



FERPA for Postsecondary

Baron Rodriguez, PTAC

FERPA pre-test

1. FERPA only applies to schools that receive federal education funds. T F
2. Once a student turns 18, the university can't share education records with the parents. T F
3. If a military spouse has a Power of Attorney, the school must provide the spouse with access to the student's education records. T F
4. Student health records maintained by the university health center are not education records. T F
5. FERPA permits a student to file a lawsuit against a university for violating his or her rights under FERPA. T F

FERPA pre-test (cont.)

6. Universities are required to provide students with a copy of their education records upon request. T F
7. Designated directory information is not considered sensitive personally identifiable information, and, therefore, the university may disclose the information without the consent or knowledge of the eligible student. T F
8. If a student is dually enrolled in a postsecondary institution, the parents of that dually enrolled students can't have access to the student's postsecondary grades because the rights have transferred to the student. T F

FERPA pre-test (cont.)

9. Having a data-sharing agreement with an outside vendor is sufficient for a university to disclose PII from education records to a vendor without consent of eligible students. T F
10. When a student transfers from Postsecondary University A to Postsecondary University B, Postsecondary University A can share all of the student's education records with Postsecondary University B without the consent of the student including disciplinary records. T F

What is FERPA?

A federal privacy law that affords eligible students the right to—

- have access to their children's education records,
- seek to have the records amended, and
- consent to the disclosure of personally identifiable information from education records, except as provided by law.



Key Points

- FERPA protects the privacy of students by restricting access to records that contain *Personally Identifiable Information* (PII).
- FERPA does not permit the *Disclosure* of PII from education records without consent, except under certain *Exceptions*.
- FERPA requires that *Reasonable Methods* be used to protect the integrity and security of the data being maintained at the school or district.
- FERPA does permit the disclosure of certain types of PII that is previously designated as *Directory Information* by the school or district.

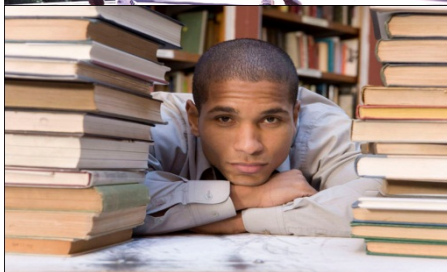
To which educational agencies and institutions does FERPA apply?



Elementary



Secondary



Postsecondary



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Just what is an Education Record?

“Education records” are records that are –

- 1) directly related to a student; and
- 2) maintained by an educational agency or institution or by a party acting for the agency or institution.



Inspection and Review of Education Record

What rights exist for a parent or eligible student to inspect and review education records?



- School must comply with request within 45 days.
- Schools are generally required to give copies only if failure to do so would effectively deny access, or make other arrangements to inspect and review – example would be a parent or student who does not live within commuting distance.
- School may not destroy records if request for access is pending.

What are the recordkeeping requirements?

- **An educational agency or institution must maintain a record of each request for access to and each disclosure from an education record, as well as the names of State and local educational authorities and Federal officials and agencies listed in § 99.31(a)(3) that may make further disclosures of personally identifiable information from the student's education records without consent under § 99.33.**



Destruction of Information

- § 99.10(e) of FERPA states that an educational agency or institution, or SEA or its component, shall not destroy any education records *if* there is an outstanding request to inspect and review the records.

What are the exceptions to general consent?

- To school officials with legitimate educational interests (defined in annual notification);
- To schools in which a student seeks or intends to enroll;
- To State and local officials pursuant to a State statute in connection with serving the student under the juvenile justice system;
- To comply with a judicial order or subpoena (reasonable effort to notify parent or student at last known address);
- To accrediting organizations;
- To parents of a dependent student;



What are exceptions to general consent? (cont.)

- To authorized representatives of Federal, State, and local educational authorities conducting an audit, evaluation, or enforcement of education programs;
- To organizations conducting studies for specific purposes on behalf of schools;
- In a health or safety emergency;
- To child welfare agency or tribal organization for those children in foster care; and
- Directory information.

School Official Exception

- Schools may disclose PII from education records without consent if the disclosure is to other school officials, including teachers, within the school whom the school has determined to have legitimate educational interest.
- Annual notification of FERPA rights must include criteria for determining who constitutes a school official and what constitutes a legitimate educational interest.

School Official Exception, Cont.

- Outsourcing services under school official exception
 - Schools may outsource institutional services or functions that involve the disclosure of education records to contractors, consultants, volunteers, or other third parties provided certain conditions are met.
 - If these outside parties meet the conditions for outsourcing, they may have access to education records.

School Official Exception, Cont.

- Conditions for outsourcing:
 - Performs an institutional service or function for which the agency or institution would otherwise use employees;
 - Is under the direct control of the agency or institution with respect to the use and maintenance of education records;
 - PII from education records may be used only for the purposes for which the disclosure was made
 - Meets the criteria specified in the school, LEA, or institution's annual notification of FERPA rights for being a school official with a legitimate educational interest in the education records.



**Reminder: The School Official Exception
does not apply to State Education Agencies!**

Power of Attorney

- Student retains the rights to the education record under FERPA, however the school is authorized to provide student records to an individual who has power of attorney for the student, because POA is considered consent of the student.

Disclosure to Police Officer

- A police officer shows up at the main office of a high school/university, and he asks if a certain student is attending school today. The police officer does not have a search warrant or a subpoena. The police officer wants to speak to the student regarding some gang violence that occurred three weeks ago. Can the school/university tell the officer whether or not the student is attending school today?

TECHNICALLY, NO



Law Enforcement Unit Maintaining Records (PS)

- A student is expelled from a university and barred from campus. A copy of his disciplinary record is sent to the university's law enforcement unit so that campus police can keep the student off campus. The law enforcement unit maintains that record and discloses it to a reporter in response to a State open records request. Is that permissible under FERPA?

NO



College Disability Office

- The college's disability office wants to share information on a student about his or her condition with teachers and administrators. Which law, FERPA or the HIPAA Privacy Rule, protects the privacy of student health records?

FERPA



Inspection and Review (cont.)

§ 99.11 May an educational agency or institution charge a fee for copies of education records?

- Yes – unless imposing a fee effectively prevents a parent or eligible student from exercising his or her right to inspect and review education records.

§ 99.12 What limitations exist on the right to inspect and review education records?

- If the records contain information on more than one student, the requesting parent or eligible student may inspect, review, or be informed of only the specific information about his or her child's records.

What are the Procedures for Amending Education Records?

§ 99.20, § 99.21, § 99.22

- Parent or eligible student should identify portion of record believed to contain inaccurate or misleading information.
- School must decide within reasonable period of time whether to amend as requested.
- If school decides not to amend, must inform parent or eligible student of right to a hearing.
- After a hearing, if decision is still not to amend, parent or eligible student has a right to insert a statement in the record.

What statutes govern financial assistance data?

Federal statutes:

- FERPA – certain student records
- Graham Leach Bliley – certain financial information
- HIPAA – certain medical information
- HEA, Higher Education Act – certain financial information

But you also need to pay attention to state privacy and data security statutes because they often contains provisions dealing with SSN use and incident response.

Guidance on FERPA and Reverse Transfer

[FERPA and Reverse Transfer \(SUNY Letter\)](#)

- Issued by the Family Policy Compliance Office (January 2016)
- Details various methods for disclosing student transcript information to promote Reverse Transfer and the awarding of Associate's Degrees to students who have transferred to four-year institutions.

Audit/Evaluation Exception

- Federal, State, and local officials listed under § 9.31(a)(3), or their authorized representative, may have access to education records only –
 - in connection with an audit or evaluation of Federal or State supported education programs, or
 - for the enforcement of or compliance with Federal legal requirements which relate to those programs.
- The information must be:
 - protected in a manner that does not permit disclosure of PII to anyone; and
 - destroyed when no longer needed for the purposes listed above.

Who is an authorized representative?

- Any entity or individual designated by a State or local educational authority or an agency headed by an official listed in § 99.31(a)(3) to conduct—with respect to Federal- or State-supported *education* programs—any audit or evaluation, or any compliance or enforcement activity in connection with Federal legal requirements that relate to these programs.



Reasonable Methods

- In disclosing to a designated authorized representative under audit/evaluation exception, LEA must ensure to the greatest extent practicable that an authorized representative
 - Uses PII only to carry out an audit or evaluation of education programs, or for the enforcement of or compliance with, Federal legal requirements related to these programs.
 - Protects the PII from further disclosures or any unauthorized use.
 - Destroys the PII records when no longer needed for the audit, evaluation, or enforcement or compliance activity.

Studies Exception

- Studies conducted “for or on behalf of” schools, school districts, or postsecondary institutions
- Studies must be for the purpose of
 - Developing, validating, or administering predictive tests; or
 - Administering student aid programs; or
 - Improving instruction

What are written agreements?

- Mandatory for LEA or SEA disclosing PII without consent under audit/evaluation.
- Mandatory for school or LEA for disclosing to outside organization under the studies exception, or for SEA redisclosing for, or on behalf of, school or LEA.

FERPA Final Test

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Data Sharing, Governance, & Written Agreements

Baron Rodriguez, PTAC



Some Common Questions

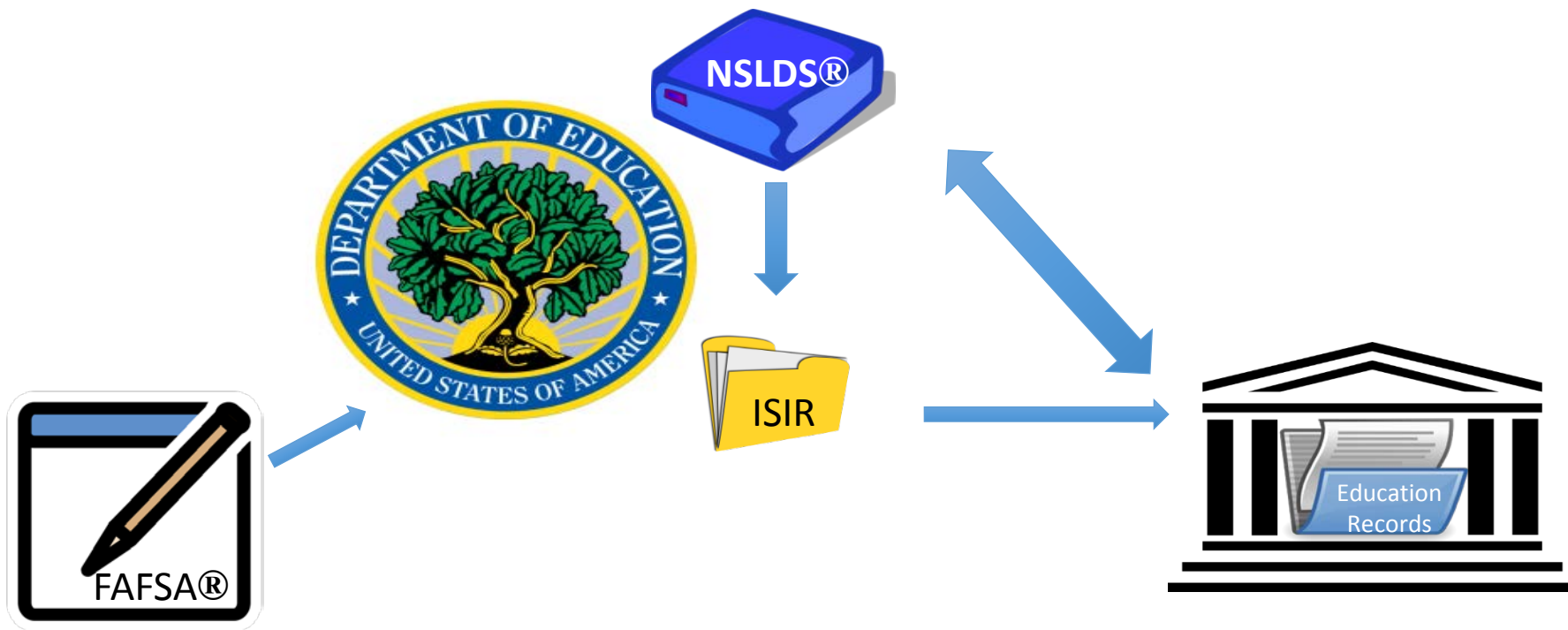
Can I use financial aid information to:

- generate and publish aggregate, descriptive statistics?
- evaluate university policies and programs?
- recruit a student who has not yet enrolled or tried to enroll at the institution?
- determine if a student qualifies for a housing fee deferral pending financial aid disbursement?

Can I share financial aid information with:

- the university's institutional research office?
- the board of regents or State higher education commission?
- external researchers?
- third-party scholarship providers?

Mapping the Flow of Financial Aid Data



Applicable Laws & Agreements

- Family Educational Rights and Privacy Act (FERPA)
- Higher Education Act (HEA)
- Privacy Act
- Student Aid Internet Gateway (SAIG) Agreement

FERPA: Financial Aid Exception

Education records may be disclosed in connection with financial aid for which the student has applied or which the student has received, if the information is necessary for such purposes as to:

- Determine eligibility for the aid;
- Determine the amount of the aid;
- Determine the conditions for the aid;
- Enforce the terms and conditions of the aid

FERPA: School Official Exception

PII may only be disclosed from education records without consent to other school officials with a legitimate educational interest within the institution, or to third parties acting as school officials, if they:

- Perform an institutional service or function for which the agency or institution would otherwise use employees;
- Are under the direct control of the agency or institution with respect to the use and maintenance of education records;
- Only use PII from education records for the purposes for which the disclosure was made;
- Meet the criteria specified in the institution's annual notification of FERPA rights.

FERPA: Audit and Evaluation Exception

Federal, State, and local officials listed under § 99.31(a)(3), or their authorized representatives, may have access to education records –

- in connection with an audit or evaluation of Federal or State supported education programs, or
- for the enforcement of or compliance with Federal legal requirements which relate to those programs.

FERPA: Studies Exception

PII from education records may be disclosed in connection with certain studies conducted “for or on behalf of” schools, school districts, or postsecondary institutions

- Studies must be for the purpose
 - Developing, validating, or administering predictive tests;
 - **Administering student aid programs;** or
 - Improving instruction

Higher Education Act

- The HEA authorizes numerous federal aid programs that provide support to both individuals pursuing a postsecondary education and institutions of higher education.
- The HEA applies to both NSLDS® data and FAFSA®/ISIR data, but places additional provisions on NSLDS® data.

Higher Education Act

FAFSA®/ISIR data, and any data derived from FAFSA®/ISIR data (including data in the NSLDS®) may only be used for the application and **administration of aid** awarded under Title IV aid programs, state aid, or aid awarded by eligible institutions or such entities as the Department may designate.

ED considers “**administration of aid**” to include audits and program evaluations necessary for the efficient and effective administration of those aid programs.

Higher Education Act

The HEA also applies the following provisions to **National Student Loan Data System (NSLDS®) data**

- Prohibits nongovernmental researchers and policy analysts from accessing personally identifiable information
- Prohibits use of NSLDS® data for marketing purposes

Privacy Act

Prohibits Federal agencies from disclosing records from systems of records unless (among other exceptions) the disclosure is for a specified routine use, or:

- to a recipient who has provided written assurance that the record will be used solely as a statistical research or reporting record and the record is to be transferred in a form that is not individually identifiable (5 USC §552a(b)(5))

SAIG Agreement

Under the SAIG Agreement, access, disclosure and use of data is limited to “authorized personnel”

The Department interprets “authorized personnel” to include individuals in your own institution, but also, when appropriate, individuals outside your institution who are permitted access to the information under all applicable statutes and regulations.

Remember...

In instances where more than one law/regulation applies, the most restrictive provisions from each law will jointly apply.

Scenario 1

Can an institution generate and publish de-identified, aggregate statistics using FAFSA®/ISIR data about students receiving financial aid?

PTAC "[Guidance on the Use of Financial Aid Information for Program Evaluation and Research](#)" – page 8

Scenario 2

Can a financial aid office share FAFSA®/ISIR data with institutional staff responsible for analyses, audits, or evaluations at the institution (e.g., an Institutional Research Office)?

PTAC "[Guidance on the Use of Financial Aid Information for Program Evaluation and Research](#)" – page 9

Scenario 3

Can an institution that is part of a public system of postsecondary institutions provide ISIR data to their administrative central system-wide office or governing board for an evaluation of tuition and financial aid programs?

PTAC "[Guidance on the Use of Financial Aid Information for Program Evaluation and Research](#)" – page 8

Scenario 4

Can an institution use financial aid information provided by a student on the (FAFSA®) to recruit a student who has not yet enrolled or tried to enroll at the institution?

PTAC "[Guidance on the Use of Financial Aid Information for Program Evaluation and Research](#)" – page 9

Scenario 5

Can an institution's housing office obtain FAFSA®/ISIR data to determine if a student qualifies for a housing fee deferral pending financial aid disbursement?

PTAC "[Guidance on the Use of Financial Aid Information for Program Evaluation and Research](#)" – page 9

Scenario 6

Can an institution provide de-identified student financial aid data obtained directly from NSLDS® to a researcher not affiliated with the institution?

PTAC "[Guidance on the Use of Financial Aid Information for Program Evaluation and Research](#)" – page 8

Scenario 7

Can an institution provide FAFSA®/ISIR data to third-parties (e.g., scholarship organizations or State assistance agencies)?

Think Twice Before Sharing

Even when permissible under applicable Federal laws, institutions should consider whether each proposed use of PII is consistent with institutional values, as well as State and local law.

PTAC Resources

- [Guidance on the Use of Financial Aid Information for Program Evaluation and Research \(January 2017\)](#)
- [OCPO Letter to Suffolk University](#)
- [OCPO Letter to the University of North Carolina](#)
- [Disclosure Avoidance & De-identification Guidance](#)
- [Dear Colleague Letter: SAIG](#)
- [Dear Colleague Letter: FAFSA Completion](#)





DATA SHARING UNDER FERPA Governance Considerations



Benefits of Data Governance

- Data Governance (DG) is an organizational approach to data and information management. Benefits include:
 - Increased consistency and confidence in [decision making](#)
 - Decreased risk of compliance issues
 - Improved [data security](#)
 - Designated accountability for information quality
 - Minimized or elimination of re-work and/or duplicative systems/data collection

Data Governance Program: Scope

- Scope of a DG program with focus on privacy, compliance, and security includes
 - Protection of sensitive data
 - Vulnerability assessment and risk mitigation
 - Enforcement of regulatory, contractual, and architectural compliance requirements
 - Identification of stakeholders, decision rights, and accountabilities
 - Access management

DG Program Implementation: Key Steps

- Decision-making authority: Establish organizational structure with different levels of DG & specify roles and responsibilities at each level
- Standard policies & procedures: Adopt and enforce a written data governance plan
- Data inventory: Conduct an inventory of all data that require protection
- Data content: Identify the purposes for which data are collected and justify the collection of sensitive data
- Data records: Specify activities related to handling data to ensure compliance with security policies

Typical Data Governance Committee Responsibilities

- Agency policy/procedure around ALL data collection/reporting activities
 - Retention
 - Archive
 - Request
 - Use/Access
 - MOU's
 - Protection of Personally Identifiable Data (Student, Teacher, & Staff)

Data Mapping & Alignment to Policy Questions



Why do we need to Map?

- Understanding data flows/sources/elements helps determine which laws apply:
 - Privacy Protections
 - Security Requirements
 - Breach Notification Requirements
 - Consent Requirements

- Gives you a better understanding of your data systems and assists you with internal & external communications

63

Data Mapping: Key Steps

- ✓ Identify the key policy questions
 - ✓ Align to district, gubernatorial, legislative, executive leadership goals.
- ✓ Identify data types/elements needed to answer those questions.
 - ✓ Do you have multi-agency governance? **Yes**=Document the process; **No**=institute multi-agency governance
 - ✓ Agencies involved?
 - ✓ What level of data is needed at the input **AND** output level?

64

Data Mapping: Key Steps

- ✓ Review applicable state, federal, & local laws.
 - ✓ Current/pending privacy bills? Impact?
 - ✓ Compliance is the bar, not the ceiling.. You may want MORE stringent controls.
- ✓ Review current privacy policies in EACH agency involved with data integration.
 - ✓ Alignment with applicable laws above?
 - ✓ Do policies meet multi-agency governance needs of LINKED data?

Mapping Process...

- ✓ Map data flow in a visual format
 - ✓ Where information resides (agency/system), where it will go, and what the output (aggregate, PII, de-identified) of the combined data will be?
- ✓ Verify governance covers all data sets and actors
 - ✓ Ownership of input data
 - ✓ Ownership of LINKED data
 - ✓ Accountability
 - ✓ Collection

Common Education Data Standards

- **What types of policy questions are other leaders, policymakers, or practitioners asking?**
 - The CEDS tool, [Connect](#), is an avenue for identifying various policy questions that others are asking and provides the CEDS data elements necessary to answer those questions. Connect has over 30 categories, each with its own set of descriptors, to help you [find specific Connections](#) of interest.

Does my organization collect the data necessary to answer the policy question(s) I'm interested in?

- The CEDS tool, [Align](#), allows you to build or upload a data dictionary to CEDS as a map. That map can then be used to ascertain whether your data systems collect the information (data) you need to answer that question. Maps that have been shared can then be used in [myConnect](#) to compare the data elements you collect with those that are used in Connections that interest you.

How can CEDS help mitigate issues with identifying data needed to address the enactment of new policies or laws?

- Often times, a new policy/law is enacted that requires data to implement. CEDS allows policymakers to ask questions in advance to determine whether the policy or law is implementable right away, or if it will take time, effort, or resources. By creating a [Connection](#) you can identify the CEDS elements that would be needed to address the requirements.
- Check the Connection to your aligned maps using [myConnect](#) to determine whether you have the right data. Alternatively, if the data are to be derived from an outside agency, the link to the Connection can be provided to that agency as a way to start a conversation about what is required and whether they collect the data necessary to respond.

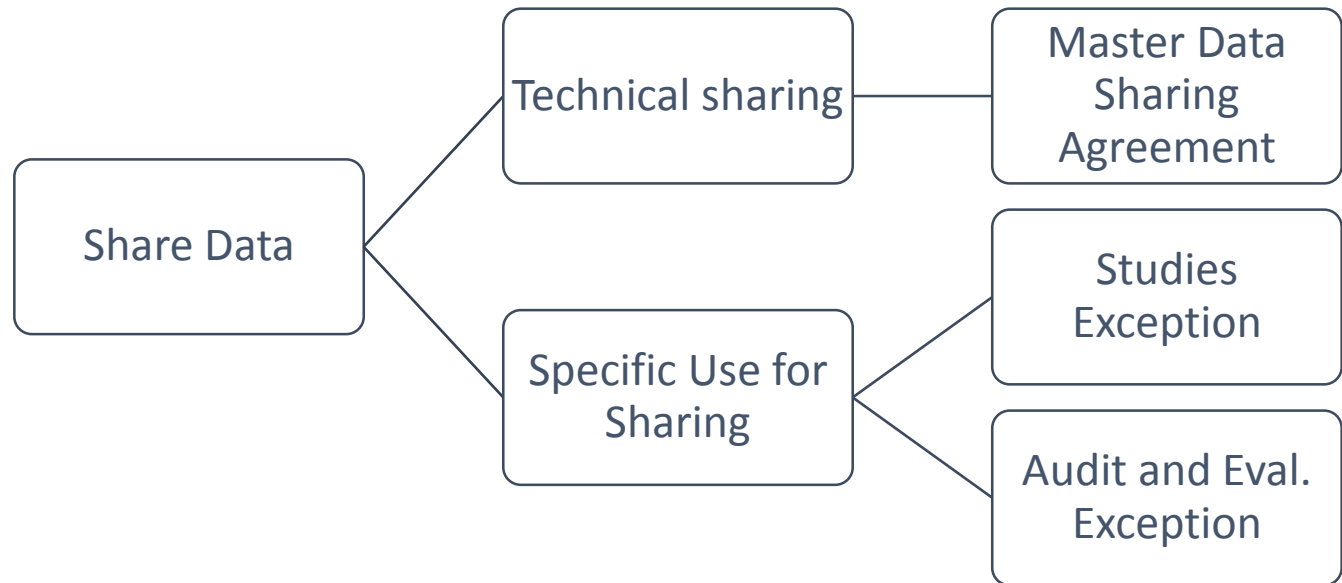
Understanding the Relationship to Structure & Privacy

- The structure of your agencies and where the data currently resides impacts the way in which agreements are created and for what purpose
- How the data moves is important consideration in the way the agreement is created
- **Considerations:**
 - Look at your structure across agencies and how the data flows (data mapping activity)

Privacy Considerations with Policy Questions

- **Complying with FERPA:**
 - Under what exception does it apply?
 - List the exceptions
 - Is there an MOU in place to share these data?
 - Does it include the critical question and the related elements?
 - Aggregate and de-identified data

How to Make the Decision



Written Agreements

- What are the required & best practice elements of written agreements?

Written Agreements: Audit/Evaluation Exception

- Written agreements **must**
 - Designate an authorized representative
 - Specify what PII will be disclosed and for what purpose
 - under the audit/evaluation exception, the purpose of data sharing can only be to carry out an audit or evaluation of Federal- or State-supported education programs, or to enforce or to comply with Federal legal requirements that relate to those programs
 - Describe the activity to make clear that it falls within the audit/evaluation exception

Written Agreements—Audit/Evaluation Exception

- Written agreements must
 - Require an authorized representative to destroy PII upon completion of the evaluation and specify the time period in which the information must be destroyed
 - Establish policies and procedures, consistent with FERPA and other Federal and State confidentiality and privacy laws, to protect PII from further disclosure and unauthorized use

Audit/Evaluation

- Data can only be shared in order to
 - Audit or evaluate a Federal- or State-supported **education** program, or
 - Enforce or comply with Federal legal requirements that relate to those education programs
- Education program – broad, but not limitless

Written Agreements: Best practices

“FERPA represents the floor for protecting privacy, not the ceiling.”

- Bind individuals to the agreement
- Specify points of contact/data custodians
- Mention Institutional Review Board review and approval
- State ownership of PII
- Identify penalties

Written Agreements: Best practices

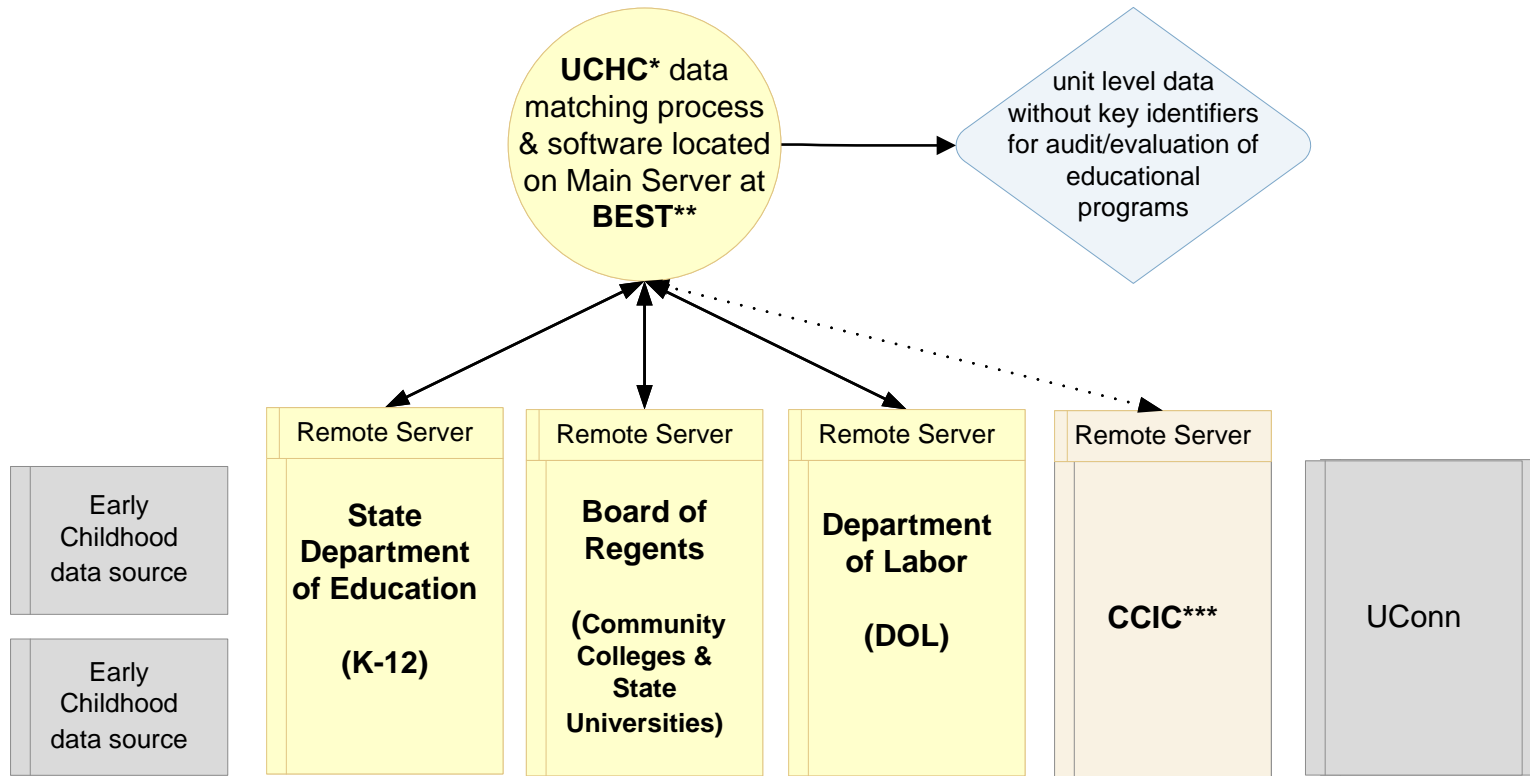
- Include funding terms
- Maintain right to audit
- Identify and comply with all legal requirements
- Have plans to handle a data breach
- Review and approve reported results
- Define terms for conflict resolution
- Specify modification and termination procedures
- Inform the public about written agreements
 - In some cases, a separate confidential IT Security Plan may be appropriate

Audit & Evaluation Written Agreement Example

- State of Connecticut multi-agency project.
 - Includes non-educational agencies

- MOA to enable data linkages for P20W system
 - Goal:
 - Create a solid template for participating agency attorneys to modify
 - Challenges:
 - Agency attorneys lack of familiarity with new FERPA guidelines
 - Wary State Assistant Attorney Generals
 - Lack of in-house counsel

MOA for P20W system



* UCHC: University of Connecticut Health Center
 ** BEST: Bureau of Enterprise Systems and Technology (DOIT)
 *** Connecticut Conference of Independent Colleges (CCIC)



Main Memorandum of Agreements (MOAs):

- One MOA for each participating agency
- Each MOA includes the participating agency, UCHC & BEST
- Enables the participating agency to participate in the system and share PII only for the purpose of conducting a data match based upon approved data queries
- Meets written requirements under FERPA for 'Audit/Evaluation' exception

• Query Management Document/Agreement (QMD):

- One QMD for each data request/query
- Each QMD will meet the written requirements under FERPA for data sharing agreements that use the 'Audit or Evaluation' exception
- Identifies the 'Authorized Representative' to conduct evaluation using the matched data
- Each agency whose data would be included must sign that they approve before the request can be fulfilled.

Let's look at the language in the agreement...

- Authority:

3. Purpose of the Agreement [99.35(a)(3)(j) and 99.35(a)(3)(ii)(B)]

Purpose: audit and evaluation

WHEREAS, the purpose of the agreement is to enable and support the audit and evaluation of education programs offered by the [X Education Authority] including evaluation of the degree to which education programs are preparing students for post-secondary education and for success in the workforce; and

Sample Language

- Clearly articulate the purpose:

3. Purpose of the Agreement [99.35(a)(3)(j) and 99.35(a)(3)(ii)(B)]

Purpose: audit and evaluation

WHEREAS, the purpose of the agreement is to enable and support the audit and evaluation of education programs offered by the [X Education Authority] including evaluation of the degree to which education programs are preparing students for post-secondary education and for success in the workforce; and

Sample Language

- Designating the Authorized Representative:

FERPA allows designation of authorized rep

WHEREAS, FERPA allows an educational agency or institution to disclose personally identifiable information from education records without the consent required by §99.30 if the disclosure meets one or more of the conditions under §99.31, and FERPA allows disclosures to authorized representatives of state and local educational authorities for the purpose of conducting an audit or evaluation of educational programs or for the compliance with Federal legal requirements that relate to those program §99.31(3)(iv) & §99.35; and

Sample Language

- Restrict usage outside of the agreement:

Data used for the purpose of this agreement only

The Authorized Representative shall only utilize PII from education records of [X Education Authority] sufficient to meet the purposes of this Agreement. Approval given to the Authorized Representative

Specify PII to be shared

Appendix A

* Personally Identifiable Data

Data for Matching	Data Disclosed by CSBE	Data Disclosed by BOR
	Name: first, middle, last, suffix*	Name: first, middle, last, suffix *
	Date of birth*	Date of birth*
	Gender*	Gender*
	High school code(ACT/CEEB)	Graduating High school code (ACT/CEEB)
	SASID	SASID (where available)

Data for research / evaluation	CSBE	BOR
	Institution Information	
	Facility code (district, school, institution)	Institution IPEDS code & name
		2-year 4-year indicator
	Student Characteristics	
	Gender*	Gender*
	Race / Ethnicity*	Race / Ethnicity
	Free Reduced Lunch status	Food Stamp recipient
	English Language Learner status	Pell eligibility
	Gifted and talented status	Veteran Code
	Special Education status (IEP: Yes or No)	Permanent Address (state, country)
		Transfer status (in and out)
	Placement	
	Test scores (AP, CMT, CAPT, SAT, ACT) – all subjects	Placement test scores (Accuplacer) SAT
	Academic Experience	
	Graduation date	Enrollment status (full-, part-time, withdrew)
	High school courses completed	Enrollment dates (initial & term dates)
	Course grades	Credits attempted (term & cumulative)



Disclosure Avoidance



Personally Identifiable Information (PII)

- **Direct Identifiers**

- e.g., Name, SSN, Student ID Number, etc.
(1:1 relationship to student)

- **Indirect Identifiers**

- e.g., Birthdate, Demographic Information
(1:Many relationship to student)

- ***“Other information*** *that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.” (§ 99.3)*

But I'm only releasing aggregate data tables...

Aggregate data tables can still contain PII if they report information on small groups, or individuals with unique or uncommon characteristics

of Students Proficient or Advanced on State Mathematics Assessment

Gender	Below Proficient	Above Proficient
Male	3,653	24,187
Female	2,947	23,956

**NO PROBLEM
PROBLEM**



of Students Proficient or Advanced on State Mathematics Assessment

Pirate Status	Below Proficient	Above Proficient
Yes	1	0
No	6,599	48,143

**NO PROBLEM
PROBLEM**

of Students Proficient or Advanced on State Mathematics Assessment

Pirate Status	Below Proficient	Above Proficient
Yes	*	0
No	6,599	48,143

What standard is used to evaluate disclosure risk?

- Can a “**reasonable person**” in the school community who does not have personal knowledge of the relevant circumstances identify an individual in the publicly released data with reasonable certainty?
- The “reasonable person” standard
 - Hypothetical, rational, prudent, average individual in the school community
 - Does not have personal knowledge of the relevant circumstances
 - School officials, including teachers, administrators, coaches, and volunteers, are **not** included

3 Basic Flavors of Disclosure Avoidance

- Suppression
- Blurring
- Perturbation

Suppression

Definition:	Removing data to prevent the identification of individuals in small cells or with unique characteristics
Examples:	<ul style="list-style-type: none">• Cell Suppression• Row Suppression• Sampling
Effect on Data Utility:	<ul style="list-style-type: none">• Results in very little data being produced for small populations• Requires suppression of additional, non-sensitive data (e.g., complimentary suppression)
Residual Risk of Disclosure:	<ul style="list-style-type: none">• Suppression can be difficult to perform correctly (especially for large multi-dimensional tables)• If additional data is available elsewhere, the suppressed data may be re-calculated.

Blurring

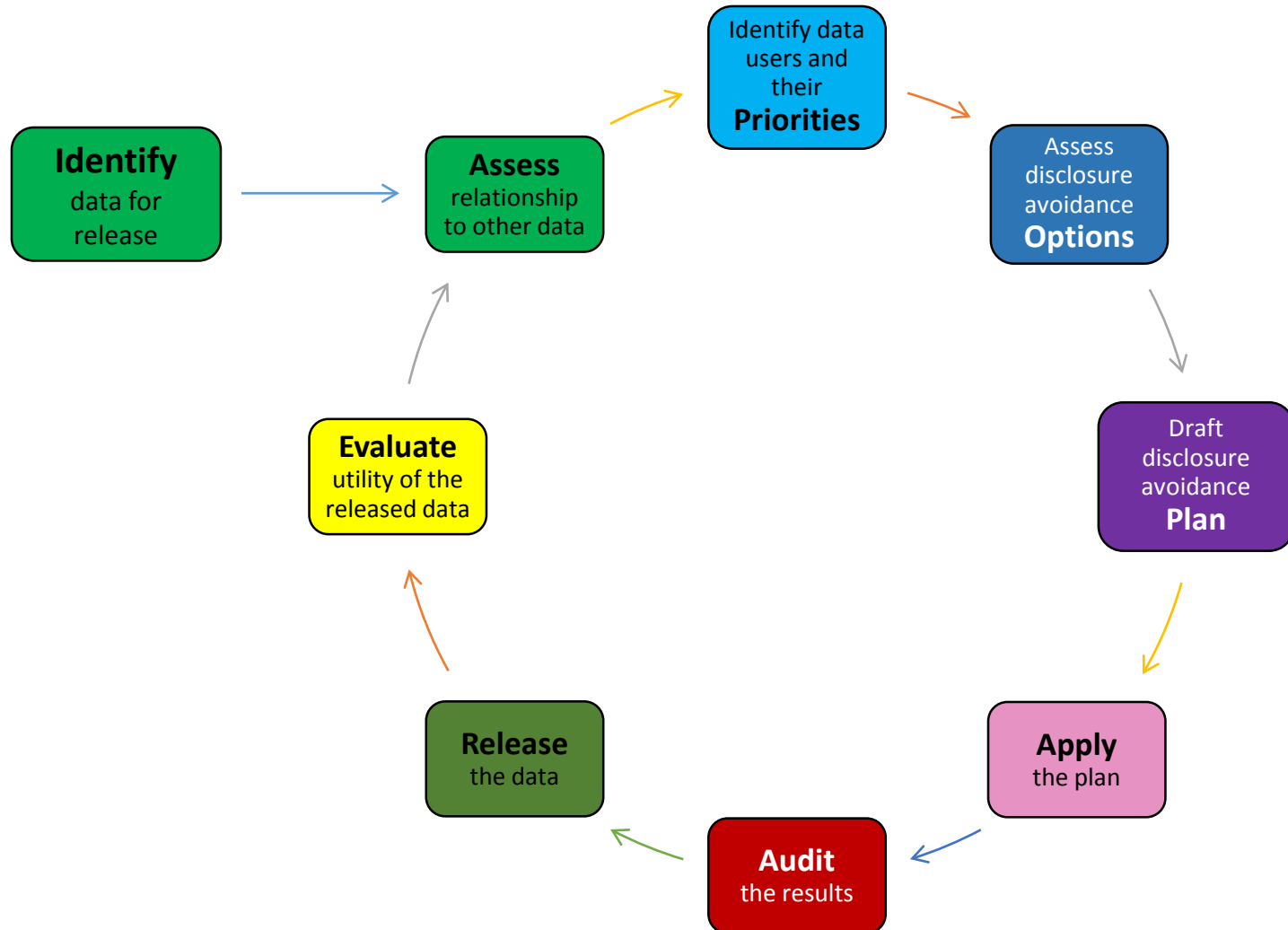
Definition:	Reducing the precision of data that is presented to reduce the certainty of identification
Examples:	<ul style="list-style-type: none">• Aggregation• Percents• Ranges• Top/Bottom-Coding• Rounding
Effect on Data Utility:	<ul style="list-style-type: none">• Users cannot make inferences about small changes in the data• Reduces the ability to perform time-series or cross-case analysis
Residual Risk of Disclosure:	<ul style="list-style-type: none">• Generally low risk, but if row/column totals are published (or available elsewhere) then it may be possible to calculate the actual values of sensitive cells

Perturbation

Definition:	Making small changes to the data to prevent identification of individuals from unique or rare characteristics
Examples:	<ul style="list-style-type: none">• Data Swapping• Noise• Synthetic Data
Effect on Data Utility:	<ul style="list-style-type: none">• Can minimize loss of utility compared to other methods• Seen as inappropriate for program data because it reduces the transparency and credibility of the data, which can have enforcement and regulatory implications
Residual Risk of Disclosure:	<ul style="list-style-type: none">• If someone has access to some (e.g., a single state's) original data, they may be able to reverse-engineer the perturbation rules used to alter the rest of the data



Disclosure Avoidance Lifecycle



Some tips to consider:

- You don't have to limit your plan to a single method – you can adopt multiple methods that compliment each other (e.g., suppression and top/bottom coding)
- If using suppression, be especially aware of row/column totals, and related tables – complimentary suppression will most likely be necessary
- When reporting in percentages, round to whole numbers whenever possible
- Be especially careful with individual-level data – you will probably need to use some amount of perturbation!
- Be sure to audit your results

The Trouble with Cell Size Rules

Remember: It's not just the small cells that are important.

Bigger cells/values can still be disclosive if:

- they are extreme values (e.g., ~0% or ~100% of students in a group),
or
- they can be used to calculate the values of protected cells elsewhere (*in the same table, or even in another data release!*)



Take Home Point: Data Releases by Others

When performing a disclosure risk analysis, educational agencies and institutions must consider data releases made by other organizations.

How schools, districts, states, and the Federal government release the same (or related) data, may impact the re-identifiability of the data you (or they) release!

Not All Data are Created Equal

- Disclosure avoidance is about risk assessment and risk mitigation.
- Different types of data carry different levels of reidentification risk, and thus require different approaches to disclosure avoidance.

Data Characteristics to Consider

Aggregate vs. Individual-level Data

- Individual-level Data
 - Snapshot vs. Longitudinal Data
 - Categorical vs. Continuous Measures
- Aggregate Data
 - Attribute vs. Outcome
 - Single metric vs. Composite Index
 - Student Count vs. Incident Count
 - Thresholds vs. Averages

It's all about risk



“The release of any data usually entails at least some element of risk. A decision to eliminate all risk of disclosure would curtail [data] releases drastically, if not completely. Thus, for any proposed release of [data] the acceptability of the level of risk of disclosure must be evaluated.”

Federal Committee on Statistical Methodology, “Statistical Working Paper #2”

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