



## FERPA/Voter Registration Survey

AACRAO conducted a survey of its membership to learn more about how institutions comply with the federal Family Educational Rights and Privacy Act (FERPA) and the voter registration provisions of the Higher Education Act of 1965 (HEA). The survey was prompted, in part, by an inquiry from the New Voters Project—a youth voter mobilization campaign organized by the PEW Charitable Trusts, The George Washington University, and the State Public Interest Research Groups—which aims to increase the participation of young voters in the 2004 election cycle. The survey was conducted from March 10, 2004 to March 31, 2004 and received 560 institutional responses.

### Conclusions

- Compliance with FERPA is a major concern for colleges and they devote serious attention to the effort.
- Forty percent of institutions do not have a student directory.
- Law enforcement agencies made improper requests for non-directory student information to 31.2 percent of responding institutions during the past year.
- Sixty-six percent of institutions do not release their entire student directory to outside parties.
- Compliance by colleges with the voter registration requirements of the Higher Education Act of 1965 is inconsistent.
- About 8 percent of institutions indicate willingness to contribute their student directory to an outside party for youth voter mobilization.

### FERPA

The Family Educational Rights and Privacy Act of 1974 set forth requirements regarding the privacy of student records. FERPA governs release of education records maintained by an educational institution and access to the records so that the student is afforded certain rights to privacy. The law applies to elementary, secondary and postsecondary institutions that receive federal funds under any program administered by the U.S. Secretary of Education. Furthermore, FERPA protects the education records of persons who are or have been in attendance at education institutions.

#### Directory Information

Under FERPA, educational institutions have the right to assemble or to choose not to assemble a limited amount of information contained in a student's record that generally would not be considered harmful or an invasion of privacy if disclosed, in the form of a student directory. Students have the opportunity to opt out of such a directory.

Overall, 60 percent of colleges report having a student directory. Of that amount, 38.4 percent report that their directory is only accessible by members of the campus community. Two-year institutions were less likely than four-year institutions to have a student directory. Nearly 81 percent of two-year institutions report having no student directory compared to 27 percent of four-year institutions. Significantly, 66.2 percent of higher education institutions do NOT release the entire directory to outside parties.

For institutions that have a student directory, the allowable data elements most commonly included, in rank order, are: Name, on-campus telephone number, on-campus address, Email address, permanent address, permanent telephone number, major/field of study, photograph, date of birth and place of birth.

**If you have a student directory, what data elements does it include?**

Percent	Data Element
100.0	Name
77.2	On-campus telephone number
73.3	On-campus address
65.7	Email address
59.8	Permanent address
50.8	Permanent telephone number
45.3	Major/Field of study
22.8	Photograph
15.3	Date of birth
5.7	Place of birth

Institutions that have a directory report using a variety of ad-hoc query methods that include Web look-up, calling the registrar’s office and paper correspondence. Very few, 1.3 percent of respondents provide touchtone telephone access their directory.

**Fee for Release of Directory Information to Third Parties**

FERPA regulations are silent on the question of charging fees for release of student directory information. Nothing in the law prevents an institution from charging a search and retrieval fee but most respondents said they have no fee. Of the institutions that charge a fee, the average amount was \$50.

**Non-Directory Information**

**Release to Parents of Students with Tax Dependents**

At the postsecondary level, FERPA rights are vested with the student and not with parents. While parents have no inherent rights to inspect their child’s postsecondary education records, FERPA allows institutions to release this information to parents of students who are tax dependents. It is important to note that even for these students, the FERPA exception *allows* but does not *require* the release of a student’s education records. Institutions have discretion to set their own policy with regard to parental access

under this limited exception. The majority of respondents, 58.2 percent, indicate that they DO release non-directory information to parents of students that are tax dependents. Those that do not release the information equal 41.8 percent.

### **Release to Law Enforcement Agencies during the Past Year**

In some instances law enforcement agencies may access certain student information without prior consent. Non-directory information may only be accessed without prior consent with a subpoena or court order from a judge or agency of proper jurisdiction. During the past year, 69 percent of respondents report having been served with a subpoena or court order for release of non-directory information. Colleges complied with all but 10 of the 367 reported requests. Significantly, law enforcement agencies or their representatives made 138 reported requests for non-directory information improperly; i.e. with NO subpoena or court order. Surprisingly, in almost 20 percent of such cases, institutions complied with the requests in violation of the law. Two-year institutions were approximately twice as likely to release information as were four-year institutions.

#### **At any time in the past year, has your institution been asked to release NON-DIRECTORY information to law enforcement agencies or representatives?**

	<b>Yes, and we complied</b>	<b>Yes, and we did not comply</b>	<b>No</b>
<b>Agents had subpoena or court order</b>	367	10	169
<b>Agents had NO subpoena or court order</b>	27	111	305

## **Voter Registration**

The survey found that higher education institutions are aware of the voter registration requirements of the Higher Education Act but compliance with the mandate is inconsistent. With few exceptions, the federal mandate requires institutions to request enough voter registration forms from their state’s election body to distribute a voter registration form to each enrolled student physically in attendance and to make the forms widely available to students at the institution.

### **Compliance with the Physical “Distribution” Requirement**

Significantly, 18.4 percent of institutions report that their state’s election officials have never provided a sufficient number of forms to comply with the federal mandate beyond making the forms available. Twenty-six percent of respondents say their distribution is either physically by-hand (15.6 percent) or that they deliver the form through the mail (15.6 percent). Some 55.3 percent of respondents indicated other means by which they make an attempt to comply with this provision. A strict reading of the statute would disqualify most such methods as inadequate. Fortunately the voter registration mandate

does not provide enforcement authority or such institutions could be at risk of being found in violation.

Seventy-one percent of institutions report that their distribution of voter registration forms is stand alone and 29 percent indicate that they distribute the material with the delivery of other information.

### **Compliance with the HEA Provisions that Require Institutions to “Make Available” Voter Registration Forms**

Eighty nine percent of respondents are in compliance with the provision of the voter registration law that requires a passive effort to make voter registration forms available to students. Thirty-seven percent of institutions reportedly make voter registration forms available at one central location on campus and 31.4 percent make forms available at several locations on campus. Twenty percent of institutions provide voter registration information to students upon request. Beyond the scope of the federal mandate, 16.8 percent of institutions also provide students with Web links to the state’s voter registration information on the school’s Internet site, 5.5 percent electronically distribute voter registration information and 32.5 percent make campus facilities available for registration drives sponsored by outside groups.

## **New Voters Project**

A new youth voter mobilization campaign is being organized by the PEW Charitable Trusts, The George Washington University, and the State Public Interest Research Groups (PIRGs). The campaign, called the "New Voters Project" aims to increase the participation of young voters in the 2004 election. Respondent were asked two questions that attempt to gauge the interest of colleges and universities to participate in the project through student information exchange.

Twenty-eight percent of colleges indicated they would consider voluntary participation in a national voter registration campaign like the New Voters Project. Fourteen percent of respondents answered “No.” Of importance to note, the balance of respondents—57.3 percent—said they did not have enough information to decide.

### **Would your institution consider voluntary participation in such a national voter registration campaign?**

<b>Response</b>	<b>Percentage</b>
Yes	28.4 %
No	14.3 %
I Don’t Know	57.3 %

Six percent said they'd be willing to contribute their directory information to the New Voter Project.

## Notes and Methodology

This survey was conducted by the American Association of Collegiate Registrars and Admissions Officers beginning March 10, 2004 and ending March 31, 2004. Respondents were limited to AACRAO membership and institutions were asked to coordinate their responses so that they submitted data only once. Institutions were asked to define themselves by type and control. For type, respondents were given a choice of two-year (undergraduate), four-year (undergraduate), four-plus-year (graduate and undergraduate), and graduate/professional only. For control, respondents were asked to choose between public (not-for profit), private (not-for-profit) and proprietary (for-profit). For questions, please contact Cody Brumfield at [brumfieldc@aacrao.org](mailto:brumfieldc@aacrao.org). Media inquiries should be directed to Shelly Rodgers at [rodgerss@aacrao.org](mailto:rodgerss@aacrao.org).