

Data Sharing

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Objective and Scope

- **to discuss data sharing and disclosures of student financial aid information that are permissible under federal law**
- **evaluate the impact that disclosure may have on students' privacy**
- **disclose only the minimum information necessary when sharing data with authorized third parties**
- **consult with legal counsel *before* providing any data sharing or data activities involving student financial aid information**



Types of Financial Aid Data

- **FERPA and personally identifiable information (PII)**
- **NSLDS**
- **FAFSA/ISIR**
- **Education Records**



Types of Financial Aid Data

- **FERPA PII definition – any information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community to identify the student with reasonable certainty. (34 CFR § 99.3)**
If PII has been successfully removed from data, these *de-identified* data may be disclosed without student consent. (34 CFR § 99.31 (b))
- **NSLDS – the Department’s central database for information about individual student aid recipient’s integrated view of Title IV loans and grants.**



Types of Financial Aid Data

- **FAFSA/ISIR – the application and outcome document utilized for assistance under the federal student aid programs.**
- **Education Records – any record that directly relates to the student and that is maintained by, or on behalf of, an educational agency or institution or a party acting for the educational agency or institution. (20 U.S.C. 1232g(a)(4) and 34 CFR § 99.3)**



Applicable Laws

- **FERPA is a federal law that protects the privacy of student education records. FERPA applies to all educational agencies and institutions that receive funds under a program administered by the Department, including Title IV of the HEA.**
- **FERPA gives students (FERPA establishes rights for parents. When a student turns 18, or enrolls at a postsecondary institution at any age, those rights transfer to the student. 20 U.S.C. 1232g(d) the right to:**
 - **Inspect and review their education records, except as otherwise limited (34 CFR § 99.12)**



Applicable Laws

- **request that information that is inaccurate, misleading, or in violation of the students' rights of privacy be corrected**
- **consent to disclosure of their education records and the PII contained therein, unless an exception to FERPA's general consent requirement applies**
- **ISIR data or any other student financial aid data directly related to a student and provided to and maintained by an institution, or created and maintained by an institution, constitutes as an**



Applicable Laws

education record under FERPA, and are protected against unauthorized release. Disclosing this information to other entities must consider whether prior written consent from the student is required.



Financial Aid Exceptions

Institutions may disclose, without prior written consent under FERPA's Financial Aid Exception, if the information is necessary to:

- **determine the student's eligibility for aid**
- **determine the amount of aid**
- **determine conditions of aid**
- **enforce terms and conditions of aid**



School Official Exception

Under this category, institutions may disclose, without prior written consent , PII from education records to other individuals within the institution, or to others outside the institution serving as school officials provided that the recipient of the records:

- performs an institutional service or function for which the institution would otherwise use employees (if disclosing to an outside entity)**
- is under the direct control of the institution with respect to the use and maintenance of education records**



School Official Exception

- **only uses the PII from education records for the purpose(s) for which the disclosure was made and only further discloses PII from education records as authorized by the institution and in compliance with FERPA**
- **meets the criteria specified in the institution's annual notification of FERPA rights**
- **has been determined by the institution to have a legitimate educational interest in the education records**



Audit and Evaluation Exception

The Audit and Evaluation Exception permits an institution to disclose, without prior consent from the student, PII from student education records to authorized representatives of certain officials and entities including, but not limited, to state and local educational authorities. Unless the authorized representative is an employee of the state or local educational authority, there must be a written agreement in which the authorized representative has been so designated. 20 U.S.C. 1232g(b)(1)©, (b)(3), and (b)(5) and 34 CFR § 99.31(a)(3) and 99.35



Studies Exception

FERPA's Studies Exception allows institutions to disclose, without prior written consent from the student, PII from student education records to a third party conducting a study for, or on behalf of the institution for the purpose of:

- developing, validating, or administering predictive tests**
- administering student aid programs**
- improving instruction**



Studies Exception

An institution may disclose PII from education records and a state or local educational authority or agency headed by an official listed in 34 CFR § 99.31(a)(3) may redisclose this information, only if:

- the study is conducted in a manner that does not permit personal identification of parents and students by individuals other than representatives of the organization that have legitimate interests in the information**



Studies Exception

- **the information is destroyed when no longer needed for the purposes for which the study was conducted**
- **the [institution or state or local educational authority or agency headed by an official listed in 34 CFR § 99.31(a)(3)] enters into a written agreement with the organization that specifies the purpose, scope, and duration of the study (studies) and the information to be disclosed**
- **requires the organization to use PII from education records only to meet the purpose of the study as stated in the written agreement**

Studies Exception

- **requires the organization to conduct the study in a manner that does not permit personal identification of parents and students, as defined in this part, by anyone other than representatives of the organization with legitimate interests**
- **requires the organization to destroy all PII when the information is no longer needed for the purposes for which the study was conducted and specifies the time period in which the information must be destroyed (34 CFR § 99.31(a)(6)(iii))**

Higher Education Act (HEA)

- **HEA is the federal law that governs the administration of most federal student financial aid programs. HEA authorizes numerous federal student aid programs that provide support to both individuals pursuing a postsecondary education and to postsecondary educational institutions. The provisions of the HEA apply differently to information collected or derived from the FAFSA/ISIR (including institutional award and disbursement information) and to data included in NSLDS (including data on the ISIR from NSLDS).**

Higher Education Act (HEA)

- **Section 483(a)(3)(E) of the HEA restricts the use of the FAFSA/ISIR data to the application, award, and administration of aid awarded under federal student aid programs, state aid, or aid awarded by eligible institutions. The Department interprets the use that dictates the “Administration of aid” to include audits and program evaluations necessary for the efficient and effective administration of those student aid programs.**
- **Section 485(d)(2) of the HEA prohibits nongovernmental researchers or policy analysts from accessing PII from NSLDS, while HEA section 485(d)(5)(B) prohibits the use of NSLDS data for marketing purposes. These prohibitions are applicable to all NSLDS data, including NSLDS data received by institutions via the ISIR.**

Privacy Act

- **The Privacy Act governs the collection, maintenance, use, and disclosure by federal agencies of records contained in the agencies' systems of records. (The term "system of records" means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual. (5 U.S.C. 552a(a)(5))**
- **This act requires federal agencies that maintain a system of records to comply with a number of requirements, including, but not limited to, establishing appropriate safeguards to ensure the security and confidentiality of these records. (5 U.S.C. 552a(e)(10))**

Privacy Act

- **The specific routine uses allowed for each system of records are listed in the applicable System of records Notice. (The Privacy Act requires Federal Agencies to publish notices in the Federal Register for all systems of records that they maintain. The U.S. Department of Education's Systems of Records Notices (SORNs) are available on the Department's website at: <https://www2.ed.gov/notices/ed-pia.html>**
- **Section 552a(b)(5) permits the Department to disclose a record from a system of records without written consent to a receiving entity that has provided written assurance that the record will be used solely as a statistical research or reporting record and that the record is to be transferred in a form that is not individually identifiable. (OMB Guidelines, 40 Fed. Reg. 28,948, 28,954-July 9, 1975)**

Privacy Act

- **If an institution seeks to disclose student financial aid data that was obtained directly from a system of records of the Department to another entity for statistical research purposes, the disclosing entity (e.g., the institution) must provide the Department with a written assurance that the data obtained from the Department's system of records have been properly de-identified, and the receiving entity (e.g., the researcher) must provide the Department with a written assurance that the data will only be used for statistical purposes.**
- **Written assurances must be sent to the Privacy Technical Assistance Center (PTAC) (at PrivacyTA@ed.gov) before an institution discloses such information as stated above.**

Student Aid Internet Gateway

- **SAIG was established to permit authorized entities, including institutions, to exchange data electronically with the Department through a contractual agreement.**
- **This agreement establishes the conditions under which the Department will provide to an institution certain data received or generated by the Department regarding FAFSA applicants and other Department data.**

Something to Remember

In instances where more than one law/regulation applies, the most restrictive provisions from each law will jointly apply.

Who is PTAC?

- **PTAC is a “one-stop” resource for education stakeholders to learn about data privacy, confidentiality, and security practices related to student data systems and other uses of student data.**
- **Additional information for PTAC is available at <http://ptac.ed.gov>**

Questions

