

PROTECTING STUDENT PRIVACY IN PRISON EDUCATION PROGRAMS

MODEL AGREEMENT AND CONSENT LANGUAGE

For Use by Higher Education Institutions Entering Prison Education Program Agreements

Introduction

As the number of higher education institutions (HEIs) engaging in Prison Education Programs (PEPs) increases, particularly in the wake of the reinstatement of Pell Grants, there is an urgent need for clearly defined agreements that protect student privacy, delineate HEI authority, and promote responsible data sharing. This Sample Memorandum of Understanding (MOU) Template and Legal Review Checklist is designed to support HEI leaders and legal counsel in creating MOUs with correctional facilities that align with federal privacy laws and best practices.

Developed by the American Association of Collegiate Registrars and Admissions Officers (AACRAO), this resource reflects the unique vulnerabilities of incarcerated learners and outlines key legal, operational, and technical considerations for MOU development. The tool is structured to support HEIs at all stages of PEP implementation, from exploratory planning to multi-facility scale-up.

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ABOUT ASCENDIUM EDUCATION GROUP

Ascendium Education Group is a 501(c)(3) nonprofit organization committed to helping people reach the education and career goals that matter to them. Ascendium invests in initiatives designed to increase the number of students from low-income backgrounds who complete postsecondary degrees, certificates and workforce training programs, with an emphasis on first-generation students, incarcerated adults, rural community members, students of color and veterans. Ascendium's work identifies, validates and expands best practices to promote large-scale change at the institutional, system and state levels, with the intention of elevating opportunity for all. For more information, visit <https://www.ascendiumphilanthropy.org>

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FERPA COMPLIANCE CHECKLIST FOR MOUs WITH CORRECTIONAL FACILITIES

Checklist for Institutional Legal Counsel to review or draft MOUs between higher education institutions (HEIs) and correctional facilities (e.g., for Prison Education Programs)

1. Consent and Student Rights

- Ban Blanket Waivers: Ensure the MOU explicitly prohibits blanket waivers of FERPA rights.
- Consent Must Be Specific
 - Time-limited
 - Revocable
 - Clearly delineated purpose and recipients of data
- Student Revocation Process: Include a clause ensuring HEIs provide an accessible process for students to revoke prior consent.
- Directory Information Safeguards:
 - Confirm PEP-specific approach (default restriction or opt-in)
 - Ensure opt-out processes are accessible within correctional environments
 - Validate that institutional identifiers (e.g., email) are not treated as low-risk data

2. Data Access and Redisclosure

- Redisclosure Restriction: Prohibit DOC (Department of Corrections) or facility from redisclosing student data to third parties, including parole boards, law enforcement, or workforce agencies without:
 - Student's written consent AND
 - HEI authorization
- Clarify Data Ownership: Affirm that academic records remain the property of the HEI, not the DOC or any facility.

3. Training and Awareness

- FERPA Training Requirement
 - Require annual training for any DOC or HEI staff with access to student information
 - Ensure training covers PEP-specific contexts and responsibilities

4. Records Management and Continuity

- Institutional Tagging Practices
 - HEI should assign internal codes or tags to identify students enrolled under the PEP
 - Such tags should not disclose incarceration status beyond authorized administrative users
- Student Transfers Between Facilities
 - Include processes to ensure secure continuity of records during student transfers
 - State that receiving facility staff must not access records without verified consent
 - SIS Integration: Ensure language supports shared understanding of how records will be managed through HEI systems (e.g., SIS access, uploads, restrictions)

5. Privacy and Security Protocols

- Information Security: Document shared responsibilities for safeguarding student data (e.g., encrypted transfers, limited access)
- Access Controls: Limit DOC access to only the minimum necessary personnel for approved functions

6. Violation and Enforcement

- FERPA Violation Protocol
 - Require DOC to report any suspected FERPA violation immediately
 - Provide a joint protocol for investigating and resolving data incidents, with HEI FERPA officers taking the lead

7. Additional Safeguards

- Audit Rights: Include language allowing HEIs to periodically audit data access practices and privacy compliance; internally create plan to do so
- Amendment Clause: Add flexibility to amend the MOU if new federal/state laws or FERPA regulations evolve

MEMORANDUM OF UNDERSTANDING TEMPLATE

This sample Memorandum of Understanding (MOU) is provided as a template and list of items that are recommended for inclusion in an MOU between a higher education institution (HEI) and a Department of Corrections (DOC) facility. Recommendations are based on best practices for Prison Education Programs and guidance for FERPA compliance. HEIs should customize this template to fit their specific needs and ensure it is reviewed by appropriate legal counsel prior to use. This MOU does not cover financial aid matters, which should be addressed separately.

Prison Education Program Data Sharing and Privacy Protections Between: [Higher Education Institution (HEI) Name] and [Department of Corrections (DOC)/Facility Name]

I. PURPOSE AND SCOPE

This Memorandum of Understanding (MOU) establishes the framework for data sharing, privacy protections, and operational procedures for the Prison Education Program (PEP) offered by [HEI Name] at [DOC or Facility Name]. This agreement prioritizes learner-centered protections while ensuring HEI compliance with applicable federal and state privacy laws.

This MOU specifically addresses data sharing, privacy protections, and operational procedures for educational services. Financial aid processes, eligibility, and administration are not covered under this agreement and shall be governed by separate policies and procedures in accordance with applicable federal and state financial aid regulations.

II. FERPA COMPLIANCE AND DATA SHARING FRAMEWORK

A. Legal Foundation

- All data sharing shall comply with the Family Educational Rights and Privacy Act (FERPA) and applicable state privacy laws
- Student consent is required for all disclosures of personally identifiable information (PII) from education records
- This MOU does not, by itself, authorize disclosure of student information - appropriate consent or FERPA exceptions must apply

B. Permitted Data Sharing (With Valid Student Consent)

The following data elements may be shared with DOC personnel when written student consent has been obtained:

Academic Information:

- Course enrollment status
- Course completion status
- Final grades (if specifically consented to)
- Credential/certificate completion
- Program participation status

Limited Administrative Information:

- Student identification number (institution-assigned)
- Program start/end dates
- Attendance status (active/inactive)

C. Prohibited Disclosures

The following information shall NOT be disclosed without specific written consent addressing each category:

- Detailed assignment grades or feedback
- Academic communications with students (course-related conversations, questions, and correspondence)
- Financial aid information
- Detailed records regarding academic infringement
- Social Security Numbers

III. STUDENT CONSENT REQUIREMENTS

A. Consent Standards

- All consent forms must specify: (1) what information will be disclosed, (2) to whom it will be disclosed, and (3) for what purpose
- Consent must be voluntary and informed
- Students must be provided plain-language explanations of what information sharing means
- The HEI shall provide students with a clear, accessible process to revoke previously granted consent. Upon revocation, DOC shall cease all use and access to previously shared student information.

B. Institutional Responsibility

- [HEI Name] retains sole authority over what information to disclose, even with valid consent
- HEI may limit disclosures to only information necessary for program operation
- HEI reserves the right to refuse any data requests by DOC
- In the event of student transfer to another facility, DOC and the HEI shall coordinate to ensure secure transfer or retention of records, and prevent unauthorized access by personnel at the receiving facility unless appropriate consent is in place

C. Directory Information

Students retain full rights under FERPA to opt out of the disclosure of directory information. Given the unique vulnerabilities of incarcerated learners, the HEI shall:

- Treat directory information as restricted by default for PEP participants unless the student affirmatively opts in
- Provide a clear, accessible opt-out process at the point of enrollment and at regular intervals thereafter
- Ensure that opting out does not negatively affect participation in the PEP or access to academic services
- Directory information may include items such as name, enrollment status, or program participation; however:
 - The HEI may limit or redefine directory information for PEP students to minimize risk
 - No directory information shall be shared with DOC personnel or third parties unless consistent with both institutional policy and the student's documented preferences

IV. STUDENT VULNERABILITY PROTECTIONS

A. Recognition of Unique Circumstances

Both parties acknowledge that incarcerated students face unique vulnerabilities regarding their personal information and academic records.

- DOC shall designate a Privacy Compliance Officer or equivalent position responsible for overseeing and enforcing all privacy protections outlined in this MOU, who shall serve as the primary point of contact for the HEI regarding privacy-related concerns and compliance issues

B. Information Security Measures

- DOC shall take measures to protect student information from breach or inappropriate disclosure and from being used for purposes other than those specified in the MOU
- DOC personnel shall only be granted access to student data when the HEI has independently verified that such access is required to carry out the core educational mission of the PEP and constitutes a legitimate educational interest under FERPA. Routine administrative oversight or facility management functions shall not qualify.
- DOC shall not further disclose student information without additional written consent of the student
- Both parties shall coordinate to ensure the secure transfer or retention of records through appropriate physical and digital safeguards and prevent unauthorized access, including personnel at the receiving facility
- Both parties agree to require annual FERPA and data privacy training for all personnel with access to student information, coordinated by the HEI. The training shall include specific content related to PEP contexts and FERPA obligations.

C. Confidential Communications

- DOC shall provide private spaces for academic counseling and advising when possible
- DOC shall utilize alternative communication methods (written notes, quiet spaces) when private spaces are unavailable

V. OPERATIONAL PROCEDURES

A. Transcript and Record Requests

- Official transcripts sent to incarcerated students will follow HEI's standard procedures
- HEI acknowledges that, due to facility mail procedures, such records may be viewed by DOC staff
- HEI is responsible for informing students of this possibility and obtaining any required consent, either through its standard process or via a front-end agreement signed by the student prior to the release of records

B. System Access Limitations

- DOC personnel shall NOT have direct access to institutional Student Information Systems (SIS)
- DOC personnel shall NOT have broad access to Learning Management Systems (LMS) containing student records

C. Student Record Access Rights

- Incarcerated students retain all FERPA rights including inspection and amendment of records
- HEI will coordinate with DOC to provide reasonable access to records within 45-day FERPA-proscribed timeline
- Methods may include: designated HEI representative visits, secure digital access, or other mutually agreed-upon procedures

D. Student Email and Communication Systems

The HEI may issue institutional email accounts to students enrolled in the PEP for administrative and academic purposes. However:

- Access to email systems may be limited, delayed, or mediated due to facility constraints
- Institutional email shall not be considered a reliable or primary communication method unless explicitly confirmed
- The HEI shall provide alternative communication methods (e.g., printed correspondence, secure intermediaries, or designated staff liaisons)
- Email addresses assigned to PEP students:
 - Shall be treated as personally identifiable information (PII)
 - Shall not be shared with DOC personnel or third parties without explicit student consent
 - Shall not be used for monitoring or surveillance beyond system security and compliance requirements
- The HEI must clearly communicate to students:
 - Whether email access is available
 - How it may be used
 - Any limitations on privacy or access

VI. RESTRICTIONS ON DOC AUTHORITY

A. Academic Independence

- DOC shall not access [or be provided access to] student information beyond what is agreed upon in this MOU
- DOC shall not access detailed assignment feedback or instructional materials
- HEI shall retain full and exclusive authority to determine and administer its educational programs
- DOC shall retain authority over safety, security, and facility operations, and the HEI agrees to comply with all applicable security procedures and facility policies necessary to deliver programming within DOC facilities
 - Student-faculty communications, in any medium, shall remain confidential and not accessible to DOC except when (a) a documented safety or security concern exists, and (b) access complies with applicable law, including FERPA. In such cases, DOC and the HEI shall limit disclosure to what is necessary and maintain documentation of the request and access.

B. Participation Requirements

DOC may establish general program participation requirements for individuals to enroll in a PEP program. However, once an individual is a student enrolled in the PEP program, DOC shall not require a student to waive their rights under FERPA as a condition of continued participation.

VII. RECORD RETENTION AND SECURITY

A. Institutional Obligations

- [HEI Name] shall maintain student records according to standard institutional retention policies
- Student records remain under HEI's control and protection
- Security measures must meet or exceed HEI's standards for all student information

B. DOC/Facility Obligations

- DOC shall securely maintain any information shared with DOC

B. DOC/Facility Obligations (cont.)

- DOC shall not share or redisclose any student data to third parties, including parole boards, probation departments, law enforcement, or external evaluators, without the student's written consent and express HEI authorization
- DOC shall return or destroy shared information upon program completion or MOU termination

VIII. COMPLIANCE MONITORING AND DISPUTE RESOLUTION

A. Regular Review

- This MOU will be reviewed annually by both parties and updated as needed to maintain compliance and protect student interests
- Both parties commit to ongoing communication about privacy concerns

B. Violation Response

- All suspected or actual FERPA violations shall be reported to the HEI's FERPA compliance officer. DOC staff are responsible for immediately notifying the HEI upon becoming aware of any such suspected or actual violation
- The HEI's FERPA Compliance Officer shall have primary responsibility for investigating all reported violations and determining whether a breach has occurred. The DOC shall cooperate fully with the HEI in any investigation.
- If a violation is confirmed, the HEI will develop a corrective action plan, and each Party will implement measures within its control
- In the event of a confirmed privacy breach, the HEI shall notify affected students in accordance with FERPA requirements and institutional policies. DOC shall facilitate the delivery of such notices within correctional facilities.

IX. EFFECTIVE PERIOD AND MODIFICATION

This MOU shall remain in effect from [Date] through [Date] and may be modified only through written agreement of both parties. Either party may terminate this agreement with 30 days written notice.

Signatures:

For [Higher Education Institution Name]:

[Name], [Title]

Date: _____

For [Department of Corrections/Facility Name]:

[Name], [Title]

Date: _____

MOU ADDENDUM: PERSONALLY IDENTIFIABLE INFORMATION (PII) & PRIVACY PROTECTIONS

This Addendum supplements the Memorandum of Understanding (MOU) between [Higher Education Institution (HEI)] and the [Department of Corrections] (DOC). Its purpose is to clarify expectations regarding student data privacy, in recognition of the heightened vulnerability of incarcerated learners.

I. DEFINITION OF PII

For purposes of this Addendum, Personally Identifiable Information (PII) includes, but is not limited to: student names, HEI identification numbers, transcripts, grades, course completions, and any other information that could reasonably identify a student.

II. USE OF STUDENT INFORMATION

- PII will be shared only to the extent necessary to administer educational programs
- Transcripts, grades, or other academic records shall not be used in any manner that exposes a student to ridicule, retaliation, or harm
- Aggregate or summary data will be used in place of individual records wherever feasible

III. FERPA AND STUDENT CONSENT

- The HEI will not require students to waive their rights under the Family Educational Rights and Privacy Act (FERPA)
- If DOC requires student consent for disclosure, DOC is solely responsible for obtaining and documenting such consent
- All consent forms must specify: (a) the records to be disclosed, (b) the recipient(s), and (c) the purpose of disclosure
- No blanket waivers of FERPA rights shall be required or enforced. Consent must be specific, time-limited, and revocable.
- Students must be informed of their right to:
 - Opt out of directory information disclosures
 - Restrict the use of institutional identifiers, including email addresses
- Consent processes must clearly distinguish between:
 - Directory information disclosures and
 - Non-directory (PII) disclosures

IV. ACCESS CONTROLS

- DOC staff will not be granted unrestricted access to the HEI's Student Information System (SIS) or Learning Management System (LMS)
- Where limited access is necessary, permissions will be role-specific, monitored, and subject to audit

VI. MUTUAL RESPONSIBILITIES

- The HEI will protect the confidentiality of student records, train staff on PII and FERPA, and ensure secure transfer of information
- The DOC will ensure its staff respect the confidentiality of educational records and refrain from any misuse of transcripts, grades, or other PII

VII. TERM AND ENFORCEMENT

This Addendum becomes effective upon execution and shall be incorporated into the MOU. It will remain in force for the duration of the MOU unless amended in writing by both parties.

PII CLAUSE (FOR INSERTION IN MOU)

Personally Identifiable Information (PII), including but not limited to names, Higher Education Institution (HEI) identification numbers, transcripts, grades, and course completion data, will be disclosed only to the extent necessary to administer the educational program.

Under the term of this MOU, we agree to release the following data elements to DOC personnel when written student consent has been obtained:

Academic Information

- Course enrollment status
- Course completion status
- Final grades (if specifically consented to)
- Credential/certificate completion
- Program participation status

Limited Administrative Information

- Student identification number (institution-assigned)
- Program start/end dates
- Attendance status (active/inactive)

The HEI will not compel students to waive their rights under the Family Educational Rights and Privacy Act (FERPA). If the Department of Corrections (DOC) requires student consent for disclosure, DOC will obtain and document that consent.

Both HEI and DOC agree that student education records, including transcripts and grades, shall not be used in any manner that could expose a student to harm, ridicule, or retaliation. All handling of PII must respect the student's privacy, dignity, and rights under FERPA.

DIRECTORY INFORMATION CLAUSE (FOR INSERTION IN MOU)

Directory information and Higher Education Institution (HEI)-specific identifiers, including but not limited to student names, enrollment status, program participation, and institutional email addresses, shall be treated with heightened sensitivity in the context of the Prison Education Program (PEP).

The HEI shall:

- Treat directory information for PEP students as restricted by default, unless the student provides affirmative authorization for disclosure
- Provide a clear, accessible process for students to opt out of directory information disclosures at any time
- Ensure that a student's decision to opt out does not impact participation in the PEP or access to academic services

Institutional identifiers, including email addresses:

- Shall be treated as personally identifiable information (PII) in the PEP context
- Shall not be disclosed to DOC personnel or third parties without explicit student consent
- Shall not be used for monitoring, surveillance, or non-educational purposes

Where institutional communication systems (including email) are limited or mediated due to facility constraints:

- The HEI shall provide alternative communication methods appropriate to the correctional environment
- Students shall be clearly informed of any limitations on access, use, or privacy

All handling of directory information and institutional identifiers shall adhere to a minimum necessary standard, recognizing that data elements typically considered low-risk may present heightened privacy risks in correctional settings.



PERMISSION TO RELEASE EDUCATION RECORD INFORMATION (SAMPLE FORM)

Office of University Registrar
University Name
Street Address
Phone

Student Information Release Authorization

In compliance with the federal *Family Educational Rights and Privacy Act of 1974*, the University is prohibited from providing certain information from your student records to a third party, such as information on grades, billing, tuition and fees assessments, financial aid (including Second Chance Pell) and other student record information.

You may, at your discretion, grant the University permission to release certain information about your student records to a third party, including designated Department of Corrections (DOC) personnel, by submitting a completed Student Information Release Authorization. You must complete a separate form for each third party to whom you grant access to information on your student records. The specified information will be made available only if requested by the authorized third party. The University does not automatically send information to a third party. Please note that you may revoke this authorization at any time by submitting a written request to the Office of the Registrar.

This information release authorization is intended for use only by the offices listed below: _{Office List}_

A. STUDENT INFORMATION

NAME (LAST, FIRST, MIDDLE INITIAL)

SSN (LAST 4 DIGITS)

STUDENT ID

FACILITY NAME

MAILING ADDRESS (STREET/PO, APT, CITY, STATE & ZIP)

EMAIL ADDRESS

PHONE NUMBER, IF APPLICABLE

B. AUTHORIZED RECIPIENT (THIRD PARTY OR DOC PERSONNEL)

NAME (LAST, FIRST, MIDDLE INITIAL)

TITLE/ROLE

FACILITY NAME

ADDRESS (STREET/PO, APT, CITY, STATE & ZIP)

EMAIL ADDRESS

PHONE NUMBER, IF APPLICABLE

INFORMATION TYPES ALLOWED (CHECK ONE OR MORE OF THE BOXES BELOW TO GRANT AUTHORIZATION)

- Course enrollment status
- Course completion status
- Final grades (if specifically consented to)
- Credential/certificate completion
- Program participation status
- Student identification number (institution-assigned)
- Program start/end dates
- Attendance status (active/inactive)

DIRECTORY INFORMATION PREFERENCES (CHECK ONE OR MORE OF THE BOXES BELOW TO GRANT AUTHORIZATION)

- I authorize the release of directory information as defined by the institution.
- I do NOT authorize the release of directory information.

I understand that directory information may include items such as my name, enrollment status, or program participation. I may change this preference at any time.

C. STUDENT CERTIFICATION AND SIGNATURE

I understand that:

- This authorization is voluntary and may be revoked at any time in writing.
- The University will release only the information I have selected above.
- My consent does not permit the use of my records for disciplinary, security, or non-educational purposes.

STUDENT SIGNATURE

DATE

WITNESS, IF REQUIRED BY FACILITY

TITLE

DATE