



## ADMINISTRATIVE POLICY

# Use of Nevada State Students' Education Records in Research (RE

## 2.1)

### POLICY STATEMENT

This policy applies to Human Subjects Research involving Nevada State Student Education Records under the oversight of the Nevada State Institutional Review Board (IRB), and Human Subjects Research for which Nevada State or its affiliates rely on an external IRB for oversight. This policy does not apply to Directory Information.

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### DEFINITIONS

**Deidentification:** The removal of personally identifying information from a dataset. There is not a single deidentification technique, but rather a collection of approaches and tools that may be used with different types of data, with different levels of effectiveness.

**Directory Information:** Includes the student's name; address; telephone listing; electronic mail address; photograph; major field of study; enrollment status (e.g., undergraduate or graduate, full-time or part-time); dates of attendance; participation in officially recognized activities and sports; degrees, honors, and awards received; and the most recent educational agency or institution attended.

**Human Subject:** Living human being about whom (not necessarily from whom) a researcher obtains information. Data may be obtained through interaction or intervention with the person, or may be existing information that can be linked specifically to an identifiable individual.

**Institutional Review Board (IRB):** Campus committee established to review proposed Research protocols to ensure the protection of Human Subjects..

**Research:** Systematic, intentional, formalized plan of investigation designed to develop or contribute to generalizable knowledge

**Student Education Records:** Under the Family Educational Rights and Privacy Act of 1974 (FERPA), those records that are directly related to a student and maintained by an educational agency or institution or by a party acting for the agency or institution. The term does not include:

1. Records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record;
2. Records of the law enforcement unit of an educational agency or institution, subject to the provisions of Code of Federal Regulations §99.8;
3. Records relating to an individual who is employed by an educational agency or institution, that:
  - i. Are made and maintained in the normal course of business;
  - ii. Relate exclusively to the individual in that individual's capacity as an employee, and;
  - iii. Are not available for use for any other purpose;

4. Records relating to an individual in attendance at the agency or institution who is employed as a result of their status as a student are Student Education Records and are not excepted under part (3) of this definition;
  5. Records on a student who is 18 years of age or older, or is attending an institution of postsecondary education, that are:
    - i. Made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in their professional capacity or assisting in a paraprofessional capacity;
    - ii. Made, maintained, or used only in connection with treatment of the student, and;
    - iii. Disclosed only to individuals providing the treatment. For the purpose of this definition, "treatment" does not include remedial educational activities or activities that are part of the program of instruction at the agency or institution;
  6. Records created or received by an educational agency or institution after an individual is no longer a student in attendance and that are not directly related to the individual's attendance as a student;
  7. Grades on peer-graded papers before they are collected and recorded by an instructor.
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## PROCEDURES

### I. Use of Nevada State Student Education Records

Nevada State Student Education Records may be used for Research purposes only when one of the following applies:

- A. The records do not include personally identifiable information;
- B. Nevada State determines that the records will be used by school officials with legitimate educational interest;
- C. The student (or the student's parent or guardian, when appropriate) provides written permission via an informed consent document. Written permission must include all of the following:
  1. Description of the records to be disclosed, including a list of the specific types of data (e.g., GPA, use of student services offices and resources);
  2. Purpose of the disclosure;
  3. Party or class of parties to whom the disclosure may be made.

### II. Institutional Review Board (IRB) Review

The study team must describe the use of Student Education Records in the IRB application and provide the following, if applicable:

- A. Documentation that Nevada State has determined that the records will be used by school officials with legitimate educational interest, except for use of deidentified Nevada State Student Education Records under Section III below;
- B. If the researcher is obtaining written permission from students (or the student's parent or guardian, when appropriate) to access Student Education Records, the informed consent document or mechanism used to secure such permission.

The IRB ensures that all requirements of this policy are met.

### III. Deidentifying Student Data

Properly performed Deidentification involves removing or obscuring all identifiable information until all data that can lead to individual identification is expunged or masked. When data is not effectively Deidentified, there remains the possibility that some information may be linked back to the original students in the dataset. This undermines the privacy protections offered by the IRB review process. Even non-sensitive information that is not specifically covered by FERPA may, when combined with other information, allow an individual to be identified.

Deidentified data from Student Education Records may be released in the form of aggregate data (e.g., tables showing enrolled students by race/ethnicity, age, sex) or individual-level results (e.g., learning assessment data by major). Individual-level data may be released with or without an attached record code that is not based on the student's FERPA-protected information or other personally-identifying information. A record code allows a researcher to track performance or match results of individual students without knowing their individual identities; the researcher can use the code only to match individual records across Deidentified data files.

The Office of Institutional Effectiveness assigns a record code to sensitive data identifiers during data organization. When data from Student Education Records are requested for IRB-approved research, Institutional Effectiveness personnel will share such data using only the record code, thus Deidentifying the data.

Some data considered particularly sensitive, such as information entered into Maxient (e.g., student conduct issues), is only released in Deidentified format.

#### **IV. Use of Personally Identifiable Education Records without Written Permission**

Nevada State researchers may be considered school officials with legitimate educational interests and may use Student Education Records of Nevada State students for Research purposes without written permission when the Research is necessary in order for the school official to fulfill a professional responsibility. This includes Research designed to study the effectiveness of an instructional technique, curricula, or classroom management method in a Nevada State course.

#### **V. Copyright Ownership of Students' Coursework**

According to federal copyright law, students retain copyright ownership to written and artistic creations (e.g., essays, discussion board posts, photographs, exam responses) they submit as coursework. Copyright ownership does not prevent researchers from analyzing such works. However, researchers conducting educational research projects who wish to quote or otherwise reproduce students' coursework in publications or presentations must receive a copyright release to do so. Language regarding copyright releases may be included in informed consent documents approved by the IRB.

#### **VI. Prohibition on Use of Artificial Intelligence (AI) in Analysis of Student Data**

Information from Student Education Records, whether Deidentified or not, may not be uploaded to any AI platform or system (e.g., ChatGPT, Claude) for data analysis, as Nevada State cannot ascertain nor control how AI platforms may store, use, or share uploaded information.

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## **FORMS/INSTRUCTIONS**

- IRB proposal forms available on NS IRB Canvas page

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## CONTACTS

UNIT	CONTACT	PHONE	EMAIL
Nevada State IRB	Gwen Sharp	X2645	<a href="mailto:irb@nevadastate.edu">irb@nevadastate.edu</a>
Office of the Registrar	Adelfa Sullivan	X2119	<a href="mailto:registrar@nevadastate.edu">registrar@nevadastate.edu</a>

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## RELATED INFORMATION

- Health and Human Services (HHS) regulation [45 CFR 46 \(Common Rule\)](#)
  - RE 1.1 [Institutional Review Board \(IRB\) Policy](#) for the Protection of Human Subjects
  - AA 19.1 [Research Misconduct Policy](#)
  - [Code of Federal Regulations §99.8](#)
  - U.S. Department of Education Privacy Technical Assistance Center, "[Data De-identification: An Overview of Basic Terms](#)"
  - Ask UP, "[When Do I Need Permission to Publish Student Quotations or Photos?](#)" (September 7, 2021)
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## HISTORY

- Replaces RE 2. Updated to define and clarify procedures related to deidentification and to add language about students' copyright ownership of their coursework and prohibition on use of AI in analysis of student records data.
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## APPROVAL SIGNATURES



5/19/24

Recommendation (check one):

Office of Academic Affairs (Provost's Signature) Date

	Denial	Approval	Approval w/ condition*
<i>Recommendation</i>		X	

*Deanne P. Pollard*

5.29.2024

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Office of the President (President's Signature) Date

Final decision (check one):

	Denial*	Approval
<i>Recommendation</i>		X

\*Attach rationale for denial or conditional approval