

WASWUG 2008

Family Educational Rights and Privacy Act

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Family Educational Rights and Privacy Act

The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education.

FERPA gives parents certain rights with respect to their children's education records. These rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level. Students to whom the rights have transferred are "eligible students."

Parents or eligible students have the right to inspect and review the student's education records maintained by the school. Schools are not required to provide copies of records unless, for reasons such as great distance, it is impossible for parents or eligible students to review the records. Schools may charge a fee for copies.

Parents or eligible students have the right to request that a school correct records which they believe to be inaccurate or misleading. If the school decides not to amend the record, the parent or eligible student then has the right to a formal hearing. After the hearing, if the school still decides not to amend the record, the parent or eligible student has the right to place a statement with the record setting forth his or her view about the contested information.

Generally, schools must have written permission from the parent or eligible student in order to release any information from a student's education record.

However, FERPA allows schools to disclose those records, without consent, to the following parties or under the following conditions (34 CFR § 99.31):

- School officials with legitimate educational interest;
- Other schools to which a student is transferring;
- Specified officials for audit or evaluation purposes;
- Appropriate parties in connection with financial aid to a student;
- Organizations conducting certain studies for or on behalf of the school;
- Accrediting organizations;
- To comply with a judicial order or lawfully issued subpoena;
- Appropriate officials in cases of health and safety emergencies; and
- State and local authorities, within a juvenile justice system, pursuant to specific State law.

Schools may disclose, without consent, "directory" information such as a student's name, address, telephone number, date and place of birth, honors and awards, and dates of attendance. However, schools must tell parents and eligible students about directory information and allow parents and eligible students a reasonable amount of time to request that the school not disclose directory information about them. Schools must notify parents and eligible students annually of their rights under FERPA. The actual means of notification (special letter, inclusion in a PTA bulletin, student handbook, or newspaper article) is left to the discretion of each school.

For additional information or technical assistance, you may call (202) 260-3887 (voice). Individuals who use TDD may call the Federal Information Relay Service at 1-800-877-8339.

Or you may contact us at the following address:
Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-5920

Test Your FERPA Knowledge

Multiple Choice

1. Directory information may not include
 - a. student name
 - b. health condition
 - c. address
 - d. birth city
2. What must school districts do each year before they can release "directory" information?
 - a. written consent from parents.
 - b. notify parents about directory information.
 - c. districts do not need to do anything.
 - d. schools cannot release directory information.
3. Define who would have an, "legitimate educational interest"
 - a. faculty member's need to provide feedback to students in the form of grades/evaluations.
 - b. the registrar's need to obtain education record information from faculty to produce a student's transcript.
 - c. school official's right to obtain information only about students he is advising or teaching during the current year.
 - d. a school official's need to review student education record information to fulfill a responsibility as part of her contract.
4. Which of the following is required from students by FERPA before releasing information about them?
 - a. verbal consent to release the information
 - b. written permission, unless the release is covered by any exception listed in FERPA
 - c. verbal consent from the student's advisor
 - d. written consent from the parents of a dependent student

Answer Key: Multiple Choice: 1-B, 2-B, 3-D, 4-B and D if student is in K2-12 grades and not 18 years old.

Answer “Yes” or “NO”

1. Would the following would be an acceptable release of student information without the student's written permission? (Enter "Y" for yes or "N" for no next to each letter.)

Yes	No	
		a. to the student
		b. to the state controller's office in relation to an audit of a state-funded program
		c. to the student's advisor
		d. to potential employers attempting to verify grades, class rank, and degree received
		e. to an officer of a court in response to a legally issued subpoena
		f. to the student newspaper, regarding the final results of a student disciplinary hearing
		g. to an institution at which the student intends to enroll, and the request is for the student's gpa
		h. to the town's local law enforcement office, inquiring whether the student is in attendance this semester

2. All items below are found in various offices of the institution; would they be considered education records? (Enter "Y" for yes or "N" for no next to each letter.)

Yes	No	
		a. an examination paper of a student with his name on it
		b. a class roster with all students' names on it
		c. a traffic violation of a student kept in the institution's security office
		d. the honor roll list
		e. scores of a student who took the Test of English as a Foreign Language
		f. a note made by a faculty member of an advising session with a student
		g. student photographs on a department's bulletin board identifying the majors in that department
		h. medical records concerning an health condition
		i. faculty member's note about a student having an epileptic seizure in one of his classes and kept in his locked office files
		j. financial information on a student's parents filed in the Financial Aid

AACRAO

<http://www.aacrao.org/compliance/ferpa/exam.cfm>

Answer Key: Yes or No

1A-Yes, 1B-Yes, 1C-Yes, 1D-No, 1E-Yes, 1G-Yes, 1H-Yes

2A-Yes, 2B-Yes, 2C-No, 2D-Yes, 2E-No, 2F-Yes, 2G-Yes, 2H-Yes, 2I-No, 2J-No

School District Board Policies

Each education institution subject to FERPA should consider establishing policies, procedures, and best practices to address the following questions:

- What are the current legal restrictions for disclosure and nondisclosure?
- Does the potential risk to the confidentiality and security of education records outweigh the benefit of using certain electronic devices poses?
- Does the teacher or staff member have a legitimate educational interest in the information that meets the exception rule for prior consent (see Disclosure of Student Information)?
- Is prior consent required since the ability to carry education records off school premises changes the physical context in which the education records were originally used?
- What jobs or roles include responsibility for the safety and maintenance of education records?
- What is the ethical and legal responsibility of staff in terms of preventing unauthorized use or disclosure of information?
- What is appropriate and inappropriate use of data, and how can information be protected against unauthorized access?
- What type of training will individuals who access and/or use the information require?
- Do individuals with access to personally identifiable information take an oath of nondisclosure?

Establishing policies, procedures, and best practices is not a cure-all, but it sets the foundation for ensuring a deliberate effort to safeguard the confidentiality and privacy of education records.

Reference:

Updated resources can be found on the FERPA page of the Forum website:
<http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html>

Institute of Education Sciences U.S. Department of Education
<http://nces.ed.gov/pubSearch/pubsinfo.asp?pubid=2006805>

Suggested website for FERPA information;
Institute of Education Sciences U.S. Department of Education
<http://nces.ed.gov/pubs2006/2006805.pdf>