

November 26, 2004

Ms. Marya Ryan  
Office of Business and Financial Services  
University of Illinois  
214 Technology Plaza Building, MC-369  
616 East Green Street  
Champaign, IL 61820-5752

Dear Ms. Ryan:

This responds to your inquiry about the use of ID numbers under the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g. This Office administers FERPA and is responsible for investigating complaints and providing technical assistance to ensure compliance with the statute and regulations codified at 34 CFR Part 99.

You explained that the University of Illinois (University) assigns an ID number to students, employees, certain categories of visitors, and, in the near future, applicants for admission, when these individuals first come into contact with the institution. An individual's ID number is permanent, even if his or her relationship with the University changes from employee to student, student to employee, visitor to student, etc. You asked a series of questions, discussed below, about the status of these ID numbers under FERPA.

FERPA provides that an educational agency or institution may not have a policy or practice of disclosing education records, or personally identifiable information from education records, without the prior written consent of a parent or eligible student, that is, a student who is 18 years of age or attends a postsecondary institution. See 20 U.S.C. § 1232g(b)(1) and (b)(2); 34 CFR §§ 99.3 ("Eligible student") and 99.30. Exceptions to this requirement are set forth in § 99.31 of the regulations. The term "education records" is defined as information that is directly related to a student and maintained by an educational agency or institution, or a party acting for the agency or institution. 34 CFR § 99.3 ("Education records"). The following records are excluded from the definition of "education records" --

- (i) Records relating to an individual who is employed by an educational agency or institution, that:
  - (A) Are made and maintained in the normal course of business;
  - (B) Relate exclusively to the individual in that individual's capacity as an employee; and
  - (C) Are not available for use for any other purpose.
  
- (ii) Records relating to an individual in attendance at the agency or institution who is employed as a result of his or her status as a student are education records and not excepted under paragraph (b)(3)(i) of this definition.

34 CFR § 99.3 (“Education records”(b)(3)).

“Student” is defined as “any individual who is or has been in attendance at an educational agency or institution and regarding whom the agency or institution maintains education records.

34 CFR § 99.3 (“Student”).

1. Are ID numbers assigned by the University subject to FERPA and, if so, do they remain subject to FERPA when the individual’s relationship to the University changes, such as when an employee becomes a student and then remains an employee after he or she is no longer a student.

FERPA applies to ID numbers that the University assigns to and maintains on any individual who is or has been in attendance as a student. FERPA does not apply to ID numbers maintained on visitors or employees who have not taken classes or otherwise attended the institution as a student. These numbers become subject to FERPA only if the visitor or employee enrolls as a student and retains the same ID number, and the number remains subject to FERPA as long as the University maintains it as a record of a student, even after the individual is no longer enrolled as a student. As noted above, the employment records of individuals who are enrolled at the University are excluded from FERPA if they “relate exclusively to the individual in that individual’s capacity as an employee” and “are not available for use for any other purpose.” Accordingly, if the University uses the same ID number for a former student who becomes an employee (or who returns to employment), that number remains subject to FERPA so long as the University maintains a record of it as the individual’s student ID number.

2. How is the number treated for those who are simultaneously students and employees? Is the University restricted from releasing the number with someone’s employment records if the person is (or ever was) a student?

ID numbers and all other records, including “employment” records, maintained on individuals who are employed because of their status as a “student” at the institution, such as work-study students and teaching assistants, are subject to FERPA. For these individuals, the University may not release their ID numbers or any other “employment” records unless the disclosure meets the requirements of FERPA. For all other employees who are enrolled as students, their ID numbers are excluded from FERPA only if they “relate exclusively to the individual in that individual’s capacity as an employee” and “are not available for use for any other purpose.” If the University uses or maintains a record of the number as the individual’s student ID number, it may not be released with the individual’s “employment” records except in accordance with FERPA requirements.

3. Would the ID number be categorized as part of the education records or as directory information?

“Directory information” is defined as information contained in an education record that would not generally be considered harmful or an invasion of privacy if disclosed and includes a student’s name, address, telephone listing, email address, and other types of information about the student. 20 U.S.C. § 1232g(a)(5)(A); 34 CFR § 99.3. An institution that wishes to disclose directory information must comply with the procedural requirements set forth in § 99.37 of the regulations, which allow an eligible student to refuse to allow an institution to disclose directory information about the student.

A student’s name and address, which are defined as “personally identifiable information” under FERPA, are also defined as “directory information” because these items are generally made available in public directories outside the school context and otherwise are not considered harmful or an invasion of privacy if disclosed. The legal conclusion in FERPA that these items of personally identifiable information are not considered “harmful or an invasion of privacy if disclosed” is based on an understanding that they generally cannot be used, standing alone, to obtain sensitive, non-public (i.e., non-directory) information about an individual.

In contrast, SSNs, also listed as “personally identifiable information” under FERPA, can often be used to obtain a variety of sensitive, non-public information about individuals, such as employment, credit, financial, health, motor vehicle, and educational information, that would be harmful or an invasion of privacy if disclosed. (SSNs may also be used in conjunction with commonly available directory information to establish fraudulent accounts and otherwise steal a person’s identity.) For these reasons, this Office has always advised that a student’s SSN is the kind of personally identifiable information that *may not* be designated and disclosed as directory information. We have generally included “student ID numbers” in the same category because these numbers have historically been used much like SSNs, that is, as unique identifiers used by themselves to obtain access to non-directory information about a student, such as education records (or educational services).

This Office recently issued guidance to the University of Wisconsin-River Falls found at <http://www.ed.gov/policy/gen/guid/fpco/ferpa/library/uwisc.html> regarding the circumstances in which a student’s personal identifier may be designated and disclosed as “directory information” under FERPA. For example, these identifiers may be used for electronic mail communications; portals and single sign-on approaches to student information systems; directory-based software and protocols for electronic collaboration by students and teachers, both within and among institutions; and public key infrastructure (PKI) technology for encryption and digital signatures. Without knowing anything about how the University uses its student ID numbers, we cannot advise you whether they would meet the specific conditions required for designation and disclosure as “directory information” and refer you to the above referenced letter for a fuller discussion of these issues.

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I trust this responds adequately to your inquiry and thank you for bringing this matter to our attention.

Sincerely,

LeRoy S. Rooker  
Director  
Family Policy Compliance Office