

Research with FERPA Protected Educational Records

Many Wright State faculty members/instructors who are also researchers are surprised to find that the student records they personally hold (e.g., tests, journals, written assignments, etc.) are considered part of the official Educational Records of a student. Even more surprising is the fact that, when conducting research, an educator may not be considered to have a legitimate educational interest in the records they otherwise handle on a regular basis. If a teacher/instructor wants to use student data for research purposes, FERPA applies. FERPA, or the Family Educational Rights and Privacy Act, established in 1974, is a federal law that protects the privacy of student Education Records.

Education Records include but are not limited to graded coursework, class observations, transcripts, class lists, student course schedules, health records, student financial information, student conduct files, scholarship applications, family information, etc.

FERPA stipulates that an educational institution has the authority to determine what information may be accessed from an Education Record. If an institution denies a researcher access to information in an Education Record, the IRB cannot overrule the decision. Wright State Researchers are responsible for maintaining compliance with FERPA, in addition to human research regulations, when accessing Education Records for the purpose of research. There are four methods to access Educational Records for research purposes under the FERPA regulations.

Method 1 - Signed Consent Form:

FERPA and IRB requirements are usually met if an Eligible Student (or parent of a minor), signs a research consent form to participate in a project and authorizes release of their Education Records for research purposes.

The consent form must include:

1. The purpose of the disclosure, and
2. The records that will be disclosed (must be very specific), and
3. State how often the records will be disclosed (one time, each semester, etc.), and
4. The identity of the party whom the records will be disclosed, and
5. Include a dated signature.

The signed consent form, which is provided to the University Registrar (or other record holder), can be either a pdf of the original signed form or an actual paper copy of the original signed form. At this time, the Wright State Registrar only accepts electronic signatures via DocuSign and Qualtrics. In Qualtrics researchers must use the Signature Question field as it collects an image of the signature (made via finger or mouse), not just a typed name. Researchers should use the individual survey link type and only send emails to Wright State e-mail addresses.

Method 2 - Directory Information:

FERPA allows schools to designate and disclose, without consent, certain items of information as “directory information.” Each educational institution designates what information is considered directory information. Therefore, the researcher should contact each institution from which they propose to access student records and follow that institution’s FERPA policy and procedures when accessing directory information.

Wright State Directory Information:

Wright State University defines directory information as the following: student's name, all addresses, telephone listings, major field of study, dates of attendance, full or part-time status, and number of hours registered. It also includes special honors and awards, degrees awarded and total hours earned, participation in officially recognized activities and sports, most recent previous educational agency or institution attended by the student, class standing, and weight and height of members of athletic teams.

Method 3 – Deidentified Information

A researcher can also gain access to Education Records without consent if a school official with legitimate access (other than the researcher) strips the records of any identifying information prior to release of that information. For example, an internal data request submitted to Institutional Research and Effectiveness (IR&E) is provided to the researcher de-identified. This may include coded data as long as there is an agreement between IR&E and the investigator that the code will not be shared with the investigator.

Note: Research projects utilizing this method may not meet the definition of human subjects research per 45CFR46. Please reference the [Determination that Project is Not Research or Does Not Involve Human Subjects](#) policy for more information.

Method 4 – Research on Behalf of the University

Personally identifiable information from student education records may be disclosed by an educational institution/agency to researchers when the disclosure is to organizations conducting studies for, or on behalf of, educational agencies or institutions. If information from student Education Records will be disclosed to a researcher under this exception, the researcher must enter into a written agreement with the educational institution that contains specific assurances on data confidentiality. At Wright State University, researchers will need to submit the approved FERPA Studies Exception Agreement.

For other Educational Record holders, an exception letter should be submitted to the IRB along with the IRB documents. In most cases involving Education Records held by elementary and secondary schools, the letter should come from the school district's superintendent. When working with another university, the letter should come from the University Registrar.

When invoking an exception for the use of Education Records, the holder of the records must specifically cite the exception to the regulation in writing and specify the following:

- The determination of the exception.
- The purpose, scope and duration of the research.
- The information to be disclosed.
- That information from education records may only be used to meet the purposes of the research stated in the written agreement and must contain the current requirements in 34 CFR § 99.31(a)(6) on re-disclosure and destruction of information.
- That the research will be conducted in a manner that does not permit personal identification of parents and students by anyone other than representatives of the organization with legitimate interests.
- That the organization is required to destroy or return all personally identifiable information when no longer needed for the purposes of the research.
- The time period during which the organization must either destroy or return the information.

Unknown Future Research Projects:

Many educators desire to engage in pedagogical research after many years of teaching. They often find they are unable to locate former students to obtain written permission for use of graded classroom materials in order to meet FERPA requirements. The IRB recommends that Wright State course instructors include as part of their course syllabus a "Permission for Use of Classroom Materials for Future Research Projects" syllabus insert. This insert meets FERPA requirements for release of Educational Records normally encountered during routine classroom instruction. Many of these types of projects qualify for Exemption from IRB review. As such, this syllabus insert will meet informed consent requirements in many cases. The HRPP staff can provide additional guidance for studies of this nature. For information about applying for an exemption please reference the [Initial Application](#) section of the IRB website.