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FAFSA Data Sharing and Data Security: What All FAAs Need to Know

Sam Veeder, EASFAA President

Associate Dean for College Enrollment, Director of Financial Aid
University of Rochester, Rochester, NY

New Emphasis and Guidance on Existing Laws and Regulations

- HEA
- FERPA
- Privacy Act
- Gramm-Leach-Bliley Act (GLBA)
- Red Flag Rules
- PPA
- SAIG Agreement
- Audit

Who is talking about it?

- NASFAA – Letter to Congress on Student Release of FAFSA Info March 2018
- NASFAA – Data Sharing Decision Tree October 2017
- FSA – FSA Conference Sessions December 2017
- FSA – Data Security Overview Webinar September 2017
- PTAC (Privacy Technical Assistance Center) – Guidance on the Use of Financial Aid Information Webinar Sept 2017
- Cooley Higher Education– NASFAA 2017 Session; EASFAA Webinar December 2017
- NASFAA and Cooley Law- Financial Aid Data Sharing June 2017
- FSA Handbook – New section on Protecting Student Information
- Auditors – FY18 Requirements

Two Separate (sometimes!) Topics

FAFSA Data Sharing:

“Financial Aid Administrators must be aware of the legal restrictions that govern the sharing of student financial aid information with other institutional offices and outside entities...”

Financial Aid Data Sharing, NASFAA, June 2017

Data Security:

“Schools must protect student financial aid information, with particular attention to information provided to institutions by the Department...”

FSA Handbook, 2-202

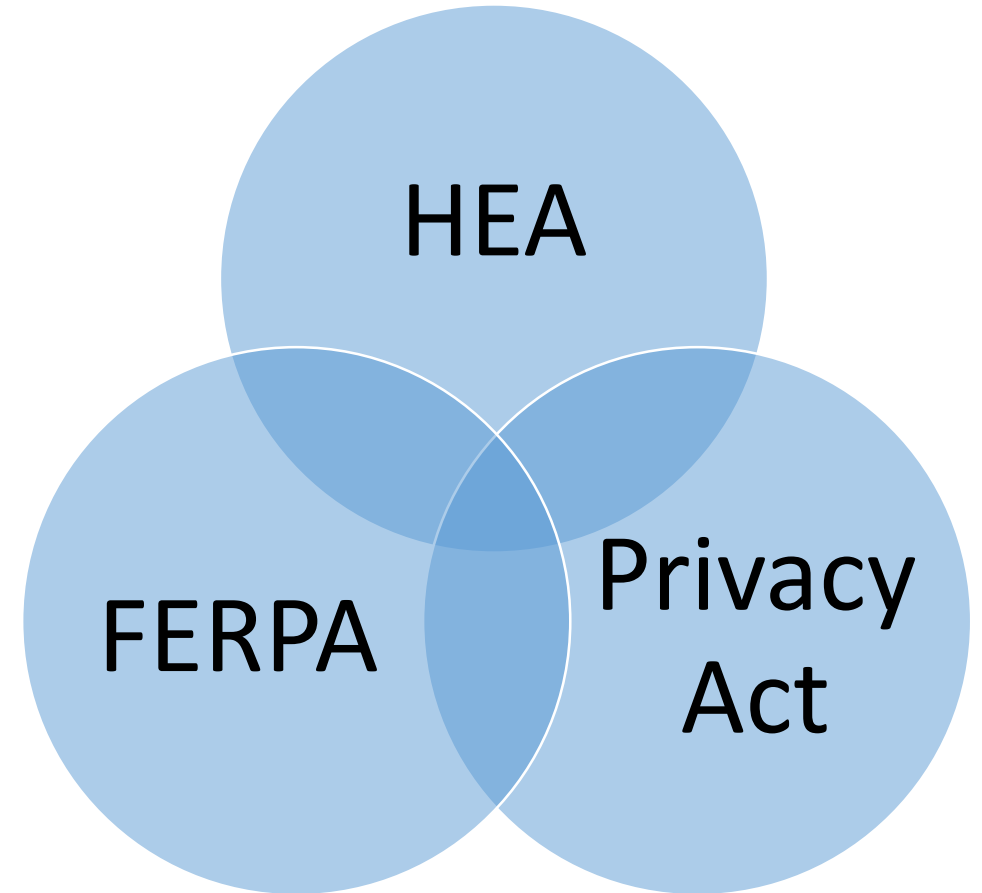
Data Sharing – What Law Applies?

The first question to ask....

It may be more than one.

Excerpted from Sharing Student Data –
A Navigational Guide for Financial Aid
Officers and Offices, Cooley Higher
Education, June 2017 NASFAA
Presentation

PTAC Guidance: In instances where more than one
law/regulation applies, the most restrictive
provisions from each law will apply jointly.



Data Sharing – Higher Education Act

Use of FAFSA application data is limited to:

- The application, awarding and administration of funds
- Includes federal, state and institutional aid programs

HEA 483(a)(3)(E)

Use of NSLDS data is prohibited for nongovernmental research and marketing purposes

HEA 485B(d)(2)

PTAC's Guidance on HEA Restrictions:

Restriction applies broadly to FAFSA data, ISIR data, key processing results, EFC, student's financial aid award history as reflected in NSLDS, COD disbursement data. Data cannot be released even with the student's consent/written authorization.

Data Sharing – FERPA

“FERPA prohibits institutions receiving federal funds from disclosing personally identifiable information contained in education records without the express consent of the student unless doing so falls into one of several exceptions found in 34 C.F.R. 99.31.”

Financial Aid Data Sharing, NASFAA, June 2017

FERPA allows disclosure of de-identified PII data without the individual's consent

PTAC Guidance: De-identification of data is more than the removal of SSN and Name

PPA: Institutions certify compliance with FERPA

Data Sharing – Privacy Act

Governs the collection, maintenance, and use of records by federal agencies

Applies to the Department's student records to prevent the improper release of government-held PII. Prohibits the disclosure of records unless for a specified routine use. Data can be released to institutions for the routine use for which the data was collected.

SAIG Agreement: Access, disclosure and use of data is limited to "authorized personnel."

Data Security – Additional Requirements

- Gramm-Leach-Bliley Act (GLBA)
- FTC Identity Theft Red Flag Rule
- Reporting Breaches – what is a breach, when to report, how to report
- National Institute of Standards and Technology (NIST)
NIST SP 800-171 per FSA Handbook 2-202

Data Security - GLBA

Obligation to Protect Information

- “...schools must protect student financial aid information, with particular attention to information provided to institutions by the Department or otherwise obtained in support of the administration of federal student aid programs.” FSA Handbook, 2-202

Required to have GLBA Safeguards in Place

- Audit: Department of Education is incorporating GLBA security controls into the Annual Audit Guide
- PPA and SAIG: Institutions certify compliance with GLBA
- Schools without GLBA safeguards may be found administratively incapable of properly administering Title IV funds (administrative capability)

Data Security – GLBA Safeguards

- Develop, implement, and maintain a documented information security program
- Designate an employee(s) to coordinate the program
- Identify and assess risks to customer information
- Design and implement an information safeguards program
- Oversee service providers
- Periodically evaluate and update institution's information security program

Data Security Recommendations...

Review the information from FSA Conference and PTAC. Listen to PTAC webinar archive.

Send an email, with links/attachments to the data security requirements and recommendations, to your boss and perhaps your CIO. Don't forget to alert the manager of your A-133 audit of the addition of the GLBA security controls in the Annual Audit Guide.

Data Security – Red Flags Rule

Title IV schools are subject to the FTC Identity Theft Red Flags Rule (72 Fed. Reg. 63718) issued on 11/9/2007

Requires institutions to develop and implement a written Identity Theft Prevention Program to:

- Detect
- Prevent
- Respond to patterns, practices, or specific activities that may indicate identity theft

Resources – Where to Find it...

- Financial Aid Data Sharing White Paper, NASFAA and Cooley Higher Education, June 2017
- NASFAA Urges Congress to Allow Students to Grant Release of FAFSA Information, NASFAA Today's News, March 12, 2018
- ED Confirms Prior Guidance on Release of FAFSA Information, NASFAA Today's News, September 13, 2017
- NASFAA Data Sharing Decision Tree
- Sharing Student Data- A Navigational Guide for Financial Aid Officers and Offices, Cooley Higher Education, NASFAA Conference Presentation, June 2017
- PTAC Guidance on the Use of Financial Aid Information for Program Evaluation and Research, January 2017
- Guidance on the Use of Financial Aid Information for Program Evaluation and Research, PTAC Webinar 9/27/17

Resources – Where to Find it...

- EASFAA Financial Aid Data Sharing Webinar 12/5/17 by Cooley Higher Education (handout and recording in EASFAA Training Archives)
- Post-Secondary Institution Data-Security Overview and Requirements, FSA Webinar 9/27/17
- Dear Colleague Letter GEN 15-18
- Dear Colleague Letter GEN 16- 12
- Record Keeping, Privacy, and Electronic Processes, FSA Handbook, 2-200 to 2-204
- Institutional Eligibility, FSA Handbook, 2-15 to 2-17
- Sharing Financial Aid Application Information and FERPA, NASFAA Conference Presentation, June 2017

Resources – Where to Find it...

- PTAC: ptac.ed.gov
- FSA Cybersecurity Compliance webpage
- Draft Audit Language from FSA Data Security Overview webinar 9/27/17

Questions? Comments?
What is Your Office Doing?
What are Your Challenges?