



# What Is FERPA?

**A TRAINING PRESENTATION FOR CLINICAL SITES**

UPDATED 10-12-2021

# FERPA

The Family Rights and Privacy Act of 1974 protects student rights, including confidentiality. Under this Act, students have the right to:

1. Inspect and review their educational records
2. Request amendment of educational records to ensure they are not inaccurate, misleading, or otherwise in violation of the student's privacy or other rights
3. Consent to disclosure of personally identifiable information contained in the student's educational records, except to the extent that FERPA authorizes disclosure without consent; and file a complaint under 34 CFR 99.64, concerning alleged failures of compliance with the FERPA requirements

# FERPA

**The Family Rights and Privacy Act of 1974 protects student educational records:**

1. Records may not be released to anyone but the student, unless the student authorizes release
2. Directory information may be released to credible third parties, unless the student requests that this information remain confidential. Directory information includes, but is not limited to:
  - a. Student name, address, telephone number
  - b. Major and minor fields of study
  - c. Dates of attendance at MSU Denver
  - d. Degrees and awards received
3. Personally identifiable information associated with a student's record (ie. Class schedule, GPA, social security number) may not be released without student permission.

# WHAT DOES FERPA MEAN TO ME?

1. FERPA is similar to HIPAA
2. Clinical Rotation Trainers and other clinical site staff who work with students are responsible for overseeing and upholding the rights that FERPA grants to students.
  - a. Student educational records are considered confidential and cannot be released without the student's prior written consent
  - b. You are given access to student educational records for the purpose of performing your job, and it is your responsibility to protect these records whenever they are in use
    - i. Clinical progress is an educational record that is being generated by the clinical site through daily progress notes, feedback, and evaluations

# WHAT DOES FERPA MEAN TO ME?

## Confidential Information which may not be released without student permission:

1. MSU ID #
2. Grades and GPA
  - a. For the clinical site this is related to progression in the clinical rotation, including technical and professionalism performance
3. Class schedule
4. Residency and Marital status
5. E-mail address

# HOW DO I COMPLY WITH FERPA ?

**At the beginning of the academic year, CCMLS will obtain Student Consent to Release Confidential Information:**

1. For release of information contained in student confidential records, ie. GPA, grades, clinical performance, etc.
  - a. THIS TYPE OF INFORMATION IS ALMOST ALWAYS THE RESPONSIBILITY OF SCHOOL FACULTY AND SCHOOL OFFICIALS
  
2. For release of information on a “need to know” or “educational necessity” basis when discussing student progress
  - a. THIS TYPE OF INFORMATION IS FREQUENTLY THE RESPONSIBILITY OF ALL PARTIES INVOLVED WITH STUDENT EDUCATION & TRAINING – School Faculty, School Officials, Clinical Rotation Coordinators and Trainers

# HOW DO I COMPLY WITH FERPA?

1. On an annual basis, review the provided FERPA presentation and contact CCMLS with any questions ([sdifalco@msudenver.edu](mailto:sdifalco@msudenver.edu))
2. Do not link a student's name with their social security or MSU student number in any public manner, including circulation of class lists or attendance rosters
3. Do not leave graded assignments in a stack for students to sort through and pick up
4. Do not provide anyone with student schedules, addresses, phone numbers

# HOW DO I COMPLY WITH FERPA?

1. Do not discuss a student's progress with anyone other than the student unless you have written consent from the student
2. Be cautious to discuss academic progress, GPA, academic performance, technical or clinical performance, etc. when multiple students are present. If you need to discuss individual grades, GPA, or other private information with a group of students, written consent must be obtained from each student
3. Send all emails that contain protected information only to the student's @msudenver.edu address
4. Obtain a written request from the student in order to write a recommendation letter; the request needs to indicate exactly what the student wants you to include in the letter; maintain the letter on file



# EXAMPLES

**Read the following case and determine if the action is compliant with FERPA, or if the action is violating FERPA:**

## CASE 1:

You are training a student in clinical rotation, and a co-worker in another department tells you that this student did not do a particularly good job when training in her area, and then asks about their progress with you (ie. “she couldn’t do any multitasking - is she having difficulty in this in your area?”)

Since she is a good friend and had worked with this student previously, you respond with “She does an adequate job with most things, but has a lot of trouble multitasking; I find myself taking over to get the patient work done”

# EXAMPLES

**Was the action compliant with FERPA, or was the action violating FERPA?**

## CASE 1:

Your response is a violation of FERPA. Student progress should not be discussed with anyone who does not have permission to receive such information (ie. Someone having a “need to know”; another trainer that will be training the student on the next day). Your friend has completed her work with this student, and she has no “need to know” about her current progress in your area.

You should tell your co-worker that student progress information is confidential (much like HIPAA), and you are not allowed to share. It would have been appropriate if the co-worker had shared relevant information (something that would be considered “need to know” in order to assist the student) about the student’s progress with you prior to the rotation.

# EXAMPLES

**Read the following case and determine if the action is compliant with FERPA, or if the action is violating FERPA:**

## CASE 2:

You are training a student in clinical rotation, and you brief your co-worker who will be training him on the next day about his progress, including areas in which improvement is needed. The conversation occurs in the staff locker room where other laboratory employees were present and could overhear.

# EXAMPLES

Was the action compliant with FERPA, or was the action violating FERPA?

## CASE 2:

Your action is not in compliance with FERPA, because the conversation occurs in a non-private area and unauthorized staff could overhear.

It is acceptable to “brief” another trainer who will be working with a student as to their progress **AS LONG AS** the conversation occurs in private.

# EXAMPLES

**Read the following case and determine if the action is compliant with FERPA, or if the action is violating FERPA:**

## CASE 3:

You are training a student in clinical rotation, and after she leaves for the day, you make some notes about her progress that you will discuss with her tomorrow. You leave the notes on the counter with a note to the student to review them as soon as she arrives the next day.

# EXAMPLES

Was the action compliant with FERPA, or was the action violating FERPA?

## CASE 3:

Your action is violating FERPA, because unauthorized individuals may have access to the notes. Making notes is acceptable **AS LONG AS** they are secured and destroyed according to FERPA protocol.

# EXAMPLES

**Read the following case and determine if the action is compliant with FERPA, or if the action is violating FERPA:**

## CASE 4:

You are asked by a department manager to provide a written recommendation for a student. The student has not asked you for this recommendation, even though you know that he is interested in the job and would be a good fit in the lab. You are certain that he would give permission and the department manager is in a hurry, so you go ahead and write the letter.

# EXAMPLES

**Was the action compliant with FERPA, or was the action violating FERPA?**

## CASE 4:

Your action is violating FERPA, because written permission from a student is required before a formal letter of recommendation is written. The permission also must include what the student wants included in the letter; the permission must be kept on file.

You should have told the department manager that you do not have the student's permission to provide the letter; then contact the student and tell them that you were asked for the recommendation but cannot write the letter without their written permission.



# EXAMPLES

- ▶ Read the following cases and determine if the action is compliant with FERPA, or if the action is violating FERPA:
- ▶ CASE 5:
- ▶ At the beginning of lab, one of your students informs you that they were exposed to Covid-19, but are not experiencing symptoms. In private, you refer the student to the applicable policy (# ) and send the student home. You inform the program director and other faculty of the situation.

# EXAMPLES

**Was the action compliant with FERPA, or was the action violating FERPA?**

## CASE 5:

Conducting the discussion in a private area is appropriate, as well as your response to the student. Depending on specific facility policies, only those with a “need to know” should be informed of the reason for the student leaving the lab. Since the student’s status is health information, it is also protected by HIPAA.

# EXAMPLES

**Read the following case and determine if the action is compliant with FERPA, or if the action is violating FERPA:**

## CASE 6:

You are discussing general rotation information, that does not include information about specific student progress, with 3 students in a “public” area of the lab. During the discussion, one of the students asks a question about how they are doing in their blood bank rotation.

You reply: “Right now we need to cover this general information that is not confidential and applies to all students. Any questions about individual progress in a particular area must be addressed by appropriate individuals in a private area. After we have completed our discussion, I can speak with you privately and/or direct you to the individual who can assist you.”

# EXAMPLES

**Was the action compliant with FERPA, or was the action violating FERPA?**

## CASE 6:

Your response is in compliance with FERPA. Restricting group discussions to non-confidential topics, and letting the student know that confidential topics must be discussed in private with appropriate individual(s) is correct.

An acceptable alternative would be to seek permission from all students in the group to discuss confidential topics before doing so. This action should be documented.

# EXAMPLES

**Read the following case and determine if the action is compliant with FERPA, or if the action is violating FERPA:**

## CASE 7:

During a lunch potluck with other laboratory staff, someone asked the group which of the three students that are currently rotating in the lab they would like to hire for an open position.

You proceed to detail each of the students' performance during rotations, including comments such as "he will never make it in this profession; she is so much better than him; she can't problem solve anything and works too slow".

# EXAMPLES

**Was the action compliant with FERPA, or was the action violating FERPA?**

## CASE 7:

This discussion is a violation of FERPA. Student performance should only be discussed on a “need to know” basis, and not in a public area.

When recommendations or evaluations of student performance is required for hiring or other official decisions, they should be sought through approved laboratory policies, in private and in an objective manner.

It would be appropriate for others who hear this conversation to remind the participants that they should not be sharing confidential information of this type.

# THANK YOU FOR YOUR ATTENTION!!

We appreciate you reviewing this information, and encourage you to contact the school offices at 303-615-0077 with any questions.

Clinical Liaison: please complete the form that documents this training for your staff and return it to the school offices by e-mail or fax. The form was attached to the e-mail containing this presentation.

1. e-mail: [sdifalco@msudenver.edu](mailto:sdifalco@msudenver.edu)