FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF 1974 (FERPA):

- Designed to protect privacy of student education records*

- Gives students right to inspect their records and to amend them under certain circumstances

- Limits disclosure of student education records and personally identifiable information* contained in them

- Applies to institutions that receive federal aid, which can be withheld from institutions that have “policy or practice” of disclosing student’s educational records or personally identifiable information without consent

* Definitions of terms can be found on the last three slides of this power point.
Access/Disclosure – without need for student consent:

- Generally, the University allows access to student education records to school officials who have a “legitimate educational interest”* in the records.

- Access/disclosure also allowed to:
  - parents of dependent students (as determined by tax returns)
  - officials of other institutions in which a student seeks to enroll or has enrolled for purposes related to the student’s enrollment or transfer
  - persons or organizations providing financial aid to the affected student
  - accrediting agencies carrying out their accreditation function
  - persons in connection with a judicial order or lawful subpoena
  - persons in connection with an emergency if necessary to protect health or safety of students or other individuals

* Definitions of terms can be found on the last three slides of this power point.
Directory Information

- Information that would not generally be considered harmful or an invasion of privacy if disclosed
- Institution has discretion to determine what it considers directory information but must give public notice to students
- University of Notre Dame defines directory information as:
  - Name
  - Addresses (local and permanent)
  - Phone numbers (local and permanent)
  - E-mail addresses
  - Date and place of birth
  - Photographs of student (except for student ID photos; per University policy, can only be used for student IDs or Photo Online without student’s consent)
  - Field(s) of study
  - Degrees and awards received
  - Most recent previous educational agency or institution attended
  - Participation in officially recognized activities and sports and, for members of athletic teams, height and weight
- Directory information is deemed not to be protected education records, but students can opt out of routine disclosure of this information
- Institution may not comply with a request for “directory information” that is linked to non-directory information
What this means for you

- As a School Official with a Legitimate Educational Interest, you may have access to Education Records, including Personally Identifiable Information, with or without student consent.

- Your Educational Interest is defined and limited by the duties and responsibilities of your position.
  - However, your access does not automatically give you the right to disclose.
  - Your disclosure of information may be a violation of students’ rights under FERPA.
    - Potential Consequence: student reports a violation to the Department of Education.
Recap of Rules for Access/Disclosure

- Determine whether record/information sought is or comes from an “education record”
  - If no, FERPA doesn’t apply
  - If yes, determine whether the person seeking access is a school official that has a “legitimate educational interest”
    - If yes, access granted/disclosure okay
    - If no, obtain consent from student or determine whether an exception applies
      - If consent is obtained or an exception applies, access granted/disclosure okay
      - If no consent and an exception doesn’t apply, access denied/disclosure not allowed
Education Records

- Any type of record containing information directly relating to a student and maintained by an educational institution or a party acting on behalf of an institution

- Exceptions – The following are NOT education records:
  - Law enforcement records (unless included in a disciplinary file)
  - Medical treatment records (disclosure governed by State law)
  - Employment records (unless employment is contingent on the individual’s status as a student)
  - Post-attendance records that are not directly related to the individual’s attendance as a student
  - Grades on peer-graded papers before collection and recordation
  - Personal notes of a school official, used only as a memory aid and not shared
Personally Identifiable Information

- Data or information which includes:
  - Name of the student, the student’s parents, or other family members;
  - Student’s address;
  - Personal identifier such as a social security number or student ID number; or
  - Information that, alone or in combination, is linked or can be linked to a specific student that allows a reasonable person in the school community to identify the student with reasonable certainty.
Legitimate Educational Interest

Defined by Notre Dame as a school official’s “need to know” in order to do his or her job for the University

- “School Official” is a person employed by the University in an administrative, supervisory, academic or research, or support staff role (including a person or company with whom the University has contracted as its agent to provide a service instead of using University employees)

- Legitimate educational interest is determined by duties and responsibilities of position