

TEXAS A&M UNIVERSITY ACCESS TO EDUCATION RECORDS FOR RESEARCH

The Family Educational Rights and Privacy Act (FERPA) is a federal law that protects the privacy of student education records. Texas A&M University (Texas A&M) is subject to FERPA, which restricts the disclosure of education records to third parties, including researchers. This document provides guidance to researchers on how they can access student education records maintained by Texas A&M in accordance with FERPA.

Education Records and PII

FERPA regulates the disclosure of personally identifiable information from education records maintained by Texas A&M. “**Education records**” are records that (1) directly relate to a Texas A&M student and (2) are maintained by Texas A&M or a party acting on behalf of Texas A&M. These records may be recorded in any format (e.g., print, videotape, audiotape, and e-mail) and include grades, transcripts, class lists, student course schedules, student financial information, and student discipline files.

“**Personally identifiable information**” or “**PII**” refers to identifiable information maintained in education records and includes direct identifiers such as a student’s name or identification number, indirect identifiers such as a student’s date of birth, and other information which can be used to identify a student, either directly or indirectly, when linked with other information.

Access to Education Records for Research with Student Consent

Generally, Texas A&M may not disclose PII from education records without obtaining a student’s prior written consent. FERPA requires that a consent: (1) be signed and dated by the student; (2) specify the records that may be disclosed; (3) state the purpose of the disclosure; and (4) identify the party or class of parties to whom the disclosure may be made. FERPA permits electronic consents as long as the consent identifies and authenticates the student as the signatory and indicates the student’s approval of the information contained in the consent.

Researchers who want access to PII from education records should coordinate with the Texas A&M Registrar to develop a FERPA consent for their research study or determine whether they can obtain access without student consent. For researchers engaging in human subjects research, the Institutional Review Board (IRB) will be responsible for the informed consent for research (or a waiver of such consent), while the Texas A&M Registrar will be responsible for determinations relating to education records and FERPA.

Access to Education Records for Research without Student Consent

In the limited circumstances described below, Texas A&M is permitted – but not required – to disclose PII from education records to researchers without student consent. If Texas A&M denies a researcher’s request to obtain PII from education records without student consent, the IRB cannot overrule this decision.

A. Directory Information

FERPA permits Texas A&M to designate certain information as “**directory information**” if it would not be harmful or an invasion of privacy to disclose such information without student consent. Directory information includes information like the student’s name, address, telephone number, email address, participation in officially recognized activities and sports, dates of attendance, and program of study. Students have the opportunity to “opt-out” of the disclosure of their directory information, and Texas A&M may only release directory information for students who have not opted out of such disclosure. Researchers should contact the Texas A&M Registrar to request access to directory information.

B. Studies to develop, validate, or administer predictive tests; administer student aid programs; or improve instruction

FERPA allows Texas A&M to disclose PII from education records without student consent to organizations conducting studies for, or on behalf of, Texas A&M to (1) develop, validate, or administer predictive tests; (2) administer student aid programs; and (3) improve instruction. When Texas A&M discloses PII from education records under this exception, it must enter into a written agreement with the research organization that includes specific provisions delineated in the FERPA regulations.

C. School Official with a Legitimate Educational Interest

FERPA permits Texas A&M to disclose PII from education records without student consent to school officials who have a “legitimate educational interest” in the information. Texas A&M may determine that a researcher has a legitimate educational interest in PII from education records if the research is necessary for the researcher to fulfill his or her professional responsibilities, and the research is designed to study the effectiveness of an instructional technique, curricula, or classroom management method in a Texas A&M course. Researchers should contact the Texas A&M Registrar to determine whether they may obtain access to PII from education records under this exception.

Access to De-identified Information for Research

Texas A&M may disclose information from education records without student consent if all PII has been removed from the records prior to their disclosure. As described above, PII not only includes direct identifiers (such as names, student IDs or social security numbers), but also any other sensitive and non-sensitive information that, alone or combined with other information that is linked or linkable to a specific individual, would allow identification. The Department of Education (DOE) has advised that the simple removal of direct identifiers from the data to be released (e.g., a student’s name) does not constitute adequate de-identification. Properly performed de-identification involves removing or obscuring all identifiable information until all data that can lead to individual identification have been expunged or masked. When making a determination as to whether the data has been sufficiently de-identified, Texas A&M must take into consideration cumulative re-identification risk from all previous data releases and other reasonably available

information, including publicly-available directory information and de-identified data releases from education records.

For certain education research studies, Texas A&M may attach a code to each de-identified record that allows the researchers to match information received from the same source, provided that (1) Texas A&M does not disclose any information about how it generated and assigned the code, or that would allow the researcher to identify a student based on a code; (2) the code is not used for any purpose other than identifying a de-identified record for purposes of education research and cannot be used to ascertain PII about a student; and (3) the code is not based on a student's social security number or other personal information.

Researchers should contact the Texas A&M Registrar to request access to de-identified information. Texas A&M, in its sole discretion, will decide whether to de-identify education records to provide to researchers.