



The Texas FERPA Story

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The Family Educational Rights and Privacy Act of 1974 (FERPA) establishes the rights of parents to access their children's educational records and protects the confidentiality of student information. From its passage, FERPA has had a profound effect on administrators, researchers and policymakers. Administrators must interpret the regulations to insure adequate protection of student identity. Although there is an exemption for research done on behalf of the district included within the law, the conditions under which individual records may be used by researchers are open to interpretation and subsequently, may suppress robust research. In turn, this inhibits the ability of policymakers to base the establishment of education programs on research results and to analyze the results of implemented programs.

School districts are allowed to release records to state education agencies (SEAs). Recent changes and interpretations of FERPA more closely align law and practice. Under certain conditions, SEAs may collect individual data from districts which then may be used by researchers under the strict oversight of the agencies. Working closely with the Family Policy Compliance Office, which interprets and enforces FERPA, Texas has developed a system to allow researcher access to all Education Agency and Higher Education data. This brief describes the legal and operational structure of the Texas system as it relates to FERPA.

THE TEXAS LEGAL FRAMEWORK

During its last biennial session, the Texas Legislature directed the Texas Education Agency (TEA) and the Texas Higher Education Coordinating Board (THECB) to establish up to

three state education research centers (ERCs). This was an important first step toward FERPA compliance. The agencies issued a request for proposal to Texas institutes of higher education (IHEs) to develop the centers. Winning applicants from the University of Texas at Austin, Texas A&M University and the University of Texas at Dallas were awarded up to \$1 million each to establish a center. Operating funding was not provided and each center was asked to raise its own ongoing funding.

TEA and THECB commissioners developed rules for ERC operations and added them to the Texas Administrative Code. These rules established the Joint Advisory Board (JAB), a committee made up of ten research professionals and the two commissioners. The JAB currently oversees operation of the ERCs and approves research projects. Additionally, the JAB now has a procedure for reviewing research projects and requires an annual report from each ERC detailing operations, compliance with security requirements, capacity constraints and financial viability.

Each center executes a three-party interagency cooperative contract with TEA and THECB embodying the legal framework. These agreements require the centers to:

- Perform research to benefit Texas education
- Operate the ERC
- Review all research requests and present them to the JAB
- Fill public information requests
- Pay TEA and THECB expenses for ERC oversight
- Provide data security
- Comply with FERPA

In addition to reporting to the agencies and JAB, each center reports directly to the chief operating officer of its institution.

The THECB is the lead agency in the arrangement. It maintains a data store for each ERC, depositing data received from the TEA, adding higher education data, as well as data from other agencies and sources. Also, the THECB removes individual identifiers (names, birth dates, SSNs and/or other IDs) and assigns a random ID to each individual. A translation table allows assignment of this same random ID to subsequent records for the same individual.

These data are loaded onto servers at each ERC. Researchers can then access the data at the ERC and perform analyses on the ERC server. Only FERPA-compliant research results (no small cell sizes, no individual records) can leave the domains of the ERC. Remote access is also accommodated for operating partners of each ERC using secure communications links. Operating partners and research projects are approved as part of the initial ERC agreement. New partners and research projects are reviewed and approved by the JAB.

FERPA APPROVAL

The Family Policy Compliance Office (FPCO) at the U.S. Department of Education has been responsible for FERPA compliance and interpretation. Before allowing ERCs to operate, the agencies sought FPCO approval through a written letter describing the ERC structure and operating rules, and confirming whether these met FERPA requirements. FPCO agreed that the laws, rules, contracts and operating structure allowed the use of individual de-identified records:

“In general, the TEA and THECB appear to have developed a model approach for the conduct of independent education research in accordance with FERPA requirements. It also appears that ERC data will prove more valuable to researchers than what is available under current practices because longitudinal student information can be made available to the ERCs without having to address confidentiality issues associated with small data cells. As such, we anticipate that the ERC approach will become the preferred method for

conducting longitudinal educational research with state education data.”

SUMMARY

Texas has developed a FERPA-compliant structure to enable research using linked longitudinal individual student records that accommodates projects which will benefit education in the state. We are continuing to learn, and to develop and adopt policies that enable researchers to study numerous important educational issues.

ABOUT THE AUTHOR

Dan O’Brien is Director of the Texas Schools Project at the University of Texas at Dallas Education Research Center. Dr. O’Brien is a member of CALDER’s Strategic Planning Group and directs the Texas work. His research investigates the determinants of student academic progress, especially for minority and economically disadvantaged students, including studies of teacher quality. Dr. O’Brien also works as an external evaluator with districts to help them develop value-added measures of student progress.



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National Center for Analysis of Longitudinal Data in Education Research

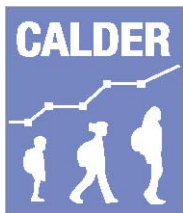
IN THIS ISSUE

The Texas FERPA Story

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