

Issuing Department: Human Subjects Protection Program (HSPP)
Policy Number: 2014-034.0
Policy Title: Additional Requirements – Department of Education

Purpose

The purpose of this policy is to set forth additional requirements that are applicable to research supported by the U.S. Department of Education (DE); and to identify when requirements of the Family Educational Rights and Privacy Act (FERPA) and Protection of Pupil Rights Amendment are applicable to research.

Definitions

Policy

For research funded by the National Institute on Disability and Rehabilitation Research, a component of the Dept. of Education, when the IRB reviews research that purposefully requires inclusion of children with disabilities or individuals with mental disabilities as research participants, the IRB must include at least one person primarily concerned with the welfare of these research participants.

For research funded by the DE, investigators must maintain compliance with the University's Family Educational Rights and Privacy Act (FERPA) policy (<http://policy.uconn.edu/?p=368>), as applicable. FERPA applies when researchers obtain student records or personal education information from an education program defined as any program principally engaged in the provision of education, including, but not limited to, early childhood education, elementary and secondary education, postsecondary education, special education, job training, career and technical education, and adult education.

Per the University FERPA policy, and with IRB approval, personally identifiable information may be disclosed from an education record of a student without consent if the disclosure is part of an agreement between organizations or researchers conducting studies for, or on behalf of, educational agencies or institutions to:

- Develop, validate, or administer predictive tests.
- Administer student aid programs.
- Improve instruction.

A school district or postsecondary institution that uses this exception is required to enter into a written agreement with the Organization or Researcher conducting the research that specifies:

- The determination of the exception
- The purpose, scope, and duration of the study
- The information to be disclosed.
- That information from education records may only be used to meet the purposes of the study stated in the written agreement and must contain the current requirements in Department of Education regulations on re-disclosure and destruction of information.
- That the study 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 study.
- The time period during which the Organization must either destroy or return the information.

Education records may be released without consent under FERPA if all personally identifiable information has been removed including:

- Student's name and other direct personal identifiers, such as the student's social security number or student number.
- Indirect identifiers, such as the name of the student's parent or other family members; the student's or family's address, and personal characteristics or other information that would make the student's identity easily traceable; and date and place of birth and mother's maiden name.
- Biometric records, including one or more measurable biological or behavioral characteristics that can be used for automated recognition of an individual, including fingerprints, retina and iris patterns, voiceprints, DNA sequence, facial characteristics, and handwriting.
- 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.

Per the Protection of Pupil Rights Amendment for certain types of research projects directly funded by the U.S. Department of Education, no student will be required, as part of any research project, to submit without prior consent to surveys, psychiatric examination, testing, or treatment, or psychological examination, testing, or treatment, in which the primary purpose is to reveal information concerning one or more of the following:

- Political affiliations or beliefs of the student or the student's parent.
- Mental or psychological problems of the student or the student's family.
- Sex behavior or attitudes
- Illegal, anti-social, self-incriminating, or 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.
- Religious practices, affiliations, or beliefs of the student or student's parent.
- Income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program.)

Prior consent means:

- Prior consent of the student, if the student is an adult or emancipated minor.
- Prior written consent of the parent or guardian, if the student is a minor who has not been emancipated.

For certain types of research projects not directly funded by the U.S. Department of Education and conducted in a school that receives funding from the U.S. Department of Education investigators must obtain verification from the school of compliance with U.S. Department of Education regulations that require schools to develop and adopt policies in conjunction with parents regarding the following (rights of parents are applicable when the student is a child):

- The right of a parent of a student to inspect, upon the request of the parent, a survey created by a third party before the survey is administered or distributed by a school to a student.
 - Any applicable procedures for granting a request by a parent for reasonable access to such survey within a reasonable period of time after the request is received.
- Arrangements to protect student privacy that are provided by the agency in the event of the administration or distribution of a survey to a student containing one or more of the following items (including the right of a parent of a student to inspect, upon the request of the parent, any survey containing one or more of such items):

- Political affiliations or beliefs of the student or the student’s parent.
 - Mental or psychological problems of the student or the student’s family.
 - Sex behavior or attitudes
 - Illegal, anti-social, self-incriminating, or 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.
 - Religious practices, affiliations, or beliefs of the student or the student’s parent.
 - Income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program).
- The right of a parent of a student to inspect, upon the request of the parent, any instructional material used as part of the educational curriculum for the student.
 - Any applicable procedures for granting a request by a parent for reasonable access to instructional material received.
 - The administration of physical examinations or screenings that the school or agency may administer to a student.
 - The collection, disclosure, or use of personal information collected from students for the purpose of marketing or for selling that information (or otherwise providing that information to others for that purpose), including arrangements to protect student privacy that are provided by the agency in the event of such collection, disclosure, or use.
 - The right of a parent of a student to inspect, upon the request of the parent, any instrument used in the collection of personal information before the instrument is administered or distributed to a student
 - Any applicable procedures for granting a request by a parent for reasonable access to such instrument within a reasonable period of time after the request is received.

For research funded by the U.S. Department of Education all instructional material, including teachers' manuals, films, tapes, or other supplementary instructional material, which will be used in connection with any research or experimentation program or project must be available for inspection by the parents or guardians of the children engaged in such research. Research or experimentation program or project means any program or project in any research that is designed to explore or develop new or unproven teaching methods or techniques. Children are persons enrolled in research not above the elementary or secondary education level, who have not reached the age of majority as determined under state law.

Procedure

When research is funded by the U.S. Department of Education, or conducted in schools that receive funding from the U.S. Department of Education, in addition to the standard documents required for submissions, the following documents must be provided to the IRB:

- Appendix K to the IRB application, which may include an exception to student/parental consent.
- The FERPA Verification Form if the research is to be conducted in a school other than the University itself.

The IRB will then review the forms in accordance with standard review practices to ensure all required elements have been addressed.

Related Policies

2011-006.0 - Additional Protections: General Policy
2011-006.3 - Additional Protections: Children
2011-006.4 – Additional Protections: Other
2011-009.3 - Institutional Review Board – Expedited Reviews
2011-009.5 – Institutional Review Board - Review by Convened Board
2011-009.12 – Institutional Review Board – Criteria for Approval
FERPA Policy, (University wide)

Basis

34 CFR 356.3
34 CFR 98.3
34 CFR 98.4
343 CFR 99

Document Attributes

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Reviewed and Approved By:

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