FERPA Decision Tree

Does the research involve Educational Records? (Any records that can be linked to a student, i.e. class assignments, advising notes, transcripts, photos/videos of students in a class, online discussions, etc.)

Yes → Can you readily ascertain an individual’s identity from the Educational Record?

Yes → Consent/Parental Permission Required?

No → Does FERPA Apply?

FERPA not applicable

Yes → Does FERPA Apply?

No → FERPA does not require consent/parental permission for access to the educational records by education personnel with legitimate educational interests.

Yes → Consent/Parental Permission Required?

FERPA does not require consent/parental permission for data shared with accrediting organizations for accreditation purposes.

The consent form must meet the following requirements:
- Be dated with written signature (NOTE: electronic signature is acceptable if obtained within an authenticated environment)
- Specify the records to be disclosed
- State the purpose of the disclosure
- Identify to whom the disclosure may be made

FERPA Requirements for Waiving Consent
If the study meets the following criteria, consent may be waived under FERPA:
1. The study is conducted in a manner that does not permit personal identification of parents and students by individual other than representatives of the organization that have legitimate interests in the information
2. The information is destroyed when no longer needed for the purposes for which the study was conducted
3. There is a written agreement in place with the organization that specifies the purpose, scope, duration of the study(ies) and what information will be disclosed; requires that personally identifiable information from educational records are used only to meet the purpose or purposes of the study; and ensures in writing that items 1 and 2 above occur
IRB Decision Tree

From Chart 1

Has HHS prohibited exemption of the human subjects research? (All research involving prisoners, some research involving children.)

[Footnote 1 to 45 CFR 46.101(i), 45 CFR 46.401(b)]

NO

Will the only** involvement of human subjects be in one or more of the following categories?

Research conducted in established or commonly accepted educational settings, involving normal education practices?

YES → Exemption 45 CFR 46.101(b)(1) may apply. → Go to Chart 3

AND/OR

Research involving the use of educational tests, survey procedures, interview procedures, or observation of public behavior?

YES → Exemption 45 CFR 46.101(b)(2) or (b)(3) may apply. → Go to Chart 4

AND/OR

Research involving collection or study of existing data, documents, records, or pathological or diagnostic specimens?

YES → Exemption 45 CFR 46.101(b)(4) may apply. → Go to Chart 5

AND/OR

Research studying, evaluating, or examining public benefit or service programs?

YES → Exemption 45 CFR 46.101(b)(5) may apply. → Go to Chart 6

AND/OR

Research involving taste and food quality evaluation or consumer acceptance studies?

YES → Exemption 45 CFR 46.101(b)(6) may apply. → Go to Chart 7

NO

No exemptions to 45 CFR part 46 apply. Provisions of 45 CFR subpart A apply, and subparts B, C and D also apply if subjects are from covered vulnerable populations. → Go to Chart 8