

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

### **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 Data from Educational Records for Research Purposes**

- A. Data from educational records (whether identifiable or de-identified) 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 in their capacity as a CUNY faculty or staff member are not authorized to extract data from such records for research purposes.

### **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 request PII without student consent from the OIR at a CUNY campus or at the Central Office under certain limited circumstances pursuant to the “studies exception” to FERPA. The OIR 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**

1. If you are a CUNY researcher seeking student PII, ask students to sign a [FERPA Release Form](#).
2. If obtaining a FERPA Release Form is not feasible, or if you are an external researcher, contact the Office of Institutional Research (OIR) at the CUNY campus or at the Central Office to discuss obtaining PII.
3. After you receive approval from the OIR, execute the written Data Transfer and Non-Disclosure Agreement provided by the OIR.
4. 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.
5. Abide by all conditions of the Agreement.
6. Destroy all PII as soon as practicable after the completion of the study or return to CUNY for destruction.