

## Abstract

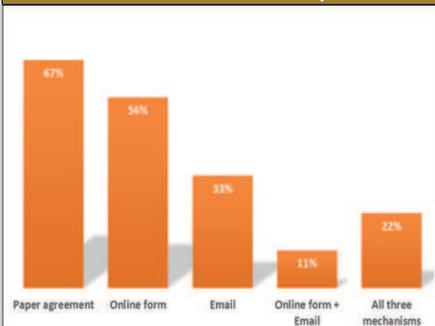
This poster presents the results of an online survey that was designed to evaluate how U.S. academic libraries have addressed **FERPA (Family Educational Rights and Privacy Act)** compliance issues when collecting and disseminating student scholarship in their institutional repositories (IRs).

**Study Background:** Due to the growing presence of student works in IRs, IR managers are obligated to consider ways to comply with FERPA regulations about the privacy of student education records.

Poster session visitors will learn about:

- 1) The current state of FERPA compliance for student works in IRs across the United States
- 2) Potential practices and approaches for archiving and providing online access while obtaining FERPA release consent for student works in IRs

### FERPA Consent Mechanism Reported



## Introduction

IRs are an important part of academic library services for archiving and disseminating the intellectual output of their scholarly communities to a wider audience online. In recent years, IR activities have become more widespread among smaller institutions enrolling mostly undergraduate students. As a result, undergraduates have increasingly become major contributors of scholarly content in many IRs today.

**Development of FERPA compliance policies and procedures should be an important consideration for any academic libraries ingesting student works into their IRs.**

## FERPA and IRs

FERPA, first enacted in 1974, is a federal law that protects the privacy of **student education records** and applies to any educational agency or institution receiving federal funds. (<https://www2.ed.gov/ferpa>)

### What Are "Education Records" under FERPA?

Under FERPA, the term "education records" is defined broadly as "records that are directly related to a student and that are maintained by an educational agency or institution or a party acting for or on behalf of the agency or institution."

### Recent FERPA Experience at TCNJ Gitenstein Library

During our IR pilot testing (2016-17), we consulted the college general counsel as to whether the FERPA definition of "education records" would apply to all student materials in the new IR, including independent faculty-mentored research projects conducted outside the regular coursework. The general counsel concluded that FERPA consent would be required in all cases (except for publications resulting from such research). The office of the general counsel then drafted an online form for accepting dated FERPA consent from students contributing their works to the IR.

**This recent experience has prompted the author to investigate into current FERPA approaches and potential best practices for handling student works in IRs among U.S. academic libraries.**

## Methods

### Online Survey Design

**21-questions survey (April 11–May 11, 2018)**  
Mostly multiple-choice and Likert-scale questions, with a few open-ended questions for soliciting free-text responses as needed.

**Electronic mailing lists used for soliciting survey participation**

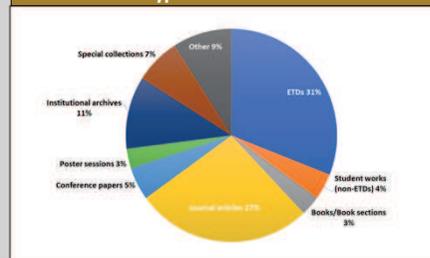
- 1) SPARC Author Rights Discussion Forum (SPARC-ARForum)
- 2) SPARC Institutional Repositories (SPARC-IR)
- 3) ACRL Scholarly Communication (SCHOLCOMM)

### Survey data

31 valid responses from U.S. academic librarians

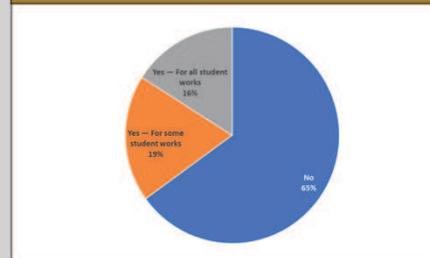
## Results

### Type of IR Collections



**Student works (esp. ETDs) are the cornerstone of IR collections.**

### Obtaining FERPA Waivers



**No issues were reported by libraries that currently do not obtain FERPA waivers for student works in IRs (65%).**

•The most typical reason for not obtaining written consent was that students accepted IR deposit agreements.

### Developing FERPA Policies and Procedures

Two-thirds of libraries requiring FERPA waivers in some form reported that their policies were implemented at the same time when their institutions started to deposit student works in their IRs.

**Who Were Responsible?** 78% reported that librarians were primarily in charge of drafting FERPA documents for their IRs.

•A 50-50 split was found as to whether the draft FERPA documents were sent for review by the legal counsel for final approval

•The draft FERPA documents sent for final review were approved with no or minor changes from the legal counsel

### How Are FERPA Waivers Obtained?

(See also "FERPA Consent Mechanism Reported" figure in the Abstract section)

- Signed paper agreements are the most common mechanism for obtaining student consent for IR deposits (67%).
- Online forms are also used as another common mechanism for FERPA compliance (56%).
- Email usage is reported at a much lower rate (33%).
- More than one mechanism are used in 33% of the respondents' institutions.
- Nearly a quarter (22%) use some combination of signed paper agreements, online forms, and emails.

## Discussion

### IR Content and FERPA Implications

The importance of student works in IR collections should highlight the significance of FERPA compliance issues for IR managers.

### FERPA Release Needed for Student Works

Because "education records" is defined very broadly under FERPA, academic libraries can best avoid any potential legal vulnerabilities by developing appropriate policies and procedures for obtaining FERPA release for student works in IRs, even though few issues if any may be anticipated for failing to do so.

### Are IR Deposit Agreements Sufficient?

Even when students are asked to accept IR deposit agreements, it may not be sufficient to meet the FERPA rules unless they contain specific explanation of FERPA as needed or their instructors have specifically collected written permission for releasing student works created under their guidance. Developing standalone FERPA documents or addendums may be advisable for legal compliance purposes.

## Contact Information

Yuji Tosaka  
Cataloging/Metadata Librarian  
R. Barbara Gitenstein Library  
The College of New Jersey  
P.O. Box 7718 Ewing, NJ 08628-0718  
Phone: 609-711-2156  
Email: [tosaka@tcnj.edu](mailto:tosaka@tcnj.edu)