

## **Guidance and Procedures for Requesting and Using Data from CUNY Educational Records for Research Purposes in Compliance with FERPA**

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### **I. Background and Purpose**

The Family Educational Rights and Privacy Act (FERPA) 20 U.S.C. § 1232(g) is a federal law that aims to keep student educational records private and accessible only by the student or their designee. This guidance and procedures document is designed to ensure compliance with FERPA when using educational records for research purposes, and sets forth the procedures to be followed by CUNY faculty, staff, post-doctoral associates, students and non-CUNY researchers who seek to obtain data from CUNY educational records for research purposes (“researchers”).

### **II. Entities Authorized to Release or Extract Data from Educational Records for Research Purposes**

- A. Administrative educational records data (whether identifiable or de-identified) available through the CUNY Institutional Research and Assessment Offices may be released for research purposes by the following entities *only*:
- CUNY Office of Institutional Research (OIR) at the CUNY Central Office
  - Office of Institutional Research at a CUNY college or school
- B. Researchers who have access to educational records via Blackboard or classwork in their capacity as a CUNY faculty or staff member may extract data from such records for research purposes so long as the research records are recorded AND the research results are disseminated in such a way that the individual students cannot be identified.
- C. Researchers who have access to educational records via Blackboard or classwork in their capacity as a CUNY faculty or staff member may provide such data to other CUNY faculty or staff members for research purposes in a de-identified format ONLY.
- D. Any other CUNY offices or affiliates not mentioned in II.A.-C. above may provide identifiable educational records for research purposes ONLY AFTER obtaining clearance to do so from the CUNY Office of Legal Affairs.

### **III. Personally-Identifiable Student Information (PII)**

Federal regulations consider data to be personally identifiable if it contains the student’s name, address, social security number, date or place of birth, mother’s maiden name or any other information that would allow a reasonable person in the school community to identify the student with reasonable certainty.

### **IV. Use of PII For Research Purposes**

There are two ways that a researcher can use PII for research purposes:

1. For any type of research with a FERPA Release (or consent) signed by the student(s) – refer to Section V below.
2. For specific types of research without a FERPA Release (or consent) – refer to Section VI below.

## **V. Obtaining PII For Research Purposes Through FERPA Release**

The best practice with respect to obtaining PII from CUNY student records is to have such students execute a FERPA release that details the information to be accessed by the researcher and the purposes of the research. Researchers should use the CUNY [FERPA Release Forms](#) for this purpose.

## **VI. Obtaining PII For Research Purposes Without Consent (Studies Exception)**

A researcher may use PII without student consent under certain limited circumstances pursuant to the “studies exception” to FERPA. The OIR, or other authorized body at CUNY, may approve a request to provide PII if the study is meant to develop predictive tests, help administer student aid programs, or improve instruction, and it is primarily for CUNY’s benefit rather than the researchers’ benefit.

### **A. Types of Research that Qualify for the Studies Exception**

Researchers may obtain PII if they are conducting a study for the purpose of developing, validating, or administering predictive tests; administering student aid programs; or improving instruction. A study designed to “improve instruction” has been broadly defined as a study done to ascertain the effectiveness of educational activities and subsequently refine programs and practices to improve outcomes for students.

### **B. Conditions for Release**

Federal regulations establish certain conditions to the release of PII under this FERPA exception: The study must be conducted in a manner that does not permit personal identification of parents and students by individuals other than the researcher and the research team, and the information must be destroyed when no longer needed for the purposes for which the study was conducted.

### **C. Requirement of a Written Agreement Before Release**

Researchers (both internal and external to CUNY) who wish to use data from student records under this exception must enter into a written agreement with CUNY that includes the following elements: the agreement must specify the purpose, scope and duration of the study and the information to be disclosed; require the researcher to use PII only to meet the purposes of the study; require the researcher to conduct the study in a manner that does not permit personal identification of parents and students by anyone other than the researcher or people working with the researcher with legitimate interests; and require the researcher to destroy all PII when the information is no longer needed.

## **VII. Procedural Steps to Follow**

### **A. For Use of Classwork and/or Educational Records Contained Within Blackboard by CUNY Researchers**

1. PI is strongly encouraged to ask students to sign a [FERPA Release Form](#).
2. If obtaining a FERPA Release Form is not feasible, and the PI intends to use classwork for research purposes, follow the requirements of Sections II.B. and II.C. above.

3. If CUNY is engaged in human subject research activities related to the use of educational records, ensure that you have an active [Human Research Protection Program \(HRPP\)](#) exemption or IRB approval before using the records for research purposes.

**B. For Use of Administrative Educational Records Data Available Through CUNY Institutional Research and Assessment Offices**

1. CUNY RESEARCHERS OPTION (i) – REQUESTING DEIDENTIFIED DATA
  - a. Contact the Office of Institutional Research (OIR) at the CUNY campus or at the Central Office to discuss obtaining data.
  - b. After you receive approval from the OIR, execute the written Data Transfer and Non-Disclosure Agreement provided by the OIR.
  - c. If CUNY is engaged in human subject research activities related to the use of requested data, provide a copy of the executed Agreement to the Human Research Protection Program (HRPP) with your HRPP/IRB application.
  - d. Abide by all conditions of the Agreement.
2. CUNY RESEARCHERS OPTION (ii) – REQUESTING PII WITH CONSENT
  - a. Ask students to sign a FERPA Release Form.
  - b. Contact the Office of Institutional Research (OIR) at the CUNY campus or at the Central Office to discuss obtaining data.
  - c. After you receive approval from the OIR, execute the written Data Transfer and Non-Disclosure Agreement provided by the OIR.
  - d. If CUNY is engaged in human subject research activities related to the use of requested data, provide a copy of the executed Agreement to the Human Research Protection Program (HRPP) with your HRPP/IRB application.
  - e. Abide by all conditions of the Agreement.
  - f. Destroy all PII as soon as practicable after the completion of the study or return to CUNY for destruction.
3. CUNY RESEARCHERS OPTION (iii) – REQUESTING PII WITHOUT CONSENT
  - a. Contact the Office of Institutional Research (OIR) at the CUNY campus or at the Central Office to discuss obtaining data.
  - b. After you receive approval from the OIR, execute the written Data Transfer and Non-Disclosure Agreement provided by the OIR.
  - c. If CUNY is engaged in human subject research activities related to the use of requested data, provide a copy of the executed Agreement to the Human Research Protection Program (HRPP) with your HRPP/IRB application.
  - d. Abide by all conditions of the Agreement.
  - e. Destroy all PII as soon as practicable after the completion of the study or return to CUNY for destruction.
4. EXTERNAL RESEARCHERS
  - a. Ask students to sign a FERPA Release Form, when feasible.

- b. Contact the CUNY Office of Institutional Research (OIR) at the CUNY campus or at the Central Office to discuss obtaining data.
- c. After you receive approval from the OIR, execute the written Data Transfer and Non-Disclosure Agreement provided by the OIR.
- d. If CUNY is engaged in human subject research activities related to the use of requested data, provide a copy of the executed Agreement to the Human Research Protection Program (HRPP) with CUNY HRPP/IRB application.
- e. Abide by all conditions of the Agreement.
- f. Destroy all PII as soon as practicable after the completion of the study or return to CUNY for destruction.