



DECEMBER 2011 – REVISED FERPA REGULATIONS: AN OVERVIEW FOR PARENTS AND STUDENTS

The Family Educational Rights and Privacy Act (FERPA) is a Federal privacy law that gives parents¹ certain rights with regard to their children’s education records, such as the right to inspect and review your child’s education records. To protect your child’s privacy, the law generally requires schools to ask for written consent from you before disclosing personally identifiable information from your child’s education records (student information) to others. However, FERPA does permit schools to disclose your student’s information without your consent under limited circumstances (referred to as exceptions). For example, your child’s information may be disclosed to another school in which your child is enrolling, or to local emergency responders in connection with a health or safety emergency.

The U.S. Department of Education has revised its regulations governing the implementation of FERPA by schools, districts, and States. These revisions change several of the exceptions to FERPA’s consent rule.

Ensuring the Safety of Students

Changes to the Directory Information Exception

Schools are permitted to disclose information on students if it has been properly designated as directory information. By law, directory information includes things that would generally not be considered harmful or an invasion of privacy if disclosed, such as name, address, photograph, and date of birth. Directory information may not include things such as a student’s social security number or grades. If a school has a policy of disclosing directory information, it is required to give public notice to parents of the types of information designated as directory information, and of the right to opt out of having your child’s information so designated and disclosed.

It is important for schools to have directory information policies, as schools may not do even mundane activities (such as publishing yearbooks or creating graduation programs) without having designated the items about the students contained in the publications as directory information. For example, without a directory information policy, FERPA would require schools to obtain consent for every student every time it wants to publish a yearbook. However, many schools have been forgoing designations of directory information, as they have concluded that such designations would put students at risk of becoming targets of marketing campaigns, the media, or even victims of criminal acts.

The Department has changed its directory information regulations to help schools lessen the burden of obtaining consent for more mundane uses of student information, while still allowing schools to choose the purposes for which directory information should be disclosed. Schools can now adopt limited directory information policies that allow the disclosure of directory information to be limited to specific parties, for specific purposes, or both. It is up to individual schools or school districts whether to adopt limited directory information policies and how to implement them. The Department’s intent is to allow schools the option to implement policies that allow for the disclosure of student information for uses such as yearbooks, but restrict the use for more potentially dangerous purposes.

It is important that parents have the opportunity to make informed decisions about the use of their student’s directory information. However, there are times when schools must be allowed to implement policies that will permit them to effectively protect their students. As such, the Department has also changed the directory information exception to state that parents may not, by opting out of directory

¹ When a student turns 18 years old or enters college at any age, the rights afforded to parents under FERPA transfer to the student, such as the right to provide consent before information from education records is disclosed.

information, prevent a school from requiring a student to wear or present a student ID or badge. The need for schools to implement measures to ensure the safety and security of students should not be impeded by a parent or student using FERPA's directory information opt out provisions. The Department is not requiring schools to establish policies requiring students to wear badges; these are individual decisions that schools and school districts should make taking into account local circumstances.

For questions on what directory information your school designates, please contact the school directly.

Ensuring the Effectiveness of Publicly Funded Education Programs

Changes to the Audit/Evaluation & Studies Exceptions

It is important to ensure that all students have access to a quality education. Parents should be able to take an active role in their child's education and know answers to some basic questions about their child's likely future success.

- When my son leaves his early childhood program, will he be prepared for kindergarten?
- Does my daughter's school have large achievement gaps between subgroups of students? Are the gaps closing?
- What are my daughter's chances of graduating from high school?
- What percentage of children at my son's high school take the ACT/SAT and what's the average score?
- What courses should my son take if he wants to be prepared for college?
- Is my son likely to need to take remedial courses in college to catch-up or will he be prepared?
- When my daughter graduates from college, will she be able to find a job and how much will she earn?

States have been working to establish longitudinal data systems to help answer these questions, and to determine what works and what doesn't when it comes to our children's education. The FERPA regulations amend certain provisions to help facilitate effective research and evaluation of Federal- and State-supported education programs through the use of State longitudinal data systems. The new regulations clarify who may receive student information to conduct evaluations of education programs, and under what circumstances these types of disclosures may occur. The regulations also provide best practices for written agreements that cover the circumstances of these disclosures, as well as best practices for reasonable methods an entity disclosing student information must take to ensure to the greatest extent practicable that those conducting an evaluation using student information protect privacy and comply with FERPA.

For questions on what student data may be included in your State's longitudinal data system, contact your State department of education directly.

Parents and students put their trust in the stewards of education data to ensure students' personal information is properly safeguarded and is used only for legitimate purposes and only when absolutely necessary. The Department deeply values this trust and strives to ensure it is doing all it can do to protect the privacy of our students as the uses of their data to improve education increase.

For more information about FERPA, please see "FERPA General Guidance for Parents" on the Family Policy Compliance Office Web site: <http://www2.ed.gov/policy/gen/guid/fpc/ferpa/parents.html>. If you have a question or wish to report a potential FERPA violation, contact FPCO at: 1-800-USA-LEARN (1-800-872-5327).

To access the final regulations please visit www.federalregister.gov.