



FERPA Deep Dive

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Privacy Technical Assistance Center



United States Department of Education

Student Privacy Policy Office

Privacy Technical Assistance Center

Disclaimer

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Official policy and guidance can be found on our website at <https://studentprivacy.ed.gov/>.



About

- **Student Privacy Policy Office (SPPO)**
- Responsible for the administration and enforcement of federal laws relating to the privacy of students' education records, and for the provision of technical assistance on student privacy issues for the broader education community.
- **Privacy Technical Assistance Center (PTAC)**
- One-stop resource for education stakeholders to learn about privacy, confidentiality, and security practices related to student-level data systems and other uses of student data.
- **Call us!** (855) 249-3072
- **Email us!** privacyTA@ed.gov



Some Considerations

- A culture of privacy and security starts from the very top – If leadership does not consider something to be important – it won't be important
- This content is hard – a lot of seasoned educators regularly make mistakes
- These mistakes can lead to FERPA violations, data breaches – legal and reputational exposure
- Privacy is a team sport – even if you are not the person directly working with the student you still have a role in making sure the data is protected



Some More Considerations

- It is important to understand the perspective and constraints that people who work in schools are under
- Behind every data element is a child and a family. A child that they see in the hallway or in class. A parent that comes to parent teacher meetings
- FERPA does not require that data be shared with anyone outside of the parent or eligible student that requests access



FERPA Pre-Test: True or False?

1. FERPA only applies to schools that receive federal education funds.
2. Once a student turns 18, the school can't share education records with the parents.
3. If a child is living with a grandparent who is responsible for the day-to-day care of the child, the school must provide the grandparent with access to the child's education records.
4. Student health records maintained by the school nurse are not education records.
5. FERPA permits a parent to file a lawsuit against a school, district, or school board for violating his or her rights under FERPA.



FERPA Pre-Test: True or False?

6. Schools are required to provide parents with a copy of their child's education records upon request.
7. A school must disclose student information that has previously been designated as directory information to a third party that requests access.
8. If a parent discusses a matter about his or her child in an open school board meeting, that constitutes "consent" under FERPA for school board members or other school officials to respond by disclosing PII from the child's education records.



FERPA Pre-Test: True or False?

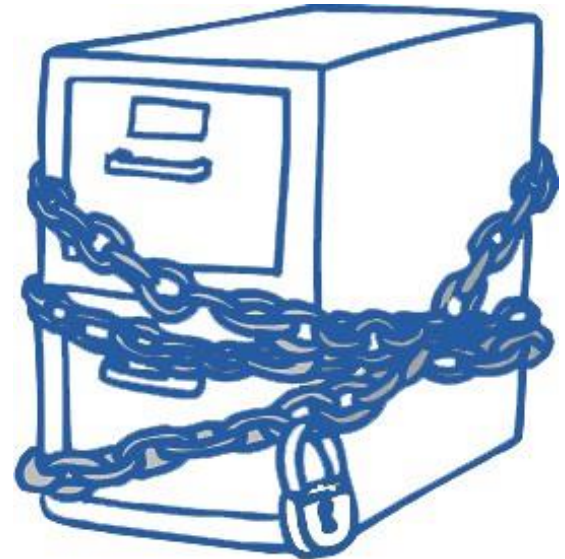
9. Education agencies can share data with researchers using FERPA's research exception.
10. When a student under 18 transfers from School District A to School District B, District A can share all of the student's education records with District B without the consent of the parent, including disciplinary records and special education records.



What is FERPA? Family Educational Rights and Privacy Act

A federal privacy law that affords parents and eligible students the right to:

- have **access** to their children's **education records**,
- seek to have the records **amended**, and
- **consent** to the **disclosure** of **personally identifiable information** from education records, **except** as provided by law.



Annual Notification of Rights

- Educational agencies and institutions must annually notify parents and eligible students in attendance of their rights under FERPA.
 - Procedure to inspect and review
 - Disclosure to school officials
 - Specification of criteria for school officials and legitimate educational interest
 - Designated directory information



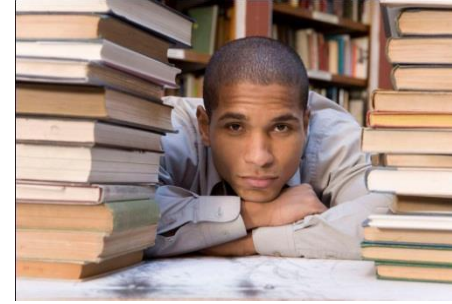
To which educational agencies and institutions does FERPA apply?



Elementary



Secondary



Postsecondary



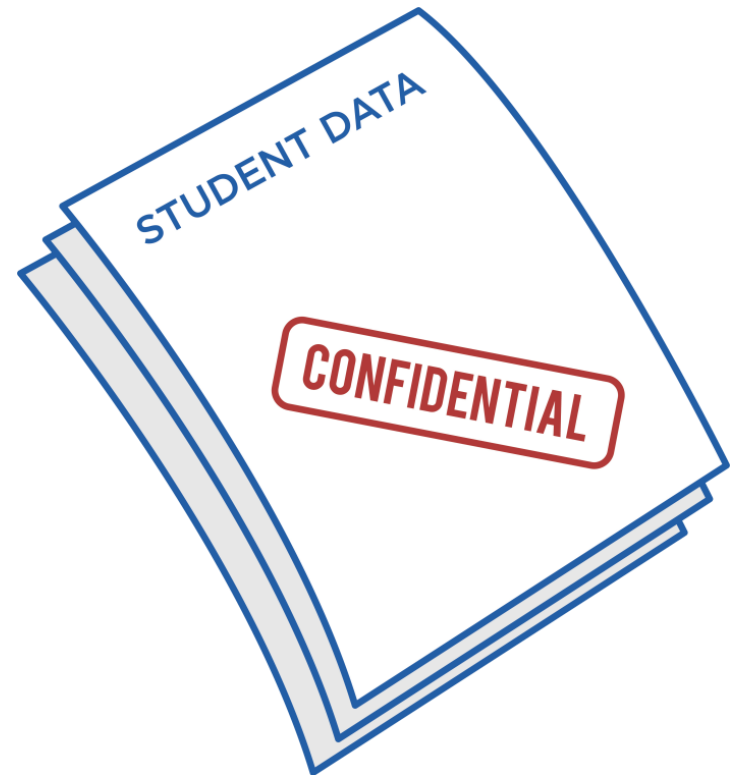
U.S. Department of Education Funding



What is an education record?

“Education records” are records that are:

1. directly related to a student; and
2. maintained by an educational agency or institution or by a party acting for the agency or institution.



Education Records Exemptions

Exemptions to “education records” include, but are not limited to:

- Sole possession records used as a personal memory aid;
- Law enforcement unit records;
- Peer-graded papers before they are collected and recorded by teacher.



What about the Health Insurance Portability and Accountability Act (HIPAA)?

Records that are subject to FERPA are not subject to the HIPAA Privacy Rule (see page 82483, *Federal Register*, Vol. 65, No. 250, December 28, 2000).

- Health records on students, including immunization records, maintained by an educational agency or institution subject to FERPA are “education records.”
- [Joint Guidance on FERPA and HIPAA](#)

Law Enforcement Units

“Law enforcement unit” means any individual, office, department, division, or other component of a school that is officially authorized or designated by the school to:

- Enforce any local, state, or federal law, or refer to appropriate authorities a matter for enforcement of any law against any individual or organization other than the school itself; or
- Maintain the physical security and safety of the school.

Law Enforcement Units

Examples include:

- Unit of commissioned police officers
- Unit of non-commissioned security guards
- Fully equipped police units
- Smaller security office
- Vice-principal or other school official
- Local off-duty police officer
- School Resource Officer



Law Enforcement Unit Records

- Law enforcement unit records means those records, files, documents, and other materials that are:
 - Created by a law enforcement unit;
 - Created for a law enforcement purpose; and
 - Maintained by the law enforcement unit.
- Law enforcement records are **not** education records.
- [Guidance on FERPA and Law Enforcement Units](#)



Scenario: Law Enforcement

A police officer enters the main office of a school and asks if a specific student is at school that day. The police officer wants to speak to the student regarding some gang violence that occurred three weeks ago.

The police officer does not have a court order.

Can the school tell the officer whether or not the student is attending school that day?

Scenario: Law Enforcement

- The secretary would have to log into the student information system to confirm the student was in attendance. **That attendance record is an education record.**
- Without a court order or an imminent threat, this
could not be disclosed.
- But what if it was a **personal observation?**

Scenario: Campus Surveillance Video

Bob, Tommy, and Joe are ecstatic that their favorite NFL team, the Philadelphia Eagles, have won the Superbowl. They go to the local bar to celebrate and wind up celebrating too much. Inebriated, they return to campus and stumble around drunkenly trying to find their dorm rooms.

While they are doing nothing violent, their behavior violates the school's alcohol policy, and several students complain about the incident. Campus administration reviews the surveillance video and clearly can see the three fans and their celebrations. The administration confirms that they have violated the school's alcohol policy and put the three

students on probation. Tommy is a basketball player, and this probation is preventing him from competing in this weekend's big game.

Scenario: Campus Surveillance Video

- Joe comes from an affluent family that donates a lot of money to the university. They ask for the university to destroy the video, so it doesn't damage Joe's future political career. How would you handle the request from the parents to destroy the video?
 - Record Retention and Disposition schedules differ by state.
- Bob, who has no recollection of the evening, requests to come in and view the video so he can be sure that it was him. Do you have to comply with the request?

When is a video or photo an “education record”?

As with any other education record, a photo or video of a student is an education record when it is: (1) directly related to the student; and (2) maintained by the school or party acting for school.

See FAQs on Photos and Videos under FERPA –

<https://studentprivacy.ed.gov/faq/faqs-photos-and-videos-under-ferpa>

Directly related?! That sounds like FERPAish

“Directly related” is context specific considering the following factors:

- Depictions of activities that:
 - Resulted in disciplinary action.
 - Shows a violation of the law.
 - Shows an occurrence of student injury, attack, illness or health emergency.
- Intend to make a specific student the subject.
- Audio or visual record contains content that includes PII from a student’s education record.

When Videos and Photos are **NOT** Education Records

- Students in the background.
- Photos or videos without a focus on a specific student.
- Records maintained by a law enforcement unit of an educational agency or institution for a law enforcement purpose.
 - However, if unit provides a copy to the school, that copy may become an education record.

Videos and Photos that are Records of Multiple Students

- A video can be the education record of multiple students (e.g., fights).
- In such an instance, educational agencies and institutions are required to allow a parent or eligible student, upon request, the opportunity to inspect and review or be informed of the record.
 - Prior to providing access, institutions are required to redact or segregate when reasonable if it does not destroy the meaning of the video.
 - Schools cannot charge for the redaction or segregation.
 - Copies are allowed but not required.

Personally Identifiable Information (PII)

- **Direct Identifiers**

- e.g., Name, SSN, Student ID Number, etc.
(1:1 relationship to student)

- **Indirect Identifiers**

- e.g., Birthdate, Demographic Information
(1:Many relationships to student)

- **Other information** that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty. (§ 99.3)

Scenario: Divorced Parents

Jack and Diane, two young people from a small town in Iowa, fall in love and get married. After ten years, and two kids, they grow apart and get divorced. Jack moves to California and Diane stays in her small town, gets remarried, and has sole custody of the kids.

Concerned about how his children are doing, Jack asks for access to his children's education records. Knowing that he doesn't live with his children, the school denies the request. Did the school do the right thing?



Definition of “Parent”

- Under FERPA:
 - **Parent** means a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian.
 - Includes custodial and noncustodial parents.

Rights of Parents (Custodial and Noncustodial)

FERPA affords full rights to a parent, unless the school has been provided with evidence that there is a court order or State law that specifically revokes these rights.



Scenario: Divorced Parents

No, the school did not do the right thing.

- Divorce/custody issues are hard.
 - Schools are often caught in the middle.
 - Unless there is legal evidence that provides to the contrary, FERPA affords rights to both the custodial and non-custodial parent.
- Important to differentiate between “access to records (FERPA)” and “right to make an educational decision or check the kid out of school (not FERPA).”

Transfer of Rights Under FERPA

When a student turns 18 years old or attends a postsecondary institution at any age, they become an “eligible student” and, the rights under FERPA transfer from the parents to them.



Scenario: Dual Enrollment

Janet is a 17-year-old high school student enrolled in the career and technical education Culinary Arts Program of Study. The Culinary Arts Program has an articulation agreement with the local community college. Janet also is dually-enrolled at the community college where she is taking the Artisan Breads and Pastries class. Janet's parents have requested access to and a copy of Janet's education records maintained at both her high school and the community college.



Dual Enrollment

The fun and “easy” way to work through this problem.

- Keep in mind what records are kept at which school or institution!



- Determine who has rights to access at each of the schools or institutions.
 - Parents **MAY** have access to records kept at the college if:
 - Janet signs a consent form or;
 - Janet is claimed as a dependent
 - Parents **have the right** to access records kept by the high school!



- Are records shared between the institutions? If so, where those records are maintained will provide your answer on who has access.

Scenario: Deceased Students

The local newspaper is conducting research for a feature article on the increase in student suicides in the local community. The reporter approaches you with a list of student suicides over the past five years and requests academic and mental health records of the students.

Scenario: Deceased Students

- Can you disclose the requested information to the reporter because the students are deceased?
- Yes. The FERPA rights of eligible students expire upon death. Therefore, FERPA would not protect the education records of a deceased eligible student (a student 18 or older or in college at any age) and an educational institution may disclose such records at its discretion or consistent with State law.



Scenario: Deceased Students

- Would you need to obtain consent from the parents of the students?
- At the elementary/secondary level, FERPA rights do not lapse upon the death of a non-eligible student because parents maintain the rights.
- Would the age of the student at the time of death make a difference in whether you may share the information with the reporter?

Scenario: Reporting Test Results

John is a high school teacher. He wants to post the results of a math test, so he runs a report that has the names, scores, gender, and race/ethnicity of the students.

John wants to preserve the privacy of his students, so he deletes the column with student name.

Does this remove the personally identifiable information?

PII is:

Personal
Information



PII is:

Personally

Identifiable

Information



PII is:

Personally
Identifiable
Information



What John Pulls from his SIS

Name	Race/Ethnicity	Gender	Pirate Status	# of Hooks	GPA
	W	M	Y	1	2.0
	A	F	N	0	3.5
	B	M	N	0	3.8
	W	F	N	0	2.0
	H	M	N	0	3.3



Still Personally Identifiable?

Name	Race /Ethnicity	Gender	Pirate Status	GPA
	W	M	Y	2.0
	A	F	N	3.5
	B	M	N	3.8
	W	F	N	2.0
	H	M	N	3.3



What about now?

Name	Race /Ethnicity	Gender	GPA
	W	M	2.0
	A	F	3.5
	B	M	3.8
	W	F	2.0
	H	M	3.3



Scenario: Reporting Test Results

While the student's name is a direct identifier, gender and race/ethnicity are also considered to be personally identifiable information.

FERPA Rights of Parents and Eligible Students

- Right to inspect and review education records;
- Right to request amendment of education records;
- Right to a hearing if amendment request is denied;
- Right to consent to disclosures, with certain exceptions; and
- Right to file a complaint with U.S. Department of

Education regarding an alleged violation of FERPA.

Right to Inspect and Review



- Schools must comply with request within 45 days.
- Schools are generally required to give copies, or make other arrangements for access, if failure to do so would effectively deny access – example would be a parent or student who does not live within commuting distance.
- School may not destroy records if request for access is pending.

Right to Inspect and Review

May an educational agency or institution charge a fee for copies of education records?

- Yes – unless imposing a fee effectively prevents a parent or eligible student from exercising his or her right to inspect and review education records.

What limitations exist on the right to inspect and review education records?

- If the records contain information on more than one student, the requesting parent or eligible student may inspect, review, or be informed of only the specific information about his or her child's records.

Scenario: Official Transcript

Sam is a recent graduate of your high school. After his graduation, he comes to the main office and requests a copy of his official transcript. You notice that he owes several hundred dollars in unpaid fees and refuse him access. He states that refusal to honor his request is a FERPA violation.

What do you do?

Scenario: Official Transcript

- Under FERPA, eligible students have the right to inspect and review their education records. This right generally does not include copies, unless circumstances effectively prevent the eligible student from exercising the right to inspect and review, such as not living within commuting distance to the school. In which case, the school would need to provide the eligible student with a copy of the records requested or make other arrangements for the eligible student to inspect and review the requested records.
- Because copies are not required under FERPA, K-12 schools are permitted to withhold copies of transcript until financial obligations are satisfied. However, if the student requests to view their transcript, the school must comply with that request within 45 days of receiving the request.



Right to Request Amendment

- Parent or eligible student should identify the portion of the record believed to contain **inaccurate or misleading information**.
- School must decide within reasonable period of time whether to amend as requested.
- If school decides not to amend, must inform parent or eligible student of **right to a hearing**.
- After a hearing, if decision is still not to amend, parent or eligible student has a right to insert a statement in the record.



Can parents or an eligible student use the amendment procedures to challenge a grade?

No. A school is not required by FERPA to afford a student or parent the right to seek to change substantive decisions made by school officials, such as grades or other evaluations of a student.

FERPA was intended to require only that educational agencies and institutions conform to fair recordkeeping practices. It was not intended to override the accepted standards and procedures for making academic assessments, disciplinary rulings, or placement determinations.



Prior Written Consent Requirement

In order for a school to disclose education records, a parent or eligible student provide a signed and dated written consent. The consent must:

- Specify records that may be disclosed;
- State purpose of disclosure; and
- Identify party or class of parties to whom disclosure may be made.



General Consent Exceptions

- Directory information
- School officials with legitimate educational interests
- Seeks or intends to enroll
- Authorized representatives of specific federal agencies and educational authorities conducting an audit, evaluation, or enforcement of federally- or state- supported education programs
- Organizations conducting studies for specific purposes on behalf of educational agency or institution;



General Consent Exceptions

- Health or safety emergency
- Accrediting organizations to carry out their accrediting functions;
- Parents of a dependent student;
- Judicial order or subpoena



General Consent Exceptions

- Child welfare agency or tribal organization **for those children in foster care**, in order to address the student's education needs
- To state and local officials pursuant to a state statute in connection with serving the student under the juvenile justice system



Exception: Directory information



Information in a student's education records that would not generally be considered harmful or an invasion of privacy if disclosed.

Exception: Directory information

- May include:
 - ✓ name, address, phone number, and e-mail address
 - ✓ photograph
 - ✓ date and place of birth
 - ✓ most recent school attended
 - ✓ grade level and major field of study
 - ✓ dates of attendance (e.g., year or semester)
 - ✓ participation in officially recognized sports and activities
 - ✓ height and weight of athletes
 - ✓ degrees, honors, and awards received
- Can ***never*** include Social Security Number
- May not disclose non-directory information with directory information

Exception: Directory information

- Annual notice must be given to parents of students in attendance and eligible students in attendance.
- Parents and eligible students may choose to “opt-out” of the disclosure of directory information.
- Schools may adopt a limited directory information policy that allows for the disclosure of directory information to specific parties, for specific purposes, or for both.



Opt-outs have consequences

- Opting out of Directory Information may have consequences
 - Yearbook
 - Honor Roll
 - Degree Verification
 - Commencement program



Scenario: Community Based Organization

A community-based organization with programs for children with special needs approaches you regarding their programs and asks for the name, address, and telephone number of parents with students in your school who have a disability. You like the programs offered by the organization and believe the programs may be beneficial to the students with disabilities and their parents.

Can the names and contact information for these students be disclosed to the organization?

Scenario: Community Based Organization

- No, the information of the parents of students with disabilities cannot be disclosed without parental consent. Even though the name, address, and telephone number may be considered directory information, directory information cannot be released with non-directory information.
- In this scenario, the release of the requested information will also directly or indirectly identify the students with disabilities. The best way to handle this scenario is to provide the parents with information about this program and let the parent contact the community-based organization if they are interested in the program.



Considerations for Schools and Districts

- How are you tracking opt-outs?
- Have you seen your directory information policy?
- Have you verified that the only records you are releasing under the directory information exception are a part of your directory information policy?

Exception: School Official

- Schools may disclose PII from education records without consent if the disclosure is to other school officials within the school, including teachers, whom the school has determined to have **legitimate educational interest**.
- Annual notification of FERPA rights must include criteria for determining who constitutes a school official and what constitutes a legitimate educational interest.

Exception: School Official

Outsourcing services under school official exception:

- Schools may outsource institutional services or functions that involve the disclosure of education records to contractors, consultants, volunteers, or other third parties provided certain conditions are met.
- If these outside parties meet the conditions for outsourcing, they may have access to education records.
- The criteria specified in the school, LEA, or institution's annual notification of FERPA rights for being a school official must address outsourcing if using this exception.

Exception: School Official

Conditions for outsourcing:

- Performs an institutional service or function for which the agency or institution would otherwise use its employees;
- Is under the direct control of the agency or institution with respect to the use and maintenance of education records;
- PII from education records may be used only for the purposes for which the disclosure was made, and may not be re-disclosed without the authorization of the educational agency or institution and in compliance with FERPA.

Scenario: School Employee

Mary is a database administrator for the school district. Part of her job requires doing system updates for the Student Information System, so she has full administrative access to the SIS. Her sister Beth's children all attend school within the district. Recently, her nephew got into a fight and ended up getting suspended. Her nephew refuses to talk about the incident and won't tell his parents who he got into a fight with. Frustrated, Beth calls Mary and asks her to look up in the system to see if she can find out who the fight was with. Mary goes into the SIS and finds the discipline incident report for the fight and informs Beth the name of the child her nephew had fought with. Beth then calls that child's parents to discuss the incident. Is what Mary did ok?



Scenario: School Employee

As a database administrator, Mary would be considered a school official with access to education records for a legitimate educational reason and that is to do her job.

However, what Mary did is not okay.

What Mary did signify two problems under FERPA:

1. She accessed information she did not have a legitimate educational interest in.
2. She disclosed PII on a student to a parent that did not have the right to that information.

Scenario: Teaching Assistant

John is a teaching assistant for Dr. Harsh's History 410 class. After midterms, Dr. Harsh is called away to deal with a family emergency. The midterms are already graded but have not yet been entered into the student information system. Eager to get this off his plate, Dr.

Harsh gives John his username and password for the

student information system.


Over the weekend, John logs into the SIS and enters in the grades from the class midterms. Is this acceptable? What is required under FERPA? Can TAs have access to education records?

Scenario: Teaching Assistant

- A teaching assistant can have access to education records if they are a school official determined to have a legitimate educational interest in the personally identifiable information from an education record of a student.
- However, for data security purposes, it is highly recommended that education agencies have security policies that restrict the sharing of passwords with anyone as this could lead to an unauthorized disclosure of confidential data also known as a data breach.



Do you use volunteers?



Privacy Technical Assistance Center
privacyTA@ed.gov
ptac.ed.gov

**Acknowledgement of
Volunteer Responsibilities
under the Family
Educational Rights and
Privacy Act (FERPA)
[and]
[Name of State Statute]**

- Do they know the rules?
- Are they sharing information from education records at the bus stop?
- Provide them training with this [video](#).
- Use this brochure to explain the [rules](#).

Scenario: Parent Volunteer

Mr. Spencer is a parent volunteer in your resource classroom for students with learning disabilities. He also has a child with a disability enrolled in the school, but not in your class. Mr.

Spencer's assignment is to work with a small group of students on math skills. You provide him with the math achievement scores, classroom test reports, and other math related information from the special education records of each individual student he is assisting.

Is it permissible for you to share the individual math test scores and other related information with Mr. Spencer without the consent or knowledge of the parents of the students?



Considerations for Schools and Districts

- Does the school have an annual notice?
 - What is in it? Does it cover what you are doing under this exception?
- How is access control managed in the organization?
 - Just because someone may have access to the SIS does not mean they have legitimate educational interest.

Scenario: After School Program

Several of your students belong to the Boys and Girls Club operated out of a local rec center. After school, the students take a private bus there where they play games and receive tutoring/homework help until their parents get off work.

The Boys and Girls Club come to you and ask for student achievement data on the students who are in their program. They say this data is needed to help them judge whether this tutoring is making a difference. Can you share the data with them?

Scenario: After School Program

- Parent consent would be required before disclosure of information from the student's education record can be made.
- The Boys and Girls Club may consider including a statement on the club enrollment form for parents to consent to the release of this information for future reports.
- The form would need to include the basic requirements for consent under FERPA.

Exception: Seeks or Intends to Enroll

- Consent is not required to disclose personally identifiable information from education records to officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll, or where the student is already enrolled so long as the disclosure is for the purposes related to the student's enrollment or transfer.



Exception: Parents of a Dependent Student

- Consent is not required if the disclosure is to parents, as defined in § 99.3, of a dependent student, as defined in section 152 of the Internal Revenue Code of 1986.



Scenario: The Difference between “May” and “Must”

Monica enrolls in college and begins attending class. She signs a consent form permitting her parents to have access to her educational records. Later, her parents reach out to the

registrar’s office and requests access to her transcripts. The registrar’s office successfully authenticates her parents’ identity but still refuses to provide the information to the

parents. Is this ok? What does the school have to do? What does it not have to do?



Scenario: The Difference between “May” and “Must”

- When a child turns 18 or enters a postsecondary institution at any age, the rights under FERPA transfer to the eligible student.
- If a student is claimed as a dependent by either parent for tax purposes, then a parent is permitted to have access. The disclosure is not compelled.

Exception: Health or Safety Emergency

- Disclosure is necessary to protect the health or safety of the student or others.
- There is an articulable and significant threat to the health or safety of a student or other individuals.
- Appropriate parties typically means local, state, or federal law enforcement, trained medical personnel, public health officials, and parents.
- Must be related to an actual, impending, or imminent emergency.
- School makes determination on case-by-case basis.



Exception: Health or Safety Emergency

- Department will not substitute its judgment if there is a rational basis for decision to disclose under health or safety emergency exception.
- Limited to period of time of the emergency.
- Must record pertinent information when it discloses PII.



Judicial Order or Subpoena

- Does FERPA **require** schools to disclose information from education records pursuant to a judicial order or subpoena?

Yes

No



Exception: Judicial Orders & Subpoenas

- School may disclose PII from education records necessary to comply with a judicial order or lawfully issued subpoena.
- School must make a reasonable effort to notify the parent or eligible student of the order or subpoena before complying with it in order to allow parent or eligible student opportunity to seek protective action.
- Some judicial orders and subpoenas are exempt from FERPA's notification requirement.

Exception: Financial Aid Disclosures

- Institutions are permitted to disclose, without consent, PII from students' education records when the disclosure is in connection with a student's application for, or receipt of, financial aid.
- Disclosures under this exception to consent may be made if the information is necessary to:
 - Determine eligibility for the aid.
 - Determine the amount of the aid.
 - Determine the conditions for the aid.
 - Enforce the terms and conditions of the aid.

Exception: Audit or Evaluation

- Authorized representatives of Federal, State, and local officials listed under § 99.31(a)(3) may have access to education records only —
 - in connection with an audit or evaluation of Federal or State supported education programs, or
 - for the enforcement of or compliance with Federal legal requirements which relate to those programs.
- The information must be:
 - protected in a manner that does not permit disclosure of PII to anyone; and
 - destroyed when no longer needed for the purposes listed above.

Exception: Studies

- Studies conducted “for or on behalf of” schools, school districts, or postsecondary institutions.
- Studies must be for the purpose of
 - Developing, validating, or administering predictive tests; or
 - Administering student aid programs; or
 - Improving instruction.

Exception: Student in Foster Care

Uninterrupted Scholars Act (USA)

Exception to the general consent requirement passed by

Congress January 2013 (not yet in FERPA regulations):

- **Permits disclosure of PII from education records of children placed in foster care to “agency caseworker or other representative” of a State or local child welfare agency (CWA) who has the right to access a student’s case plan under State or tribal law.**
- **Disclosure permitted when the CWA is “legally responsible ... for the care and protection of the student.”**
- **Provisions for tribal organizations as well.**

What are the recordkeeping requirements?

- An educational agency or institution must maintain a record of each request for access to and each disclosure from an education record, as well as the names of State and local educational authorities and Federal officials and agencies listed in § 99.31(a)(3) that may make further disclosures of personally identifiable information from the student's education records without consent under § 99.33.

How long must records be maintained under FERPA?

- FERPA states that an educational agency or institution, or SEA or its component, shall not destroy any education records if there is an outstanding request to inspect and review the records.
- FERPA does not determine records retention and maintenance policies.



What are the Enforcement Provisions?

- The Student Privacy Policy Office (SPPO) investigates complaints and violations under FERPA.
- Parents and eligible students may file timely complaints (180 days) with SPPO.
- If an educational agency or institution or other recipient of Department funds violates FERPA, SPPO may bring an enforcement action against that entity.
- Enforcement actions include the 5-year rule as well as withholding payment, cease and desist orders, and compliance agreements.

FERPA Pre-Test: True or False?

1. FERPA only applies to schools that receive federal education funds. T F
2. Once a student turns 18, the school can't share education records with the parents. T F
3. If a child is living with a grandparent who is responsible for the day-to-day care of the child, the school must provide the grandparent with access to the child's education records. T F
4. Student health records maintained by the school nurse are not education records. T F
5. FERPA permits a parent to file a lawsuit against a school, district, or school board for violating his or her rights under FERPA. T F



FERPA Pre-Test: True or False?

6. Schools are required to provide parents with a copy of their child's education records upon request. T F
7. A school must disclose student information that has previously been designated as directory information to a third party that requests access. T F
8. If a parent discusses a matter about his or her child in an open school board meeting, that constitutes "consent" under FERPA for school board members or other school officials to respond by disclosing PII from the child's education records. T F

FERPA Pre-Test: True or False?

9. Education agencies can share data with researchers using FERPA's research exception.

T

F

10. When a student under 18 transfers from School District A to School District B, District A can share all of the student's education records with District B without the consent of the parent, including disciplinary records and special education records.

T

F

Questions?





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