NDSU NORTH DAKOTA STATE UNIVERSITY

FERPA and Social Media

Rhonda Kitch, Ph.D.

University Registrar

North Dakota State University

Session Goals

- Quick FERPA overview

- Social media overload

- Best practices

- Resources

It is your responsibility!

Message to faculty and staff:

- As member of the educational community at (your institution), you have a legal responsibility under FERPA to protect the confidentiality of student educational records in your possession.

- Your position places you in a position of trust and you are an integral part of ensuring that student information is handled properly.

"Need to know" is the basic principle.

Family Educational Rights and Privacy Act (1974)

- Federal law to protect privacy of student education records

- Student is *"owner"* of his/her education record, and the institution is the *"custodian"* of that record

- Applies to all educational agencies/institutions that receive funds under any program administered by the Secretary of Education

- Provides guidelines for appropriately using and releasing student education records

Basic Rights of Students under FERPA

1. **Right to inspect and review their education records except:**
    – Information about other students
    – Financial records of parents
    – Confidential letters of recommendation if they waived their right of access
    – Have up to 45 days to inspect after request is made

2. **Right to seek amendment to records they believe are incorrect**

3. **Right to have some control over disclosure of education records**
    – Consent to disclosure to third parties
    – Restricted directory information

4. **Right to file a complaint with Family Policy Compliance Office**

NDSU NORTH DAKOTA
STATE UNIVERSITY

FERPA basics

- Directory/non-directory information
- Students have the right to suppress directory information from public release
- Educational records

  – Any confidential record maintained by institution related to the student (regardless of format or medium)

  – May not be released to a third party without a student's explicit written consent

  – Examples:

    - Personal information (SSN, race/ethnicity, gender, nationality, student ID, etc.)
    - Enrollment records (specific)
    - Grades
    - Class list
    - Class Schedules
    - Student exams or papers

NDSU NORTH DAKOTA STATE UNIVERSITY

How is social media used in higher education?

- As a **_tool_** for communicating with students
- As a **_subject_** of study (example: a course in "Analyzing Big Data with Twitter")
- As a **_pedagogical method_** for instruction and learning

Source: Online Learning Insights blog

How much is social media used in higher education?

- 100% of higher education institutions are using social media
- Over 80% of faculty have used social media for a classroom assignment, including:
  - Wikis (33.1%)
  - Social networking (29.4%)
  - Video-sharing (24.3%)
  - Blogs (11.6%)
- Diaz, Golas, & Gautsch (Educause, 2010) recommended guidelines or policies related to social media: legal, technical, and educational
  - Google search for FERPA & "social media" on .edu websites yielded 195 institution sites.
  - Approximately 65% of those had a social media policy.
  - 7.7% of the 195 provided guidance for use of social media in the classroom.

NDSU NORTH DAKOTA STATE UNIVERSITY

Source: Marek & Skrabut, 2017

Navigating Privacy Laws in Higher Education Social Media

- https://blog.case.org/2014/12/03/navigating-privacy-laws-in-higher-education-social-media/

- For some students, ANY info is too much

- Sharing student photos – their right to privacy can be just as important as their FERPA rights. Did the student in your photo have a reasonable expectation of privacy?

Best practices

- You should strive to get signed permission when:
  - A person is clearly identifiable in a photo or video.
  - You plan to identify a person (list his or her name or other identifying information) in a photo or video. *Note:* This situation crops up often when people send you information to share. The fact that seven participants in a university robot competition are lined up and smiling for a photo isn't necessarily consent to being identified in a photo online. Ask the students.
  - You're photographing in a private or somewhat private place (e.g. residence hall or classroom).
  - You plan to use the photo or video for overt marketing purposes. *Note:* A key question to ask students is what they reasonably expect will be done with their likeness. Don't abuse that.
  - Your photo or video shows off work (e.g. art, presentations, math assignments) that a student did for class. That work is considered part of a student's educational record, which is protected by FERPA.

Best practices continued…

- Try to get signed permission, but don't stress about it when:
  - You're photographing a large crowd of people in a non-private setting.
  - You're photographing students who are performing on stage or participating in an athletic event.
  - It's not easy to visually identify the students, such as when they're photographed from the back or obscured in some way.

NDSU NORTH DAKOTA STATE UNIVERSITY

Best practices continued…

- When a student shares a photo on a university's social media site, you may consider that a basic release. That release, however, doesn't apply to other students who may be in the photo. For example, it's probably OK to retweet a student's selfie showing off the new college sweatshirt she just bought. But if she's standing with other students, realize that you don't have **their** consent.

- Verbal permission is iffy; get signed releases when possible.

- It is possible for someone to revoke a release after a photo has been published. When that happens, take it down.

- If you don't know whether a student has a FERPA hold, don't do anything to identify him or her as a student of your school. Don't add the student to a public Twitter list of students, for example.

- Records created while a person was a student are protected by FERPA even after the student graduates. So the fact that a former student has now graduated doesn't give you permission to share photos of him during his time at school. Nor does it give you permission to share his classroom artwork, for example, without his explicit consent.

Social Media in the Classroom

- How can it be used?
  - Twitter – real-time course discussions
  - Encouraging students to create course-specific virtual study groups
  - Facebook groups as LMS
  - Virtual office hours
- Question:
  - Can/should instructors require that students use social media in classwork?
  - Should it be forbidden?

Social Media in the Classroom

- Faculty awareness
  - Be cautious about posting any course related information on social media, including information about grades, course enrollments, class schedules or asking students to "check in" with a location.
  - Avoid taking/posting photos of students in class activities, unless signed permission is obtained from each student.
  - Avoid reposting or retweeting any content that would include a student's identification number, address, or other personal information.

Discussion

- Are social media posts that students create as part of classwork considered educational records?

- Do educational institutions have an obligation to help students make choices about how they represent themselves online?

- What social media challenges have you faced at your institution related to the privacy of your students?

- What practices or policies have you put in place that are working well?

Key Resources

- **American Association of Collegiate Registrars and Admissions Officers (AACRAO)**
  - http://www.aacrao.org/
- **U.S. Department of Education's Family Compliance Office**
  - http://www2.ed.gov/policy/gen/guid/fpco/index.html
- **Articles**
  - https://blog.case.org/2014/12/03/navigating-privacy-laws-in-higher-education-social-media/
  - https://er.educause.edu/articles/2014/2/is-your-use-of-social-media-ferpa-compliant
  - http://edlawinsights.com/2016/05/05/before-you-upload-that-student-photo-ask-what-would-ferpa-have-me-do/
  - http://blogs.agu.org/geoedtrek/2014/08/20/hashtag-blog-ferpa/
  - https://itconnect.uw.edu/learn/research/ecar-social-media/

- **Podcast**
  - http://highered.social (not explicitly about social media, but the hosts both have jobs involving social media)
- **Social Media Guides (policies, best practices, hashtag and blog directories and governance)**
  - University of Delaware - http://sites.udel.edu/socialmedia/
  - University of Houston - http://www.uh.edu/policies/social-media/
  - University of Oregon - https://library.uoregon.edu/cmet/blogprivacy
  - University of Pennsylvania - http://www.upenn.edu/oacp/privacy/

NDSU NORTH DAKOTA STATE UNIVERSITY

Questions?

Rhonda Kitch, Ph.D.

University Registrar

Office of Registration and Records

North Dakota State University

rhonda.k.kitch@ndsu.edu

Shout out:

Adrienne Bricker

Director, Office of the Registrar

Academic Support Resources

University of Minnesota

NDSU NORTH DAKOTA
STATE UNIVERSITY