the researcher is a school official with legitimate education interest (34 CFR 99.31(a)(1); or
- If the researcher is conducting studies for or on behalf of the school (34 CFR 99.31(a)(6)).

In addition the letter to the IRB should include the following information:

- Information/data to be disclosed

- Purpose, scope and duration of the study
- The information from the records may only be used to meet the purpose of the study and which describes the disclosure and destruction of the information.
- The study will be conducted so that the personal identification of parents and study by anyone other than the Researcher or UAB personnel.
- UAB and/or the researcher is required to destroy or return all identifiable information when no longer needed for the study,
- The time period during which the researcher or UAB must either destroy or return the information to the school.

Pupil Rights Amendment (PPRA) – 34 CFR Part 98

The protection of Pupil Rights Amendment applies to programs that receive funding from the U.S. Department of Education (ED).

Regarding research, PPRA seeks to ensure that schools and researchers obtain written parental consent and minor assent before minor students are required to participate in any ED funded survey, analysis, or evaluation that ask questions falling in the protected information categories.

The protected information categories are as follows:

- Political affiliations;
- Mental and psychological problems potentially embarrassing to the student and his or her family;
- Sex and behavior attitudes;
- Illegal, anti-social, self-incriminating and demeaning behavior;
- Critical appraisals of other individuals with whom respondents have close family relationships;
- Legally recognized privileged or analogous relationships, such as those of lawyers, physicians and ministers; or
- Income other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program.

For research not funded by the ED, at the time of protocol review, the IRB verifies that the school is compliant with ED regulations and that the school has developed and adopted policies that address the following:

1. The right of parents to inspect, upon request, a survey created by a third party before the survey is administered or distributed by a school to students
2. Arrangements to protect student privacy in the event of the administration of a survey to students, including the right of parents to inspect, upon request, the survey, if the survey contains one or more of the same eight items of the information noted above

3. The right of parents to inspect, upon request, any instructional material used as part of the educational curriculum for students
4. The administration of physical examinations or screenings that the school may administer to students