



**Gatekeepers of  
Student Data**

Heather Abbott

March 29, 2021

# Introduction



# AACRAO Research Grant

AACRAO awards up to three grants each year. Details of the grant application process can be viewed on the AACRAO Research webpage

(<https://www.aacrao.org/research-publications/research>).





# Central Question

- How do data stewards make decisions about the use and release of student data?

# Presentation Goals

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1

Discuss student privacy in the context of student academic data

2

Actively develop ideas for your own privacy stance

3

Consider criteria to evaluate requests for student information

# Agenda

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**PRIVACY**



**RESEARCH**



**CHECKLIST**

Why?  
What is the  
problem?

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Data



Stewardship



Privacy



FERPA



# Student Data



# Who Owns the Data?



There are two camps of FERPA followers, those who believe the law is simple and clear and those who believe the law to be very unclear

(O'Donnell, p. 687)

# Gray Data



Term proposed by Christine Borgman (2018) based on University of California practices



Analogous to gray literature



Not research data (IRB)



Transient value, kept indefinitely



# In 30 seconds

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How many different types of student data can you list?

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# What is Student (Academic) Data?

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- Transcripts
- Student schedules
- Building usage
- ID card swipes
- Photos



We are in some cases almost everything to a student. We're your **landlord**, we're your **restaurant**, your **grocery store**, your **doctor**, your **library**, your **ISP**, your **athletics**, your **workout facility**, your **lab**, etc., which means for legitimate reasons, we collect a ton of data...Like any other organization **we collect more and more because we can**, because the systems are designed that way, and while we collect it for specific purposes, increasingly **we want to use the data for other things.**

- State University Participant, emphasis added



**REGISTRAR**  
**Steward of Student Academic Data**

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# FERPA: Exceptions to Consent

Permissive (*may* not *must*) exceptions to student consent include:

- Parents of a student under the age of 21 regarding a violation of alcohol or drug violations (Greer, 2012)
- Health or safety emergency
- Parents of a dependent (IRS definition)

# FERPA: Legitimate Educational Interest

FERPA provides an exception to student consent for school officials with a legitimate **educational interest**.

- educational interest of the student
- educational interest of the institution
- it depends





# Privacy on Campus

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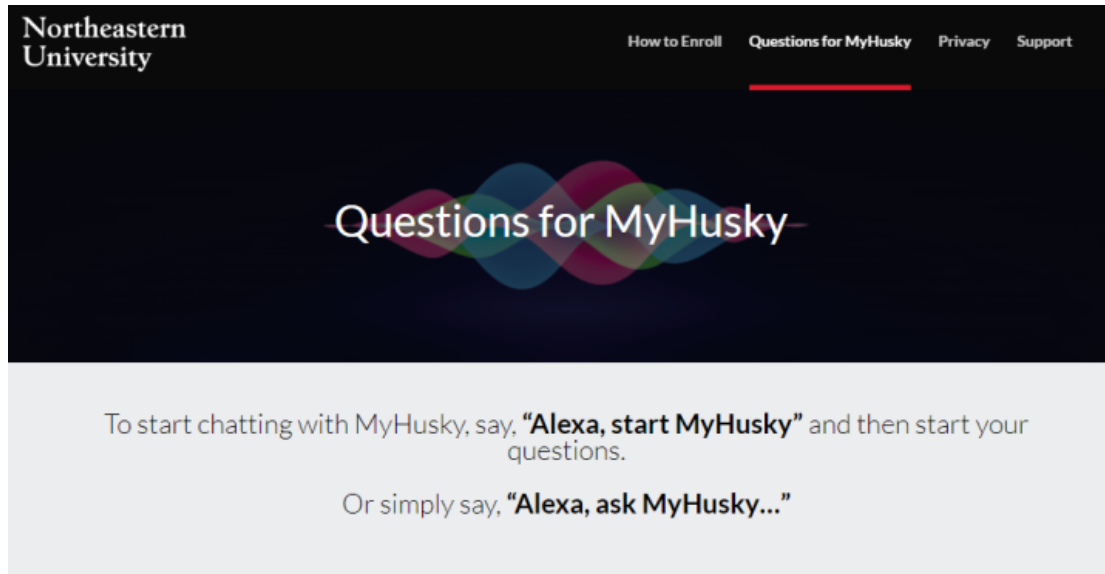
# Students File Federal Lawsuit Against Indiana University Over Privacy Violations, Breach Of Contract

© OCTOBER 29, 2020

## Fearing coronavirus, a Michigan college is tracking its students with a flawed app

And students have no way to opt out

Zack Whittaker @zackwhittaker / 4:30 PM EDT • August 19, 2020



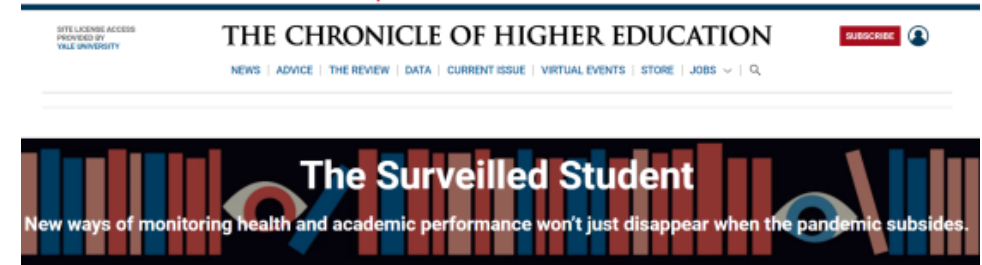
Northeastern University

How to Enroll Questions for MyHusky Privacy Support

### Questions for MyHusky

To start chatting with MyHusky, say, **"Alexa, start MyHusky"** and then start your questions.

Or simply say, **"Alexa, ask MyHusky..."**



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### The Surveilled Student

New ways of monitoring health and academic performance won't just disappear when the pandemic subsides.

#News #Coronavirus

## Monitoring Vital Signs for COVID-19

One university is planning to use wearable technology to track early signs of COVID on its campus. Privacy experts have a few concerns.

By Lilah Burke // August 11, 2020



# Why does privacy matter?

- Personal development/growth
- Academic freedom
- Chilling effect



# Ethic of Care

**Warner (2021)**

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Any time some aspect of institutional operations seems to demand a technological solution, there may be a cheaper, superior alternative, and the way to find it is to start with an ethic of care.

Would I agree to be subjected to the same requirement as a condition of doing my work?



# Contextual Integrity

Helen Nissenbaum's Theory of Information Privacy

# Contextual Integrity

- Privacy is based on context
- Information flows are governed by context-specific norms
- When aspects of the information flow change, the contextual integrity of the information flow may be violated
- New or significantly changed socio-technical practices may violate privacy expectations when information flows are interrupted, changed, etc.



# Flow of Information

1. Privacy is the appropriate flow of information



# Contextual Norms

2. Appropriate flows of information conform with contextual norms.



# Information Norms

## 3. Parameters of privacy norms:

- Subjects
- Senders
- Recipients
- Information type
- Transmission principles

# Example: Online Proctoring

POLICY / TECH / CYBERSECURITY

## University will stop using controversial remote-testing software following student outcry

*It's discontinuing the service after this summer*

By Monica Chin | @mcsquared96 | Updated Jan 29, 2021, 10:27am EST



Listen to this article



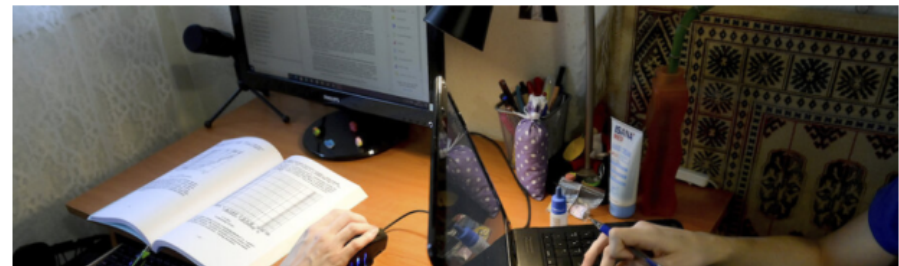
SHARE



VERGE DEB

## Online exams raise concerns of racial bias in facial recognition

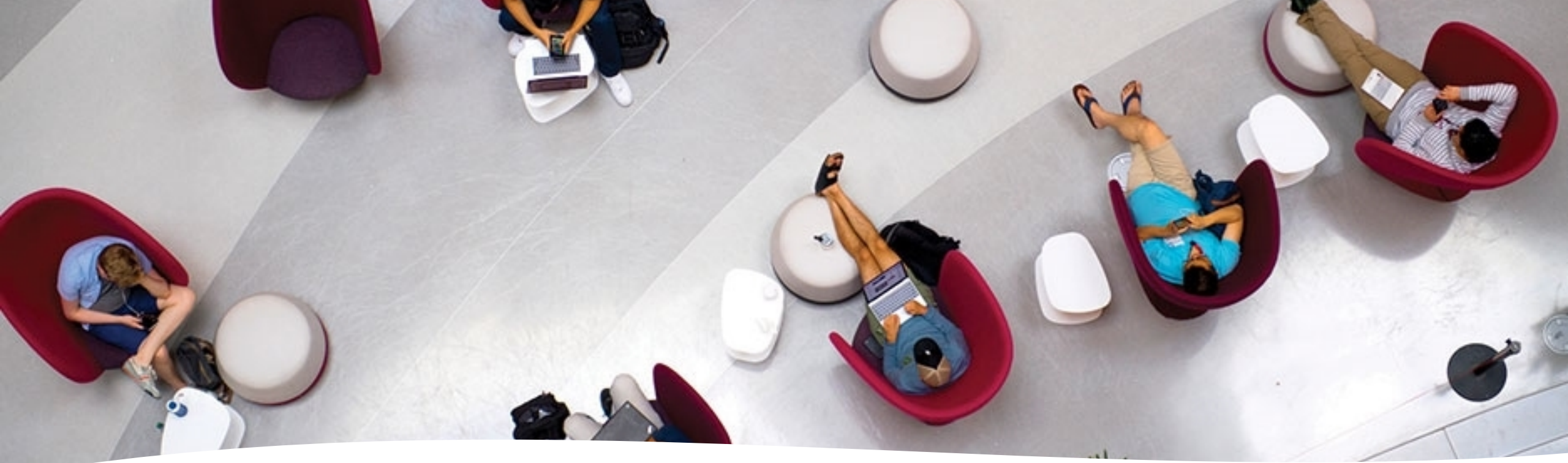
As students take exams remotely, universities around the world are adopting proctoring software that uses facial recognition systems. Some complain the systems are racially biased or overly invasive.



**In 30  
seconds:  
Request for  
Student Data**

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# Research

The purpose of this comparative case study was to understand how data stewards at two large decentralized research universities, one public and one private, make decisions to protect or disclose student information.

# Research Methods



Two case sites



18 interviews, 9 at each site



Documents, web pages,  
reports, news coverage

# Findings



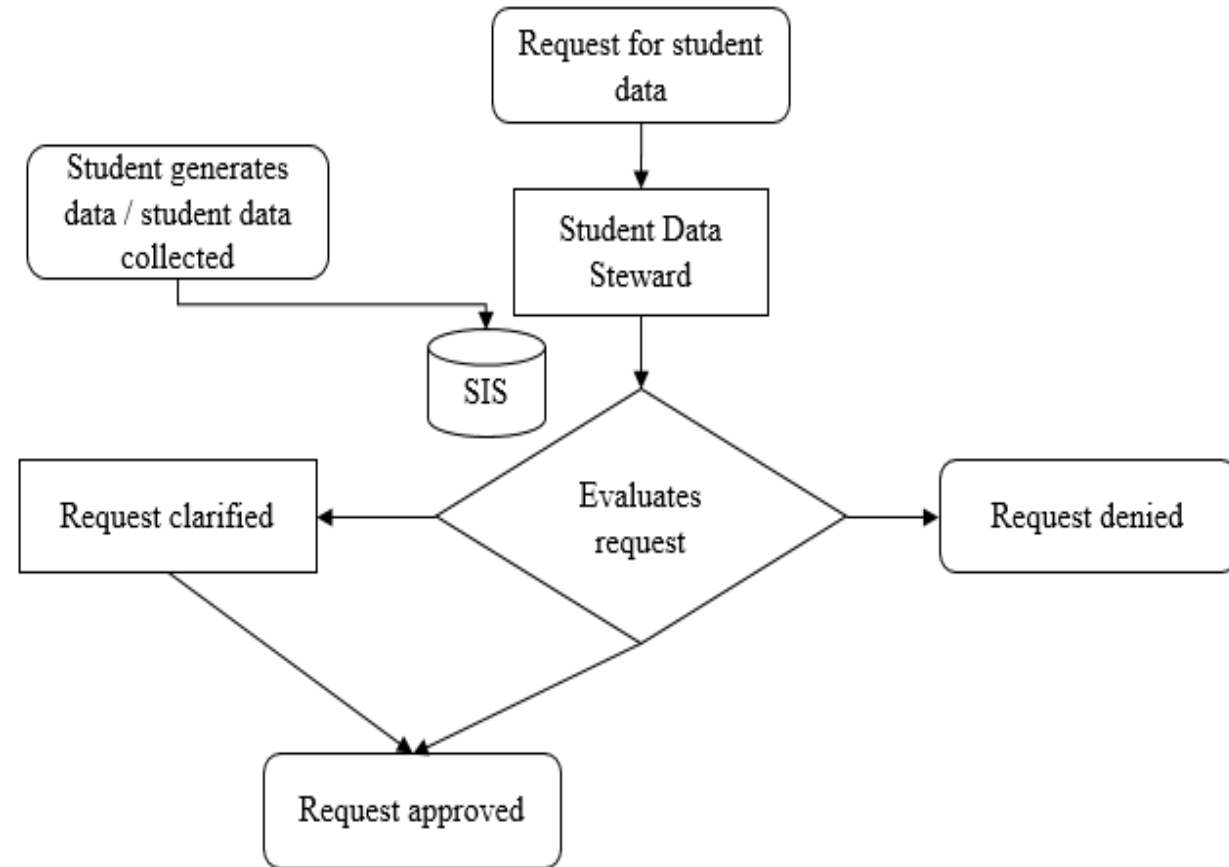
Data stewards acted as gatekeepers and protected student data.



Data stewards used consistent criteria to evaluate requests.



The institutional context influenced the release of student information.



Theme 1:  
Data  
stewards  
acted as  
gatekeepers  
and  
protected  
student data.

There's a **stewardship aspect to that data and it's not an ownership...we** have a duty to improve teaching and learning. That duty includes collecting that data and not just saying it's somebody else's.

“it's not [the data steward's] data, **it's the institution's data.**”

I see it as **my role to protect it...but it is** ...their [faculty and students] data.

We have **an institutional obligation to protect data.**

If we feel **we need to protect our students** in a particular circumstance, then we won't provide directory information.



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## **Thought Exercise:**

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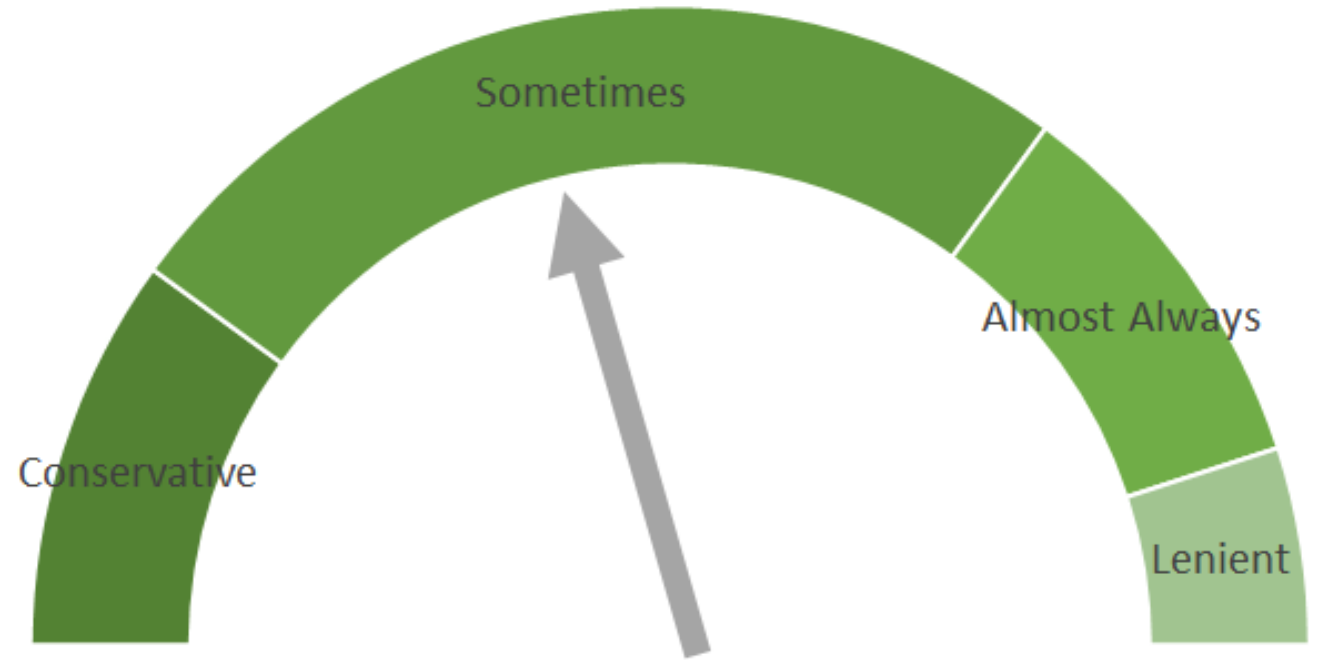
**What is your initial response?**





# Personal Privacy Stance

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# Theme 2: Data stewards used consistent criteria to evaluate requests



Affiliation of the requester



Intention and use



Privacy balancing process



Sensitive data



Institutional reputation



Creative Responses

# Data stewards used consistent criteria to evaluate requests

- Affiliation of the requester
    - Internal vs. external
    - Research vs. administrative
  - Intention and use
    - How will the data be used
    - Context matters
  - Privacy balancing process
    - Red flag, smell test
    - Personal privacy stance
- 
- Sensitive data
    - Race/ethnicity, gender, socioeconomic status
    - Photos, WiFi logs
  - Institutional reputation
    - On brand
    - Related to current events
  - Creative Responses
    - Aggregation and de-identification
    - Alternative data and/or parameters

# Checklist: Describe the Request



Who will have access  
to the information?



Is the request internal  
or external to the  
institution?



What information is  
being requested?

# Checklist: Intention and Use



What is the intent of  
the request?



How will the  
information be used?

# Checklist: Sensitive Data



Does the request involve sensitive data?



Does the request involve any current issues on campus that would need a coordinated response?

# Checklist: Privacy Balancing Process



Are there any red flags?

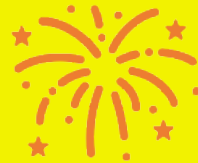


Just because we can, should we?



How would the student react?

# Checklist: Institutional Reputation



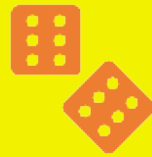
Related to current events?



Reputational harm to the  
institution?



# Checklist: Creative Responses



Are there alternative sources of data?



Are there alternative ways of responding to the request?



Are there ways to minimize privacy concerns?

# Theme 3: Institutional Context Matters



## Decentralized Data

Where is the data?  
Shadow databases



## Internal Focus

Research and learning  
Administrative and operational



## External Influences

Peers and consortia  
State laws and FOIA

# Checklist: Institutional Context



Applicable regulations, laws  
or policies?



Consult other stakeholders  
and data stewards (e.g.  
General Counsel)



## **Contextual Integrity**

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Privacy is based on context

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Information flows are governed by context-specific norms

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When aspects of the information flow change, the contextual integrity of the information flow may be violated

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New or significantly changed socio-technical practices may violate privacy expectations when information flows are interrupted, changed, etc.

# Handout: Student Data Requests Checklist

- Describe the request
- Who will have access to the information?
- Is the request internal or external to the institution?
- What information is being requested?
- What is the intent of the request? How will the information be used?
- What are the applicable federal regulations, state laws, or institutional policies?
- Does this involve sensitive data?
- Does the request involve any current issues on campus that would need a coordinated response?
- Privacy balancing process / personal privacy gauge
- Does the request raise any red flags?
- Just because we can, should we? (May release directory information)
- How would the student react if the student became aware the information was released to the requester?
- Talk to other stakeholders and data stewards (e.g. General Counsel)
- Would the university suffer any reputational harm if the information were released?
- Are there alternative sources of data or alternative ways of responding to the request to minimize privacy concerns?



# Conclusion and Next Steps

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# Student Privacy Principles

- Statement of student privacy principles
  - AIR
- Institutional policies
  - UC Berkeley: <https://rtl.berkeley.edu/learning-data-principles>
  - Michigan: <https://ai.umich.edu/learning-analytics-guiding-principles/>



# What's on your checklist?

What else should be considered?



# References and Recommended Reading

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“Ferpa is the Rodney Dangerfield of statutes: While there is a great deal to it, it just doesn't get much respect” (Mcdonald, 2008).