

# FERPA is . . .

Protection for the privacy of student educational records



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# To whom does FERPA apply?

To all educational agencies or institutions which receive funds under any program administered by the Secretary of Education



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# Why is FERPA important?

If you access individual student records, under FERPA you are legally and ethically obligated to safeguard the confidentiality of these records and the information they contain.



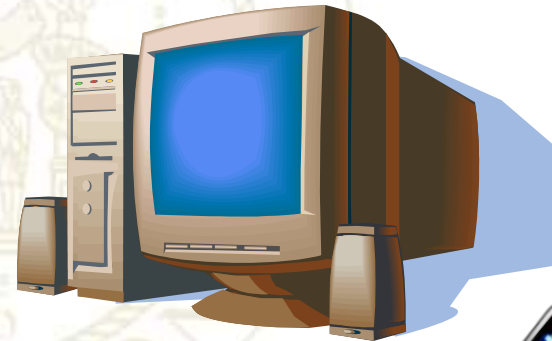
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## THE PAST



## THE PRESENT



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# True or False ?

Schools and districts are in jeopardy of court action and monetary damages if they make an unauthorized disclosure under FERPA.



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# FERPA Myth

False

There is no right to sue for a FERPA violation.

2002 U.S. Supreme Court case Gonzaga v. DOE

Parents and others may not sue a school or district for alleged violations of FERPA



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# FERPA Remedy

- Loss of federal funds is the sole remedy.
- In 34 years, no federal funds have been withheld
- Allows voluntary compliance if violation occurs



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# Who is protected by FERPA?

## Parents

- Right to access and amend their children's education records
- Some control over the disclosure of information in their children's educational records.



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# Who is Protected by FERPA?

## Students

When a student reaches the age of 18 or attends a post secondary institution at any age

*-then-*

Considered an “eligible student” all rights held by parent transfer to student.



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# Who is a “Parent?”

Under FERPA a “parent” is a natural or adoptive parent, a legal guardian or an individual acting as a parent in the absence of the parent or guardian.

34 CFR §99.3



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# FERPA Basic Propositions

FERPA prohibits schools and school districts from disclosing students' educational records without written parental consent, unless the disclosure is authorized in the law.



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# What is personally identifiable information?

- Student name,
- Parent's name
- Addresses
- Personal identifiers – SSN, GTID
- Personal characteristics that would make the student's identity easily traceable
- Other information that would make the student's identity easily traceable.



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# Authorized Disclosures

(1) To “school officials, including teachers, within the” school district or school whom the school district or school “has determined to have legitimate educational interests.”

34 CFR §99.31



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# What is a “record”?

“Record” means any information recorded in any way, including, but not limited to, hand writing, print, computer media, video or audio tape, film, microfilm, and microfiche.

20 USC §12329

34 CFR §99.3



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# What is an “education record”?

A record that is:

- (1) directly related to a student,
- (2) maintained by the school district or school or by a party acting for the school district or school



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# Are personal notes “education records?”

Here is the 3 part test:

- (1) Kept in sole possession of the maker;
- (2) Not accessible or revealed to any other person except as a temporary substitute; and
- (3) Used only as a memory aid



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THE PAST

Work



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THE PRESENT



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# What is Directory Information?

Information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed

34 CFR §99.3



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# Why is Directory Information Important?

Because directory information is publicly available to:

- Media,
- Parents,
- Marketing Organizations, and
- Others upon request



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# Good News

Each School District or School in some instances has discretion to determine what it will consider “directory information” for its students



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# Samples of Directory Information

- Student name, address, telephone number, email address
- Photograph
- Birthday
- Place of birth
- Major field of study
- Grade level
- Enrollment status
- Dates of attendance



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# More Samples

- Sports participation
- Weight and height of member of sport teams
- Honors and awards
- Other information . . .



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# Photographs

- Yearbooks
- Team Pictures in programs for sporting events
- Video film from bus or hallway cameras



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# Surveillance Cameras

- Use is not directly addressed by FERPA
- Is security video tape an “education record?”



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# Surveillance Cameras. . .con't.

- It depends on...
  - Who controls the security cameras and the related video tape?
  - If the school's law enforcement unit, then not an education record
  - *-BUT-*
  - If used in a student disciplinary hearing, the video become an education records for those students who have disciplinary charges



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# Surveillance Cameras. . .con't

- **BEST PRACTICE**

Have a written policy on use, maintenance and access to these records.



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# Data Requests

- Open Records requests are common
  - Is the information directory?
  - Can you release the information in aggregate?
  - Can you “de-identify” the information?



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# De-identified Information

- Data from education records may be used for research by attaching a code to each record that permits matching information provided:
  - Code's creation process is not revealed
  - Code not used for any other purpose
  - Code not based on SSN or other personal information



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# De-identified Information

- Data are de-identified when a reasonable determination is made that a student's data is not personally identifiable-by single or multiple releases, taking into account other reasonably available information.



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# Public Notice

- Policy on Directory Information
- Parents may “opt out” in part or totally
- Notice by local newspaper, school website, school handbook
  - Deadline to “opt out”
- Model Notice available



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# Annual Notice of FERPA Rights

- To parents and “eligible students” of their rights under FERPA
- Notice where likely to be seen
- Provide assistance to inform those who are disabled or whose primary language is not English



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# Annual Notice

- Right to inspect and view their child's record
- Seek to amend record if it is believed inaccurate, misleading
- Agree or not to disclosure of personally identifiable information in a student's education records
- Procedures to exercise rights
- Model notice available



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# Authorized Disclosures

- Legitimate educational interest
  - Schools and school districts must use “reasonable methods” to ensure access on to those with
    - Physical
    - Technological
    - Administrative policy



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# Authorized Disclosure

- Court Order or Subpoena
  - Yes, but reasonable effort to notice parent before you release records
    - Unless-
  - Order or subpoena required non-disclosure to parents



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# Authorized Disclosures

- Student Transfers or Enrolls
  - Send records to receiving school upon request by school, college, parent or student



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# Authorized Disclosures

- Transfer of Disciplinary Records
  - FERPA allows transfer of discipline records when a student seeks to enroll or enrolls in another school
  - Transfer includes disciplinary records
  - NCLB requires such transfer when student has been suspended or expelled.



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# Authorized Disclosures

- Audit or Evaluation of Education Program
  - Comptroller General of the U.S.
  - U.S. Attorney General
  - Secretary of Education
  - State and local educational agencies and authorities
- Basis of GaDOE's student information system



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# Authorized Disclosures

- Appropriate parties in connection with financial aid eligibility
- Accrediting organization



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# Authorized Disclosures

- Organization conducting certain studies
  - Study for, or on behalf of, a school or school district
  - Study is for:
    - Developing, validating or administering predictive test
    - Administering financial aid
    - Improving instruction



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# Authorized Disclosures

Studies. . .con't

- Numerous restrictions on such studies
  - No personal identification of parents or students in study's written report
  - Access information is controlled
  - Information is destroyed
  - No re-disclosure



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# Health and Safety Emergency

- Case-by-case basis
  - Specific situation presents imminent danger or threat to students or other members of community
- or-
- Immediate need for information to avert or diffuse serious threats to safety or health of student or others.



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# Health and Safety Emergency

- Narrowly tailored release
- Time-limited
- Not authorization for blanket release



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# Re-Disclosure

- A school district or school may disclose information from an education record only on condition that the receiving party will not re-disclose with prior consent of parent or eligible student or written FERPA exception.



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# FERPA Enforcement

- Family Policy Compliance Office (FPCO) is authorized to investigate, process and review FERPA complaints
- Parents or “eligible student” may file complaint with U.S. D.O.E., FPCO
- Timely – 180 days



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- Policy**
- General
    - Legislation
    - Regulations
    - Policy Guidance
  - Adult Education
  - Civil Rights
  - Elementary & Secondary Education
  - Grants & Contracts
  - Higher Education
  - Research & Statistics
  - Special Education & Rehabilitative Services
  - Vocational Education

- About ED
- Budget & Performance
- News
- Publications
- Teaching Resources

- FAQs
- Contact
- Help
- Jobs at ED
- Online Services
- Recursos en español

**GENERAL**  
**Family Policy Compliance Office (FPCO)**

**ABOUT THE FAMILY POLICY COMPLIANCE OFFICE**

The mission of the Family Policy Compliance Office (FPCO) is to meet the needs of the Department's primary customers--learners of all ages--by effectively implementing two laws that seek to ensure student and parental rights in education: the Family Educational Rights and Privacy Act (FERPA) and the Protection of Pupil Rights Amendment (PPRA).

Parents and eligible students who need assistance or who wish to file a complaint under FERPA or PPRA should do so in writing to the Family Policy Compliance Office, sending pertinent information through the mail, concerning any allegations to the following address:

Family Policy Compliance Office  
 U.S. Department of Education  
 400 Maryland Avenue, SW  
 Washington, D.C. 20202-5920  
 Phone: 1-800-USA-LEARN (1-800-872-5327)

- FPCO CONTENTS**
- Safe Schools & FERPA
  - Hot Topics
  - Family Educational Rights & Privacy Act (FERPA)
    - for Parents
    - for Eligible Students
    - Online Library
    - FERPA Regulations
    - FERPA Legislative History
    - Model Notification for Postsecondary Officials
    - Model Notification for LEA Officials
    - Model Notice for Directory Information
  - Protection of Pupil Rights Amendment (PPRA)

- FEATURED RESOURCES**
- FERPA and Disclosures Related to Emergencies and Disasters**  
[PDF \(36.1K\)](#)
  - FERPA & H1N1 Guidance**  
[PDF \(45K\)](#)
  - Final FERPA Regulations (Dec. 9, 2008)**  
[PDF \(296K\)](#)
  - FERPA-HIPAA Joint Guidance**  
[PDF \(260K\)](#)

- How Do I Find...?**
- Grant opportunities
  - Money for college
  - Research, best practices
  - Facts and figures
  - Accreditation
  - More

**ED Recovery Act**  
[LEARN MORE](#)

- Related Topics**
- Key Policy Letters

# Resources & Acknowledgment of Credit

Family Policy Compliance Office (FPCO) U.S. Department of Education, 400 Maryland Ave., SW, Washington, DC 20202-5920, 202-260-3887 (P), 202-260-9001 (Fax), [www.ed.gov/offices/OII/FPCO](http://www.ed.gov/offices/OII/FPCO)

Forum Guide to The Privacy of Student Information, A Resource For Schools, National Forum of Education Statistics

FERPA Code of Federal Regulations (Title 34, Part99) CFR main page, <http://www.gpaacee.gov/cfr/index.html>

Informational Technical Assistance, [FERPA@ed.gov](mailto:FERPA@ed.gov)



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# Resources & Acknowledgments. . .con't.

Model Notification of Rights under FERPS for Elementary and Secondary Schools, <http://www2.ed.gov/policy/gen/guid/fpco/ferpa/lea-officials.html>

National Forum on Education Statistics,  
[http://nces.ed.gov/forum/ferpa\\_links.asp](http://nces.ed.gov/forum/ferpa_links.asp)

The Appropriate and Effective Use of Security Technologies in U.S. Schools-A Guide for Schools and Law Enforcement Agencies,  
<http://www.ncjrs.gov/school/home.html>

USDOE/ FPCO - Brochure: Balancing Student Privacy and School Safety: A Guide to FERPA for Elementary and Secondary Schools;  
<http://www2.ed.gov/policy/gen/guid/fpco/brochures/elsec.pdf>



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