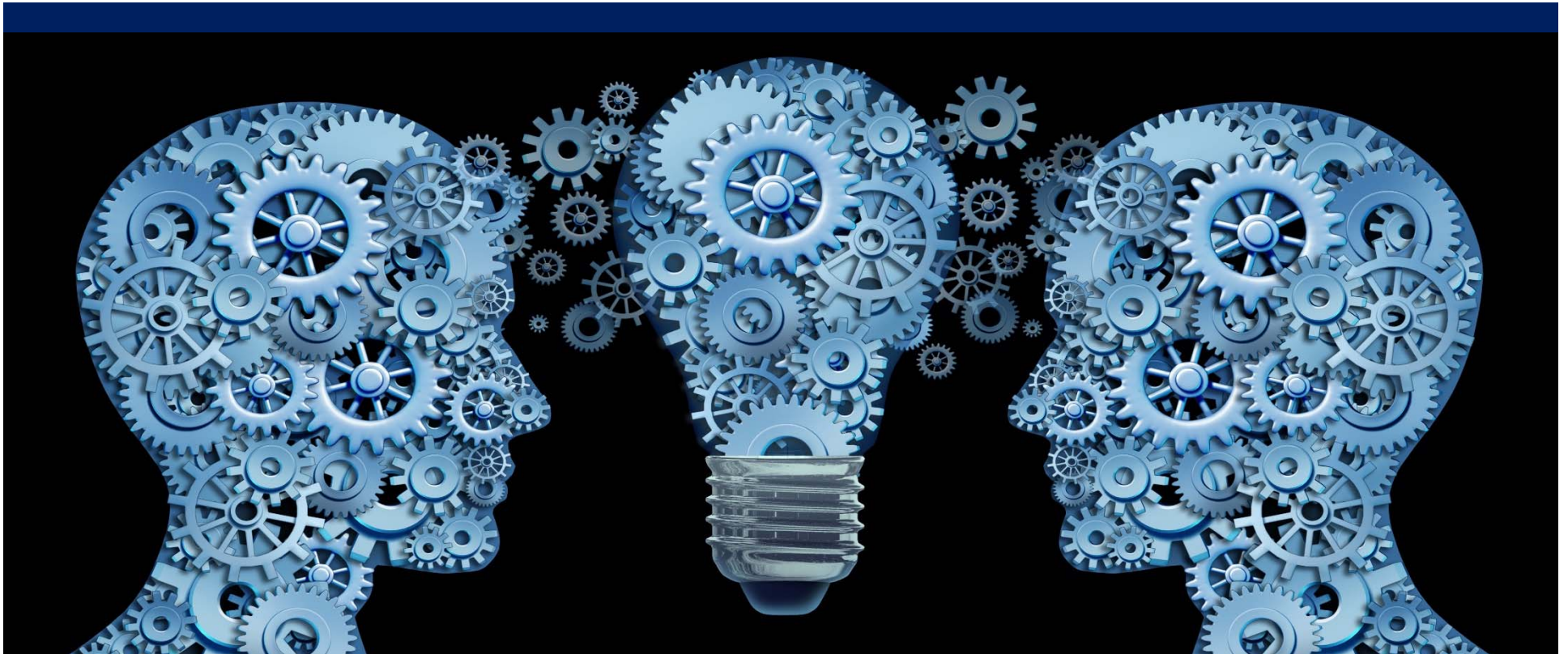


FERPA Fundamentals

Richard Kelch

Assistant University Registrar



Objective

Upon completion of this presentation, you will know:

- An overview of how Family Educational Rights and Privacy Act (FERPA) applies to NSU employees and students and what precautions we need to take in handling student information
- The importance of FERPA for anyone handling student records

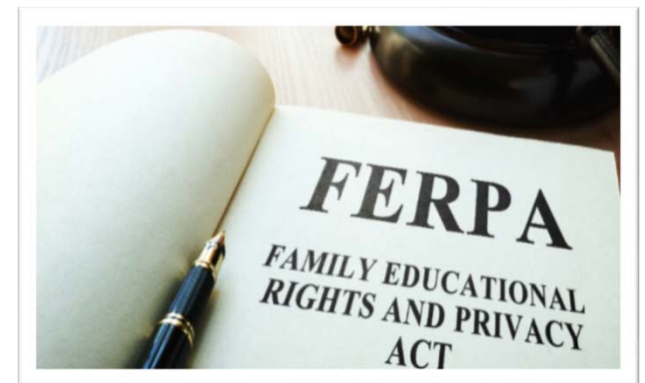


What is FERPA?

- The **Family Educational Rights and Privacy Act (FERPA)**

is a Federal Law designed to:

- Protect the privacy of education records
- Establish the right of students to inspect and review their education records
- Provide guidelines for the correction of inaccurate and misleading data through formal and informal hearings



Family Educational Rights and Privacy Act (FERPA)

Enforced by the Family Policy Compliance Office (FPCO), which is part of the U.S. Department of Education (ED) in Washington, D.C.



Students' and Parents' Rights

- Apply to any educational agency and institution receiving funds under any program administered by the Secretary of Education
- At the K-12 level, student rights are ascribed to the parent.
- For FERPA purposes, NSU considers all students as independent, regardless of age; therefore, education records are not shared with parents without the student's written consent.



Parental Access to NSU Student Records

- Parents are treated the same as any outside party.
- Affidavits of parental claims and records of student permission are maintained by Enrollment Processing Services (EPS) in the NETSearch imaging system as ROI document types in the ADMIT and SFSSR indexes.



FERPA Rights at the Postsecondary Level

- Pertain to *all* enrolled students, including continuing education students, students auditing classes, distance education students, and former students about whom an institution maintains an education record or personally identifiable information
- While the *federal* definition does not include admissions records of an individual who has never attended class, NSU's policy also protects these records



FERPA's Primary Student Rights

- NSU students must be permitted to inspect and review their own education records.
- University officials may not release personally-identifiable information about students, nor permit inspection of their records without written permission, unless such action is covered by certain exceptions permitted by the Act.



Our Responsibility

- As NSU employees, we play a crucial role in ensuring that student records are protected from unauthorized access.
- Student records contain highly sensitive information, including family information. The contents of these files are likely to have an impact on the overall educational experience of a student.
- Protecting a student's privacy is both a legal and ethical requirement of all NSU employees.

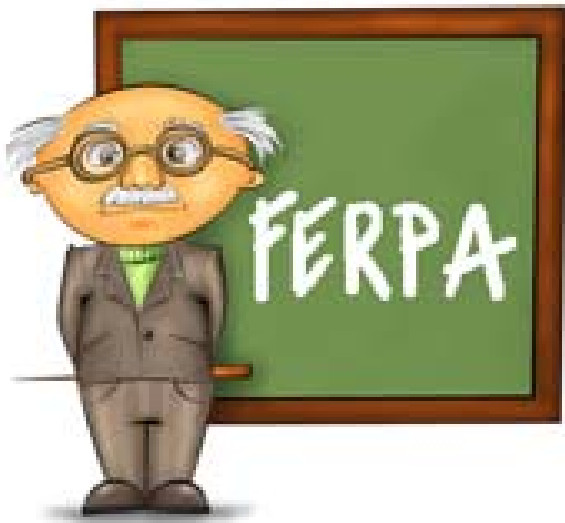


Why Worry About FERPA?

- Students can file formal complaints with the Department of Education.
- NSU can lose federal funding.
- Students can file lawsuits against the university and the person responsible can be held liable.
- Disciplinary action can be taken against YOU -up to and including dismissal from employment.



Key Concepts



- Annual notification is required
- Written permission is required for disclosure of a student's education record except with certain exceptions
- Students have the right to access their records
- Staff must have legitimate educational interest



Annual Notification

NSU annually notifies students in attendance of their rights under FERPA:

- Right to inspect and review education records
- Right to request amendment of education records that the student believes to be inaccurate or misleading
- Right to consent to disclosure of personally identifiable information in the education record, with certain exceptions
- Right to file a complaint with the ED



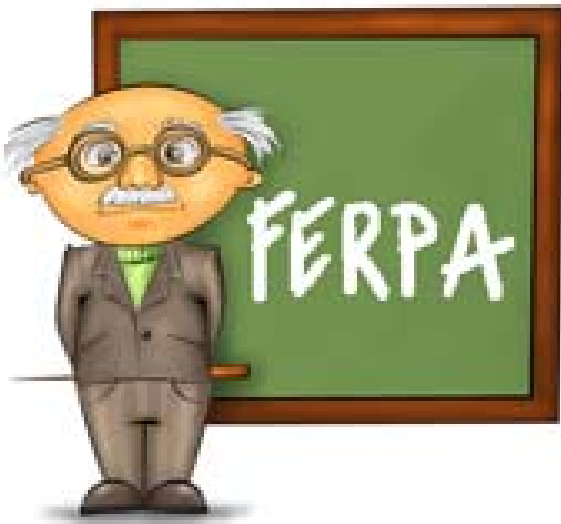
Annual Notification

NSU annually notifies students in attendance of their rights under FERPA:

- Procedure to inspect and review records
- A statement that education records may be disclosed without prior written consent (e.g., to school officials with a legitimate educational interest, medical personnel in the event of an emergency, law enforcement personnel, agents working on behalf of the university)



Key Terms



- Education Record
- Personally Identifiable
- Directory Information
- School Official

What is the “Education Record?”

- Any record, with certain exceptions, maintained by the institution that is directly related to a student
- This record can contain a student’s name(s) or other information from which an individual student can be personally identified.



What is the “Education Record?”

- Record means any information, maintained in any way, including but not limited to:
 - Handwritten
 - Video or audio tape
 - Computer media
 - Blackboard and/or Canvas communications and chats
 - Print
 - Film, microfilm, or microfiche



What is an “Education Record?”

Which items are considered education records?

- A. Financial aid records
- B. A computer-generated list of library books checked out by a student
- C. A printout of what a student has purchased from the Bookstore with his/her SharkCard
- D. A list of websites accessed by the student
- E. All of the above



What is an “Education Record?”

Which items are considered education records?

- A. Financial aid records
- B. A computer-generated list of library books checked out by a student
- C. A printout of what a student has purchased from the Bookstore with his/her SharkCard
- D. A list of websites accessed by the student
- ☒ E. All of the above



Personally Identifiable

- **Personally Identifiable** means data or information that if released would compromise the student's privacy and make his/her identity known with "reasonable certainty."
 - Personally Identifiable information includes:
 - Student's name, the names of the student's parents or other family members
 - Student's address or that of the student's family



Personally Identifiable

- Personal identifiers (SSN or NSU I.D. number)
- Indirect identifiers (date or place of birth, mother's maiden name)
- List of personal characteristics or other information that would make the student's identity known with "reasonable certainty"



What is Not an Education Record?

Exceptions to education records include:

- Records created and maintained by a law enforcement unit for a law enforcement purpose
- Employment records (unless contingent on attendance, e.g. Federal Work-Study, student assistant, teaching assistant)



What is Not an Education Record?

- Medical records made and maintained in the course of treatment and disclosed only to those individuals providing treatment
- Records that only contain information about a student after he or she is no longer a student at the institution (e.g., alumni records)
- Sole possession notes



Sole Possession Notes

Notes made by one person as an individual observation or recollection, are kept in the possession of the maker, and are only shared with a temporary substitute

- Notes taken in conjunction with any other person are not sole possession notes (counselor's notes, interview notes)
- Sharing these notes with another person, or placing them in an area where they can be viewed by others makes them “education records” subject to FERPA
- Emails are never to be considered sole possession

Best Advice: *If you don't want it reviewed, don't write it down!*



FERPA Records

Which of the following records does FERPA *not* protect?

- A. Records that contain personally identifiable information about a student, but are only in Banner
- B. All paper records that contain personally identifiable information about a student
- C. Faculty and staff personal records about a student that are not shared with others and that are not placed in the student's file



FERPA Records

Which of the following records does FERPA *not* protect?

- A. Records that contain personally identifiable information about a student, but are only in Banner
- B. All paper records that contain personally identifiable information about a student
- ☒ C. Faculty and staff personal records about a student that are not shared with others and that are not placed in the student's file



So, What is an Education Record?

If you have a record that is:

- Maintained by the institution
- Personally identifiable to a student (i.e., directly related to a student and from which a student can be identified)
- Not one of the excluded categories of records. . .
. . .then, you have an education record, and

it is subject to FERPA



Directory Information

- Information about a student that would not generally be considered harmful or an invasion of privacy, if disclosed.
- Through an annual email notification NSU students are alerted of items considered directory information. These items are also listed on the university's website.



Directory Information

- Students must be given the opportunity to withhold disclosure of directory information.
- This right of non-disclosure applies only to directory information.

NSU does NOT sell or distribute mailing lists of its students or employees to marketers



NSU's Definition of Directory Information

- Student's name
- Local and home addresses/email address
- Telephone numbers
- Place of birth
- Major field of study/Enrollment status
(e.g., full-time, part-time, undergraduate, graduate, professional)
- Participation in intercollegiate sports
- Dates of attendance
- Degrees, honors, and awards received
- Year in school/Anticipated graduation date
- I.D. photograph



Directory Information Can Never Include...

- Race
- Gender/Sex
- Social Security Number (or part of an SSN)
- Student I.D. number
- Grades
- Grade point average
- Country of citizenship
- Religion



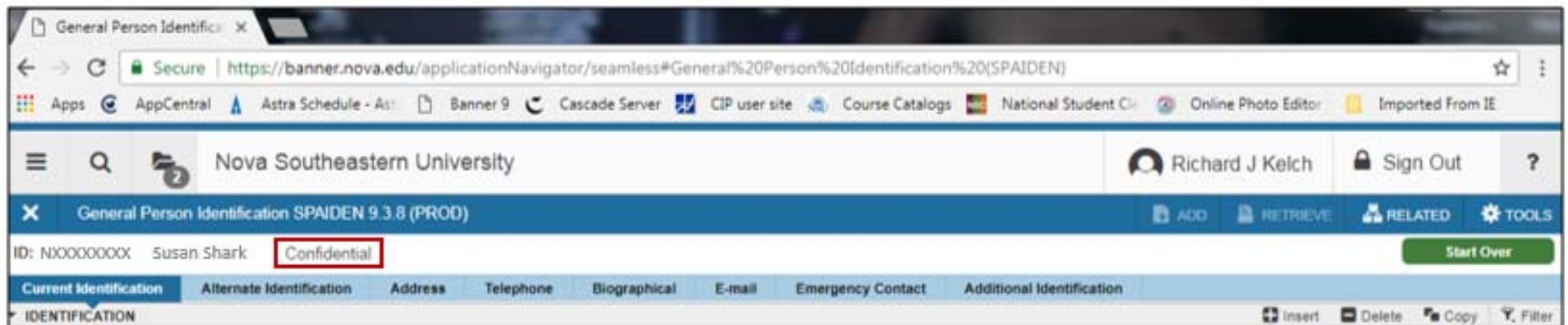
Directory Information

- It is important to remember that directory information must be defined as such.
- If certain data is not defined as 'directory information,' then it isn't directory information.
- Such data can only be released with the student's written permission, unless the release falls under one of the exceptions to a student's written permission found in FERPA.



Directory Information - *continued*

- When a student requests non-disclosure of Directory Information, a “confidential” message is displayed on all pages of the student’s record in Banner



Directory Information

- *continued*

- The impacts of withholding Directory Information:
 - Names of students are not published on a Dean's List
 - Commencement candidates'/graduates' names are not listed in the ceremony program
 - Verification requests from prospective employers are denied
 - Student cannot be spoken to over the telephone



School Official

- In order for an education record to be disclosed to a faculty member or other school official without prior written consent, the student must be annually informed of:
 - The specification of criteria for determining who is a school official, and
 - What constitutes a legitimate educational interest

These two conditions cannot be separated



NSU's Definition of a School Official

- Employed by the university in an administrative, academic, research, or support staff position (including law enforcement personnel, FWS students, and health staff)
- Contracted by the university (such as an attorney, auditor, collection agent, loan servicing agent, or the National Student Clearinghouse)



NSU's Definition of a School Official

- Serving on the Board of Trustees or Board of Governors
- Serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks



Legitimate Educational Interest

- A demonstrated *need to know* by officials of an institution who act in the student's educational interest, including faculty, administrators, clerical, and professional employees, and others who manage student record information.
- A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.



Legitimate Educational Interest

-continued

A faculty or staff member has a legitimate educational interest in accessing or reviewing a student's educational record if the faculty or staff member is:

- Performing a task that is specified in his/her position description or contract and related to a student's education or student discipline
- Providing a service or benefit related to the student or student's family
- Maintaining safety and security on campus



Legitimate Education Record?

**A professor asks for a student file.
Under FERPA, which of the following best
describes compliance with the law:**

- A. The professor is given the entire student file without question
- B. The professor is asked to identify a legitimate educational interest. If one is identified, the professor is given the entire student file
- c. The professor is asked to identify a legitimate educational interest. If identified, the professor is given that portion of the student file which is relevant to the task being performed



Legitimate Education Record?

**A professor asks for a student file.
Under FERPA, which of the following best
describes compliance with the law:**

- A. The professor is given the entire student file without question
- B. The professor is asked to identify a legitimate educational interest. If one is identified, the professor is given the entire student file
- ☒ C. The professor is asked to identify a legitimate educational interest. If identified, the professor is given that portion of the student file which is relevant to the task being performed



Requirements for Compliance

Provide students access to their education records:

- They have a right to:
 - Inspect and review within 45 calendar days of the request to inspect
 - Seek an amendment (scrivener's error) of their education records believed to be inaccurate or misleading
 - Request a hearing if the request for amendment is deemed unsatisfactory



Requirements for Compliance

Limitations to the right to inspect:

- Parental financial information
- Confidential letters and recommendations to which the student has waived his/her right to inspect
- Education records containing information about more than one student
 - The institution must permit access to the part of the record that pertains only to the inquiring student



Procedures for Compliance

Disclosure of education record information

- Institutions shall obtain written consent from a student before disclosing any personally identifiable information from the education record (with certain exceptions).
- This written consent should:
 - Specify the records to be released
 - State the purpose of the disclosure
 - Identify the party to whom disclosure may be made
 - Be signed and dated by the student



Exceptions to Prior Consent

Institutions *may* disclose education records *without written* consent of students to the following:

- School officials with legitimate educational interest (as defined in annual notification)
- To schools in which a student seeks or intends to enroll
- To federal, state, and local authorities involving an audit or evaluation of compliance with education program



Exceptions to Prior Consent

- In connection with financial aid
- To organizations conducting studies for or on behalf of the education institution
- To accrediting organizations
- To comply with a judicial order or subpoena
- To the National Student Clearinghouse



Exceptions to Prior Consent *-continued*

Institutions *may* disclose education records *without written* consent of students for the following:

- Directory Information
- In a health or safety emergency
- To the student (Certain holds limit access)
- Results of a disciplinary hearing
- Disclosure to parents of student under the age of 21, if the institution determines that the student has committed a violation of its drug or alcohol rules or policies (regardless of the student's dependent status)



Exceptions to Prior Consent

Which of the following situations might qualify as an exception that allows for the release of student education records information without written consent?

- A. The Dean of Students tells you that the student has a medical emergency
- B. The Office of the University Registrar receives a subpoena to produce a copy of a student's education record
- C. The financial aid office calls to verify that a student has completed the necessary coursework for a class
- D. All of the above
- E. A and C only



Exceptions to Prior Consent

Which of the following situations might qualify as an exception that allows for the release of student education records information without written consent?

- A. The Dean of Students tells you that the student has a medical emergency
- B. The Office of the University Registrar receives a subpoena to produce a copy of a student's education record
- C. The financial aid office calls to verify that a student has completed the necessary coursework for a class
- ☒ D. All of the above
- E. A and C only



Protect the Record!

Before discussing or releasing any information to a student about his or her education record:

- If you do not personally know the student, always verify the student's identity prior to releasing or discussing any information.



Protect the Record!

The NSU University Call Center authenticates a student's identity with at least three matches to the following protocol before releasing any information:

- Full name as it appears in Banner
- NSU I.D. number (if available)
- Mailing address(es)
- NSU or student email address(es)
- Primary telephone number on file
- Date of birth (month/day)



Protect the Record!

If you receive a request from an individual acting on behalf of the student:

- Before disclosing any information, always access NETSearch to review the ***Release of Information Form (ROI)*** form prior to providing any information to a person other than the student

SFSR

Records: 1 through 3

Exit

Select a Database

Record Search

Find Text

Send

Tools

Help

<div><div><input checked="" type="checkbox"/> ALL</div><div><input type="checkbox"/> ALL</div></div>			AID YEAR/TERM	BANNER ID	SSN	LAST NAME	FIRST NAME	MIDDLE NAME	DOC TYPE	STATUS	CAPTURE DATE	CAPTURED BY	VALIDATED BY	QC BY	PIDM	LO
<div><div><input type="checkbox"/></div><div></div><div></div></div>			0000	N00000000	xxx-xx-xxxx	STUDENT	SAMUEL	ROBERT	ROI	C	05/09/2012	XMLAI	OITDMN\DRAPER	EF	1900455	:SFSR:
<div><div><input type="checkbox"/></div><div></div><div></div></div>			1213	N00000000	xxx-xx-xxxx	STUDENT	SAMUEL	ROBERT	ATHT	C	05/29/2012	OITDMN\PEDWARD	OITDMN\HO38	DSS	1900455	:SFSR:
<div><div><input type="checkbox"/></div><div></div><div></div></div>			1213	N00000000	xxx-xx-xxxx	STUDENT	SAMUEL	ROBERT	MISC	C	06/18/2012	OITDMN\TSTANFOR	OITDMN\BAIDA	IW	1900455	:SFSR:

Exit

Select a Database

Record Search

Find Text

Send

Tools

Help

SFSR

Records: 1 through 3

European Union General Data Protection Regulation (EUGDPR)

- Enforcement began May 25, 2018
- Goal is to unify data protection laws across the European Union (EU), with expanded reach, improved protection, and regulation that keeps pace with modern technology
- EUGDPR specifies how consumer data is used and protected



European Union General Data Protection Regulation (EUGDPR)

- Applies to any organization that controls or processes personal data of EU subjects or U.S. students studying in the EU regardless of the data's location or where the processing takes place



Major Concepts in FERPA

- Most student records kept by the university are considered “**education records**” that are protected by FERPA.
- The **student** has a right to **access and review** his/her education records.
- All **education records are confidential** and cannot be disclosed, unless the student consents or the request fits one of the exceptions.



Major Concepts in FERPA

- continued

- **Faculty and staff** generally may not see a student's education record without first identifying a **legitimate educational interest**, or one of the other exceptions under which records may be reviewed.
- **Parents do not have an automatic right** to view their child's postsecondary education records.



A Word of Caution...

To avoid violating FERPA, **NEVER...**

- Place an NSU student I.D. in the subject line of an email
- Circulate screen shots with visible identifying student information even as a training mechanism
- Discuss the status of a student's record with anyone other than the student



A Word of Caution...

- Leave student records in plain sight on a computer monitor or desk while you step away
- Forward an email string to a student that contains personally identifiable information about another individual



Innovation Quote



“Innovation comes from
people who take joy in
their work.”
– *W. Edwards Deming*

Contact Information

Office of the University Registrar

Website: www.nova.edu/registrar/services/ferpa

G. Elaine N. Poff

Director of the Office of the University Registrar

Ext.: 27261

Email: poff@nova.edu

Richard J. Kelch

Assistant Registrar

Ext.: 27225

Email: rk473@nova.edu

