**GUIDE 617 – Federal Funding Agencies – Additional Requirements**

If research is funded, supported by or otherwise subject to certain federal agencies or agreements, it could be subject to additional requirements to those in the Common Rule. These resources are provided as reference material for researchers and IRB members to help ensure that all special considerations are met. IRB Managers, during pre-review, should also identify these requirements and confirm that they are documented.

**Background**

This guidance addresses requirements for research supported by or otherwise subject to, the following federal departments and agencies:

**→** Department of Education (ED) [34 CFR 99 [FERPA];](http://www.gpo.gov/fdsys/pkg/CFR-2009-title34-vol1/xml/CFR-2009-title34-vol1-part99.xml)[34 CFR 98](http://www.gpo.gov/fdsys/pkg/CFR-2009-title34-vol1/xml/CFR-2009-title34-vol1-part98.xml)

**→** National Science Foundation (NSF) [*40 CFR 26*](http://www.ecfr.gov/cgi-bin/text-idx?SID=b2edd4dd7647c1b4262168fd87b7c4c3&mc=true&node=pt40.1.26&rgn=div5)

For detailed requirements refer to the regulatory links provided above.

# Department of Education [ED] Including National Institute on Disability and Rehabilitation Research (NIDRR)

## Obtaining Student Records or Personal Education Information

When researchers obtain student records or personal education information from an education program (as defined in [34 CFR 99.3)](#34:1.1.1.1.33.1.132.3), such activity is subject to the Family Educational Rights and Privacy Act (FERPA).

[34 CFR 99.3 [FERPA Definitions]](#34:1.1.1.1.33.1.132.3)

[AAHRPP element II.3.G.]

1. **Releasing Records Without Consent**

An educational institution may disclose personally identifiable information from an education record of a student *without consent* under certain conditions as listed in FERPA.

[34 CFR 99 [FERPA]](http://law.justia.com/cfr/title34/34-1.1.1.1.33.html)

[AAHRPP element II.3.G.]

### Protection of Students

No student shall be required, as part of any program specified in §98.1 (a) or (b), to submit without prior consent to psychiatric examination, testing, or treatment, or psychological examination, testing, or treatment, in which the primary purpose is to reveal information concerning certain topics.

[34 CFR 98.4](http://www.access.gpo.gov/nara/cfr/waisidx_03/34cfr98_03.html)

[AAHRPP element II.4.B.]

### Protection Of Pupil Rights

Inspection of instructional materials by parents or guardians;

Limits on survey, analysis, or evaluations;

Local policies concerning student privacy, parental access to information, and administration of certain physical examinations to minors.

[20 U.S.C. Ch.31, Subchapter III, Part 4, § 1232h](http://www.law.cornell.edu/uscode/20/usc_sec_20_00001232---h000-.html) especially (a),(b),(c)(1) (as was amended by PUBLIC LAW 107–110—JAN. 8, 2002 115 STAT. 2083)

[AAHRPP element II.4.B.]

### Access to Instructional Material Used In Research

All instructional material—including teachers' manuals, films, tapes, or other supplementary instructional material—which will be used in connection with any research or experimentation program or project shall be available for inspection by the parents or guardians of the children engaged in such program or project.

[34 CFR 98.3](http://law.justia.com/cfr/title34/34-1.1.1.1.32.html)

[AAHRPP element III.2.C.]

1. **National Science Foundation**

Children in Observational Research Greater than Minimal Risk but with Prospect of Direct Benefit

Such research is allowable if:

1. The intervention or procedure holds out the prospect of direct benefit to the individual participant or is likely to contribute to the participant's well-being.
2. The risk is justified by the anticipated benefit to the participants.
3. The relation of the anticipated benefit to the risk is at least as favorable to the participants as that presented by available alternative approaches.
4. Adequate provisions are made for soliciting the assent of the children and permission of their parents or guardians, as set forth in §26.406. 40 CFR 26.304, 40 CFR 26.404-405

* + [40 CFR 26,](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=/ecfrbrowse/Title40/40cfr26_main_02.tpl) [40 CFR 26.201-203](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=18326579b3f558dbc19a1d218fdd3e7d&rgn=div6&view=text&node=40:1.0.1.1.25.2&idno=40) (Subpart B—Prohibition of Research Conducted or Supported by EPA Involving Intentional Exposure of Human Subjects who are Children or Pregnant or Nursing Women)
  + [40 CFR 26.304](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=18326579b3f558dbc19a1d218fdd3e7d&rgn=div8&view=text&node=40:1.0.1.1.25.3.1.4&idno=40) (Additional protections for pregnant women and fetuses involved in observational research)

[AAHRPP element II.4.A.]