

Beyond FERPA 101

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FERPA: Quick refresher

- Family Educational Rights and Privacy Act of 1974
- Also known as the “Buckley Amendment”; Senator James Buckley of NY
- Was created due to the escalating divorce rate
- Governs the disclosure of education records maintained by an educational institution
- Governs access to these records

Compliance

- Who must comply with FERPA?
- Any educational institution or agency that receive funds under any program administered by the Secretary of Education
- Institutions must notify students annually of their FERPA rights
- Ensure students' rights to inspect, review, and amend their education records

What are education records?

- Records that are:
- Directly related to a student
- Maintained by an educational agency/institution
- Maintained by a party acting for the agency/institution; if certain conditions are met

What are NOT education records?

- Sole possession records
- Law enforcement unit records
- Employment records
- Medical records
- Post-attendance records

Why this presentation was created.....

- Numerous “101” and “Registrar basics” presentations
- Limited presentations that focus on “how to” impact
- Limited trainings on how to be truly “effective”
- Need more than “round table” experiential discussions
- Shift from being the enforcers of academic policy to having a seat at the table when policies are being made

Who is this presentation for?

- Registrar family and affiliates (One-stop shop's)
- Associate, Assistant, VA compliance, staff support
- Those considered to be “knowledge officers”
- Staff with “high contact” with students and/or faculty/staff
- Third party vendors

Role of the Registrar

- The authority on academic policies and procedures
- Individual who gets the luxury of answering questions no one else seems to know the answers to
- Leader in terms of system issues and technology innovations
- FERPA expert: presentations, brochures, and training
- Enforcer of institutional rules
- Person who's job it is to say "NO"
- May/may not be popular, but highly respected

Background

- Over 20 years in the higher education profession
- Served as a University Registrar, over 10 years, at 2 institutions
- Currently serve as Director of ES: Registrar, Bursar, Financial Aid, VA, PeopleSoft Systems
- Doctoral research focused on examining the use of professional judgment when implementing FERPA across 4 key areas: Registrar, Bursar, Financial Aid, and Admissions
- Serve as the FERPA expert along with our University Registrar

Amendments to FERPA since 1974.....

- FERPA is constantly evolving and changing
- Important to keep up with the changes and adapt
- Since 1974, FERPA has been amended ten times, most recently in 2012
- You are expected as Registrar's to be knowledgeable on this important piece of federal legislation

Using administrative discretion

- Policies are written to offer guidance and direction
- Leaders must rely on their experience and professional judgement
- I argue that the use of “administrative discretion” is crucial to being successful in our field

Doctoral research

- 2003 I conducted a study of “administrators” and “subordinates” in the Registrar, Financial Aid, Bursar, and Admissions offices on how they used “discretion” when implementing FERPA policies
- Analysis focused on if there were differences in decision making between administrators and their staffs when it came to dealing with FERPA issues
- Assumption: individuals in these 4 areas have a sufficient knowledge pertaining to FERPA and “should know” the policies as they come into contact with students, staff, parents, etc.

Qualitative and Quantitative study

- I conducted a qualitative and quantitative study, across 4 student services related departments, to assess discretionary decision making
- I wanted more than interviews that focused on yes/no results
- I truly wanted to dig at that “in between” of decision making
- My study is the only one of it’s kind and my contribution to the field of Enrollment Management and our profession as a whole

Research Design and Methodology

- Staff members from each area were interviewed regarding their perceived knowledge about FERPA
- Used various statistical techniques to measure the relationships of variables: independent t-Test, measures of association (PRE and Lamda), and One-Way Analysis of Variance (ANOVA)
- In lay terms, I developed ways to understand the variance between simple yes/no responses
- That variance is our use of discretion; how we personally make a decision

Findings

- Although weak, I found that there existed some differences in how administrators and their staffs exercised discretion when implementing FERPA policy
- What I learned was that although you had people in their roles from over 30 years to under 1 year, they did not:
 - Keep up with the changes in the FERPA legislation
 - Did not routinely train their staff or their campus
 - There was limited relationships with key stakeholders (faculty, departments, etc)

Findings continued

- Those who served in their roles used “experience” to make their decisions—not necessarily based on outside information
- Practices, not policy, became the norm: “it’s always been done this way”, etc.
- Knowledge officers were perceived to be “right” regardless if the answers were correct or not
- When key “knowledge officers” retired or left the institution, things come to a halt

How can you prepare yourself and campus

- Make sure you stay abreast of any changes to FERPA
- Make sure you accept the role as the “FERPA expert”
- Offer trainings to any and everyone on your campus (try to make it mandatory)
- Develop materials and training protocols for faculty and staff
- Get the buy in from your Provost, Student Affairs, Enrollment management and legal counsel
- Attend and participate at conferences

Impacting campus culture

- Registrar's should be seen as the campus expert
- You should have a "seat at the table" on any/all issues pertaining to FERPA
- Your students, faculty, and staff should all look to you for guidance on FERPA
- Your internal legal counsel should work closely with you on any FERPA related matter that may come up

Keys stakeholders you need to work with

- Work closely with your University legal counsel
- Department chairs and Dean's
- Provost and President
- Your staff
- Your Enrollment Management and Student Affairs colleagues (this group tends to be knowledgeable about FERPA)
- Parents via Open House/Welcome Day/Orientation

Being proactive vs being reactive

- Being seen as the campus expert and willing to share your knowledge can reduce your chances of “FERPA slippage” (giving out info)
- Working closely with your various academic departments can reduce the chances of an external DOE audit
- Having routine meetings with your internal legal counsel will ensure that you and your institution are making sound policies that everyone must follow
- Developing a yearly mandatory FERPA training protocol will make sure that everyone receives the knowledge

URI case study

- 2014 DOE initiated a FERPA investigation
- Faculty member, in error, sent email to students with grades
- Those with A's didn't complain, those with less than A---you guessed it!
- I developed a plan that helped put us back into good standing

The PLAN

- Worked closely with the Provost and internal Legal Counsel
- Immediately developed a FERPA for _____ presentations
- Provost sent out a communication that my presentations are “mandatory”
- From those presentations we gathered new knowledge from the questions that were posed to us; updated our Enrollment Services website with procedures, forms, etc...became the sole source/authority on FERPA
- Developed brochures, documents for internal employees, etc.

The Results

- The Department of Education sent a glowing letter, highlighting my plan, to our University President removing us from the investigation
- I, along with my Registrar, are seen as the authority on FERPA matters
- Each year our Provost sends out the “mandatory” FERPA training letter requesting folks to contact me
- We are seeing our culture change to recognize the seriousness of being FERPA compliant

Resources

- Attend national and regional conferences
- AACRAO 2012 FERPA Guide
- Listserv's
- Jones (2004). "An Analysis of Administrative Discretion and Its Use to Implement FERPA Policy at Southeast MO State University"
- Your legal counsel
- Knowledge acquired from conducting presentations

Any Questions

- Did this presentation offer you any insights and/or guidance?
- Do you feel more comfortable being the key “change agent” on your campus in regards to FERPA policies/procedures?
- Are you willing to accept your role as the FERPA leader on your campus?

Administrative items

Please be sure to fill out the session
evaluation at:

neacrao.org/feedback

Thank you!

