

# Ask the FERPA Professor: Is this a legitimate educational interest?

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Dear Professor FERPA,

After reading the AACRAO FERPA guide, it is my understanding that access to student education records should be granted to school officials only if the official has a legitimate educational interest in accessing the record.

I have interpreted this to mean that faculty only need to have access to the records of students in their department; for instance, business faculty can see the records of business students but not of English students. Is this a correct interpretation?

Sincerely,

A FERPA Enthusiast

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Dear FERPA Enthusiast,

You are right in deducing that FERPA does not assume that all school officials have a legitimate educational interest in all student records. To assume they do would effectively render the statutory requirement meaningless.

However, a “legitimate educational interest” exists if the school official needs to have access to the records in order to do his or her job—which does not necessarily depend on the student’s area of study. Section 99.7(a)(3)(iii) of FERPA requires each institution to include in its annual notice to students if it has a policy of disclosing education records under section 99.31(a)(1), and a specification of criteria for determining what constitutes a school official and what constitutes a legitimate educational interest.

The FERPA statute has always required that school officials’ access to the education records of a particular student or category of students be limited to circumstances where the official has a legitimate educational interest in those records. Given the ubiquity of electronic records, the FERPA regulations were amended in 2009 to clarify and reinforce the “legitimate educational interest” requirement (see sec. 99.31(a)(1)(ii))—whether the records were hardcopies or electronic.

The regulations specifically mention institutions using technological access controls to limit access to student records in a manner such as you describe in your inquiry or to electronically track school officials’ access to the records. This would permit the institution to know who has accessed the record and the legitimate educational interest at stake.

Good luck!

Sincerely,

The FERPA Professor