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General (11)

What is FERPA?

The Family Educational Rights and Privacy Act (FERPA) is a federal law that affords parents the right to have access to their children's education records, the right to seek to have the records amended, and the right to have some control over the disclosure of personally identifiable information from the education records. When a student turns 18 years old, or enters a postsecondary institution at any age, the rights under FERPA transfer from the parents to the student (?eligible student?). The FERPA statute is found at 20 U.S.C. § 1232g and the FERPA regulations are found at 34 CFR Part 99.

Does a spouse of an eligible student have rights with respect to that student's education records?

No, spouses of eligible students have no rights under FERPA. Before a college or university discloses information from a student's education records to his or her spouse, the student would have to provide written consent.

Who is a parent?

The term "parent" is defined as including natural parents, a guardian, or an individual acting as a parent in the absence of a parent or a guardian.

Who is an eligible student?

An ?eligible student? means a student who has reached the age of 18 or who is attending a postsecondary institution at any age. Once a student becomes an ?eligible student,? the rights afforded his or her parents under FERPA transfer to that student.

Source: 20 U.S.C. § 1232g(d)

What about records that law enforcement has?

?Law enforcement unit records? (i.e., records created by the law enforcement unit, created for a law enforcement purpose, and maintained by the law enforcement unit) are not ?education records? subject to the privacy protections of FERPA. As such, the law enforcement unit may refuse to provide a parent or eligible student with an opportunity to

inspect and review law enforcement unit records, and it may disclose law enforcement unit records to third parties without the parent or eligible student's prior written consent. However, education records, or personally identifiable information from education records, which the school shares with the law enforcement unit do not lose their protected status as education records just because they are shared with the law enforcement unit.

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If a student under 18 is enrolled in both high school and a local college, do parents have the right to inspect and review his or her education records?

If a student is attending a postsecondary institution - at any age - the rights under FERPA have transferred to the student. However, in a situation where a student is enrolled in both a high school and a postsecondary institution, the two schools may exchange information on that student. If the student is under 18, the parents still retain the rights under FERPA at the high school and may inspect and review any records sent by the postsecondary institution to the high school. Additionally, the postsecondary institution may disclose personally identifiable information from the student's education records to the parents, without the consent of the eligible student, if the student is a dependent for tax purposes under the IRS rules.

Are educational agencies and institutions required to notify parents and eligible students of their rights under FERPA?

Yes. Educational agencies and institutions must annually notify parents and eligible students of their rights under FERPA. Specifically, schools must notify parents and eligible students of the right: to inspect and review education records and the procedures to do so; to seek amendment of records the parent or eligible student believes are inaccurate and the procedures to do so; to consent to disclosures of education records, except to the extent that FERPA authorizes disclosure without consent; and to file a complaint with FPCO concerning potential violations. Postsecondary institutions are only required to notify eligible students of their rights under FERPA.

Source: 34 CFR § 99.7

To which educational agencies or institutions does FERPA apply?

FERPA applies to educational agencies or institutions that receive funds from programs administered by the U.S. Department of Education. By "educational agencies or institutions" we mean public schools, school districts (or "local educational agencies" (LEAs)), and postsecondary institutions, such as colleges and universities. Private and parochial schools at the elementary and secondary level generally do not receive such funding and are, therefore, not subject to FERPA. See: [FERPA 101 Webinar](#)

What is an Education Record?

Education records are records that are directly related to a student and that are maintained by an educational agency or institution or a party acting for or on behalf of the agency or institution. These records include but are not limited to grades, transcripts, class lists, student course schedules, health records (at the K-12 level), student financial information (at the postsecondary level), and student discipline files. The information may be recorded in any way, including, but not limited to, handwriting, print, computer media, videotape, audiotape, film, microfilm, microfiche, and e-mail.

Source: 34 CFR § 99.2 ?Education Records? and ?Record?

In the case of a divorce, do both parents have rights under FERPA?

Generally yes. Unless a school is provided with evidence that there is a court order, State law, or other legally binding document relating to such matters as divorce, separation, or custody that specifically provides to the contrary, FERPA gives custodial and noncustodial parents alike certain rights with respect to their children?s education records. A school may ask for legal certification denoting parenthood, such as a birth certificate or court order, from the parent requesting access.

Source: 34 CFR § 99.4

Can stepparents, grandparents, and other caregivers be considered parents under FERPA?

In some cases, a stepparent may be considered a ?parent? under FERPA if the stepparent is present on a day-to-day basis with the natural parent and child and the other parent is absent from that home. Conversely, a stepparent who is not present on a day-to-day basis in the home of the child does not have rights under FERPA with respect to the child?s education records. A grandparent or other caregiver who is acting in the absence of the parent(s) may also be considered a ?parent? under FERPA.

Source: 34 CFR § 99.3

Inspection and Review of Education Records (4)

Must postsecondary institutions provide a parent with access to an eligible student?s education records?

While the rights under FERPA transfer from the parents to the student when the student turns 18 or enrolls in a postsecondary institution at any age, FERPA provides ways in which an institution can share education records on the student with his or her parents. Schools may disclose any and all information to parents, without the consent of the eligible student, if the student is a dependent for tax purposes under the IRS rules. FERPA also permits a school to disclose information from an eligible student?s

education records to parents if a health or safety emergency involves their son or daughter. Another provision in FERPA permits a college or university to let parents of students under the age of 21 know when the student has violated any law or policy concerning the use of possession of alcohol or a controlled substance. School officials may also share information with a parent about an eligible student that is based on that official's personal knowledge or observation and that is not based on information contained in an education record.

How long does an educational agency or institution have to comply with a request to view records?

FERPA requires that educational agencies and institutions comply with a request by a parent or eligible student for access to education records within a reasonable period of time, but not more than 45 days after receipt of a request. Some States have laws that may require that parents and eligible students be granted access in a shorter time period. 34 CFR § 99.10(b).

Does a school have to explain or interpret education records when requested by a parent or eligible student?

FERPA requires that an educational agency or institution respond to reasonable requests for explanations and interpretations of education records. 34 CFR § 99.10(c).

Are law enforcement records protected under FERPA?

?Law enforcement unit records? (i.e., records created by a law enforcement unit at the educational agency or institution, created for a law enforcement purpose, and maintained by the law enforcement unit) are not ?education records? subject to the privacy protections of FERPA. As such, the law enforcement unit may refuse to provide a parent or eligible student with an opportunity to inspect and review law enforcement unit records, and it may disclose law enforcement unit records to third parties without the parent or eligible student's prior written consent.

Amendment of Education Records (4)

When does a parent or eligible student have a right to a hearing?

An educational agency or institution must hold a hearing within a reasonable time after it has received a request from the parent or eligible student challenging the content of the student's education records on the grounds that the information contained in the education records is inaccurate, misleading, or in violation of the privacy rights of the student.

What actions must the agency or institution take to ensure the parent or eligible student receives a timely and fair hearing?

The educational agency or institution must provide the parent or eligible student notice of the date, time, and place, reasonably in advance of the hearing. The individual conducting the hearing must not have a direct interest in the hearing's outcome. The agency or institution must give the parent or eligible student a full and fair opportunity to present relevant evidence. Finally, the agency or institution must make its decision in writing within a reasonable period of time after the hearing, and this decision must be based solely on the evidence presented at the hearing, include a summary of the evidence, and give the reasons for the decision.

May a parent or eligible student have an attorney at an amendment hearing?

Yes, the parent or eligible student may, at their own expense, be assisted or represented by one or more individuals of his or her own choice, including an attorney.

What rights does a parent or eligible student have if, as a result of the hearing, the school decides that the information in the education record is not inaccurate or misleading?

The parent or eligible student has the right to place a statement in the record commenting on the contested information in the record or stating why he or she disagrees with the decision of the agency or institution. The agency or institution must maintain the statement with the contested part of the record for as long as the record is maintained disclose the statement whenever it discloses the portion of the record to which the statement relates.

Consent to Disclose Personally Identifiable Information from Education Records (3)

What must a consent to disclose education records contain?

FERPA requires that a consent for disclosure of education records be signed and dated, specify the records that may be disclosed, state the purpose of the disclosure, and identify the party or class of parties to whom the disclosure may be made. 34 CFR § 99.30. As such, oral consent for disclosure of information from education records would not meet FERPA's consent requirements.

May an educational agency or institution disclose information over the phone?

While FERPA does not specifically prohibit a school from disclosing personally identifiable information from a student's education records over the telephone, it does require that the school use reasonable methods to identify and authenticate the identity of parents, students, school officials, and any other parties to whom the school discloses personally identifiable information from education records. 34 CFR § 99.31(c).

May parents or eligible students be provided access to education records that contain information on more than one student?

If the education records of a student contain personally identifiable information on other students, the parent or eligible student may inspect or review or be informed of only the specific information about the student in question. 34 CFR § 99.12.

Disclosure to Organizations Conducting Studies for or on Behalf of the School (1)

May an educational agency or institution disclose personally identifiable information from students education records to third parties for the purpose of conducting a study on its behalf?

FERPA contains an exception to its general consent rule under which an educational agency or institution may disclose personally identifiable information from education records without consent to organizations conducting studies for, or on its behalf. Studies must be only for the purpose of: developing, validating, or administering predictive tests; administering student aid programs; or improving instruction. A written agreement with the organization is required specifying the purposes of the study and the use and destruction of the information. 34 CFR § 99.31(a)(6)

Disclosure in Connection with a Health or Safety Emergency (1)

May an educational agency or institution disclose personally identifiable information from students education records in order to address a disaster or other health or safety emergency?

Under FERPA, school officials may disclose, without consent, personally identifiable information from students' education records to appropriate parties (typically law enforcement officials, public health officials, trained medical personnel, and parents) in connection with an emergency if the knowledge of that information is necessary to protect the health or safety of the student or other individuals.

Disclosure of Information Designated as Directory Information (4)

May an educational agency or institution disclose directory information without prior consent?

Education records that have been appropriately designated as "directory information" by the educational agency or institution may be disclosed without prior consent. See 34 CFR §§ 99.31(a)(11) and 99.37. FERPA defines directory information as 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.

FERPA provides that a school may disclose directory information if it has given public notice of the types of information which it has designated as "directory information," the parent or eligible student's right to restrict the disclosure of such information, and the period of time within which a parent or eligible student has to notify the school in writing that he or she does not want any or all of those types of information designated as "directory information." 34 CFR § 99.37(a). A school is not required to inform former students or the parents of former students regarding directory information or to honor their request that directory information not be disclosed without consent. 34 CFR § 99.37(b). However, if a parent or eligible student, within the specified time period during the student's last opportunity as a student in attendance, requested that directory information not be disclosed, the school must honor that request until otherwise notified.

May schools publish honors and awards received by a student?

Schools may disclose honors and awards received by students if it has properly designated "honors and awards" as a category in its directory information policy and has followed the requirements in FERPA for notifying parents and/or eligible students about the policy.

May a social security number or other student identification number be listed as directory information?

A school may not designate a student's social security number as directory information. However, directory information may include a student's user ID or other unique identifier used by the student to access or communicate in electronic systems, but only if the electronic identifier cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the student's identity, such as a personal identification number (PIN), password, or other factor known or possess only by the student or authorized user. 34 CFR § 99.3 "Directory information?"

An eligible student that opted out of directory information has left the school. Now that the student is no longer in attendance, may the school disclose that student's directory information?

No, a school is required to honor the eligible student's request to opt out of the disclosure of directory information made while the student was in attendance, unless the student rescinds the opt out request.

Disclosure to Officials for Audit or Evaluation Purposes (2)

May an educational agency or institution disclose personally identifiable information from students education records for the purpose of a specified audit, evaluation, or for compliance and enforcement purposes under FERPA?

FERPA permits schools to disclose PII from students' education records, without consent, to authorized representatives of State and local educational authorities, the Secretary of Education, the Comptroller General of the United States, and the Attorney General of the United States for specified purposes. Disclosures may be made under this exception as necessary in connection with the audit or evaluation of Federal or State supported education programs, or in connection with the enforcement of Federal legal requirements that relate to those program. 34 CFR §§ 99.31(a)(3) and 99.35.

What is an education program?

'Education program' is defined as any program principally engaged in the provision of education, including, but not limited to, early childhood education, elementary and secondary education, postsecondary education, special education, job training, career and technical education, and adult education, and any program that is administered by an educational agency or institution. 34 CFR § 99.3 'education program.?

Enforcement Procedures (1)

How may a parent or eligible student file a FERPA complaint with the Department of Education?

A parent or eligible student may file a written complaint with the Family Policy Compliance Office regarding an alleged violation under of FERPA. The complaint must be timely (submitted to the office within 180 days of the date that the complainant knew or reasonably knew of the violation) and state clearly and succinctly specific allegations of fact giving reasonable cause to believe that the school has violated FERPA.

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