Faculty Use of Own Students in Research and Use of FERPA Protected Information

I. Policy Statement

It is the policy of Ball State University’s (BSU) IRB that all research be conducted in accordance with the tenets of the Belmont Report. This includes maintaining the highest ethical standards and full respect for persons participating in human subject research. A core principle of the regulations governing the use of human subjects in research is that the each person’s participation is voluntary, based upon full and accurate information and with full informed consent.

Regardless of intentions, a faculty member’s use of their own students in research poses significant ethical issues, creates potential risks to research participants due to the inherent conflict of interests/conflict of commitment situation and raises the issue of voluntariness. At the same time, the IRB recognizes that there are a few times when this is the only viable scientific option available to researchers in order to obtain reliable data.

As a general policy, BSU discourages faculty from using their own students and/or student materials in human subjects research, unless there is a compelling and legitimate justification for its use. If one’s own students are to be used in research, then the principal investigator (PI) and their research team must take all due precautions to protect the safety, rights and welfare of the participants, ensure the proper privacy and security of the research data and comply with all applicable University policies for the protection of students and student information at BSU.

II. Operational Definition(s)

Faculty use of one’s own students in research: When any faculty person employed by BSU uses their own currently enrolled students, their currently enrolled students’ course materials or information, or materials or information from previously enrolled students for research purposes as defined in 45 CFR 46. This definition does not include course evaluations, projects only meant for teaching and learning for the course only, or course improvement activities. Use of one’s own graduate assistant(s), research assistant(s) and/or teaching assistant(s) as a proxy is considered to be the same as the faculty person for purposes of this policy.

FERPA: The Family Educational Rights and Privacy Act of 1974 (also known as the Buckley Amendment).

Previously collected materials: Any course work, projects, papers, etc. that were created by students in contemplation of course completion and receipt of a grade and were retained by the faculty person who taught the course. These materials were collected and retained for non-research purposes.

III. Procedures
A. **Faculty using current students as research participants**

Faculty may use their own current, consenting students in human subject research under the following conditions:

- No alternative method of data collection is feasible.
- PI must provide a compelling reason in the IRB application why they need to use their own students for research over any other option.
- Students are considered a vulnerable population due to the power dynamic in the classroom. As such the minimum level of review will be Expedited unless the IRB determines that the study qualifies under an Exempt category.
- The possibility/probability for becoming a potential research participant must be provided to students at the start of class. This can be done as part of the syllabus.
- Students should be well-informed and given IRB contact info. This can be done as part of the syllabus.
- Students must be informed that consent is voluntary and participation (or lack of) will not affect grades, academic standing, etc.
- Students must be given an opt-in option and not an opt-out.
- Students must be allowed to file a complaint/discuss concerns directly with the BSU IRB Chairperson, BSU Director of Research Integrity, and/or the BSU Institutional Official (IO).
- IRB approval will be on a case-by-case basis.
- Whenever possible, faculty should not collect data from his/her students directly.
- Priority remains on teaching, not data collection.
- Whenever possible, no data will be released to the PI until after grades are posted.
- Aggregated data use is preferred over identifiable data use.
- PI must comply with FERPA and get signed authorization to use FERPA protected information for research purposes. FERPA authorization is not required for directory information that is publicly available.
- The BSU Registrar has final authority over FERPA protected data use. The IRB cannot override a final decision by the Registrar.

B. **Faculty using created class materials from current students for research purposes**

This should follow the same basic procedure as noted above, with the following additions:

- Appropriate credit (e.g., authorship) should be given when possible or when applicable, unless confidentiality/privacy needs to be protected.
- Faculty should explain the purpose of the research and how the materials will be used, preferably in the syllabus.
- Journals and other similar materials (both electronic and paper-based) are the property of student(s) and should not be used or collected for research without expressed written permission.

C. **Faculty using previously created class materials from their past students for research purposes**

i. As a general policy, faculty may not use students’ previously created class materials retroactively for research purposes. Key issues include lack of informed consent,
coercion, being singled out by use of quotations, or using students’ personal journals or reflections without students’ prior knowledge.

ii. Faculty may use students’ class previously created class materials for research purposes only under the following circumstances:
   1. There is no other viable option for conducting the proposed research. The PI must demonstrate this to the IRB.
   2. Previously collected data that is in the aggregate may be used, as long as it does not include identifiable sensitive materials and/or involves FERPA protected data that requires a signed authorization for use in research.
   3. From the point of this policy forward, students are informed at the beginning of the course, before any materials are created or collected, that their materials may be used for future research purposes, that their materials will be de-identified and are given the opportunity to opt-out. Any opt-out request must be in writing and honored by the faculty. This notice can be part of the syllabus.
   4. Journals and other similar materials (both electronic and paper-based) are the property of student(s) and should not be used or collected for research without expressed written permission.

D. Use of FERPA information and data in human subjects research

   i. Unless the researcher qualifies for a FERPA exemption, all use of FERPA information and data for human subjects research purposes, as defined in 45 CFR 46, must comply with FERPA requirements. In most cases this means the PI must get signed authorization(s) from students before using any FERPA protected information or data in human subject research.
   
   ii. FERPA authorization is not required for directory information that is publically available.

   iii. Faculty using FERPA protected data, requiring signed authorizations, can use the FERPA form available from the Registrar’s Office or the version created specifically for research use (form can be found in the forms library in IRBNet).

   iv. Faculty are required to retain all signed authorization forms and be able to produce them upon request by legally authorized authorities.

   v. All FERPA signed authorization forms must be retained for a minimum of 3 years from the close of the research project.

   vi. Faculty can use de-identified and/or aggregated FERPA data, without signed authorizations, if the data has been de-identified and/or aggregated by a neutral third party university official with legitimate access to the data as defined in FERPA. This individual cannot be part of the research protocol (i.e. research team/key personnel) in any way.