



Published on *Family Policy Compliance Office* (<http://fpco.aem-tx.com>)

[Home](#) > [Frequently Asked Questions](#) > [FERPA for School Officials](#) > [Frequently Asked Questions \(FAQs\)](#)

K-12 School Officials (33)

General (7)

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.

Do students under the age of 18 and not in college who are on their own and not in the physical custody of a parent or guardian have rights under FERPA?

FERPA does not specifically afford minors who are separated from their parents the rights that are afforded to parents and eligible students under the law. However, schools may use their judgment in determining whether an unaccompanied minor is responsible enough to exercise certain privileges, such as inspecting and reviewing education records and providing consent for disclosure. 34 CFR § 99.5(b).

What records are exempted from FERPA?

Exempted from the definition of education records are those records which are kept in the sole possession of the maker of the records and are not accessible or revealed to any other person except a temporary substitute for the maker of the records. Once the contents or information recorded in sole possession records is disclosed to any party other than a temporary substitute for the maker of the records, those records become education records subject to FERPA. Generally sole possession records are of the nature to serve as a "memory jogger" for the creator of the record. For example, if a school official has taken notes regarding telephone or face to face conversations, such notes could be sole possession records depending on the nature and content of the notes.

[Click to see related scenario](#)

[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

[Does an educational agency or institution have discretion over what education records it decides to create and keep?](#)

Yes. FERPA does not require schools to create education records nor does it require schools to maintain education records, unless there is an outstanding request by a parent or eligible student to inspect and review the records.

Source: 34 CFR § 99.10(e)

[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"

Inspection and Review of Education Records (3)

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.

Consent to Disclose Personally Identifiable Information from Education Records (5)

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 education records if they are involved in litigation against a parent of student or an eligible student?

Yes, the educational agency or institution may disclose to the court the education records of the student that are relevant for the educational agency or institution to proceed with or defend against the legal action. 34 CFR §99.31(a)(9)(iii).

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).

What constitutes de-identified records and information?

Records and information are de-identified once all personally identifiable information has been removed including but not limited to any information that, alone or in combination is linkable to a specific student that a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.

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 of Information Designated as Directory Information (5)

Is it permissible to release GPA to honors organizations without consent?

No. FERPA does not generally permit a school to disclose a student's GPA without the parent's or eligible student's consent.

I want to use online tool or application as part of my course. However, I am worried that it is a violation of FERPA. What should I do?

A teacher should check with their school administration to see what has been defined as directory information. As long as using the application would not require disclosing more than directory information and none of the students have opted out of directory information, it would not be a violation of FERPA.

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 § 99.31(a)(6) Directory information?

Disclosure to Organizations Conducting Studies for or on Behalf of the School (2)

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)

Must an educational agency or institution have a written agreement to disclose PII from education records without consent for the purposes of conducting a study or an audit or evaluation of an education program?

Yes. Both the studies exception and the audit or evaluation exception specifically require that the parties execute a written agreement when disclosing PII from education records without consent. The mandatory elements of that agreement vary slightly between the two exceptions. See FPCO's Guidance for Reasonable Methods and Written Agreements for more information regarding the mandatory elements for written agreements.

Disclosure to Officials for Audit or Evaluation Purposes (3)

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.?

Must an educational agency or institution have a written agreement to disclose PII from education records without consent for the purposes of conducting a study or an audit or evaluation of an education program?

Yes. Both the studies exception and the audit or evaluation exception specifically require that the parties execute a written agreement when disclosing PII from education records without consent. The mandatory elements of that agreement vary slightly between the two exceptions. See FPCO's Guidance for Reasonable Methods and Written Agreements for more information regarding the mandatory elements for written agreements.

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 other individuals.

Disclosure to School Officials with a Legitimate Educational Interest (3)

Who is a ?school official? under FERPA?

A ?school official? includes a teacher, school principal, president, chancellor, board member, trustee, registrar, counselor, admissions officer, attorney, accountant, human resources professional, information systems specialist, and support or clerical personnel. A contractor, consultant, volunteer, or other party to whom a school or institution has outsourced institutional services or functions may also be considered a ?school official? provided that they are performing an institutional service or function for which the agency would otherwise use employees and is under the direct control of the agency or institution with respect to the use and maintenance of education records. See 34 CFR § 99.31(a)(1)(i)(B).

Under FERPA, may an educational agency or institution disclose education records to any of its employees without consent?

No. FERPA permits an educational agency or institution to disclose, without consent, personally identifiable information from students? education records only to school officials within the educational agency or institution that the educational agency or institution has determined to have legitimate educational interests in the information. 34 CFR § 99.31(a)(1). Generally, a school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.

What must educational agencies or institutions do to ensure that only school officials with a legitimate educational interest see protected education records?

An educational agency or institution must use reasonable methods to ensure that school officials obtain access to only those education records in which they have legitimate educational interests. An educational agency or institution that does not use physical or technological access controls must ensure that its administrative policy for controlling access to education records is effective and that it remains in compliance with the legitimate educational interest requirement.

Disclosure to Officials of Other Schools and Institutions (1)

Does FERPA require a school to transfer education records to a new school?

The disclosure to officials of another school in which a student seeks or intends to enroll is permitted by FERPA, not required. However, State and local laws may require that such disclosures be made.

Disclosure to a Victim of an Alleged Perpetrator of a Crime of Violence or a Non-Forcible Sex Offense (1)

May a postsecondary institution disclose information about a disciplinary proceeding to the victim of a crime of violence or a non-forcible sex offense?

Yes, a postsecondary institution may disclose only the final results of the disciplinary proceeding to a victim of an alleged perpetrator of a crime of violence or a non-forcible sex offense. In disclosures to the victim, the institution may disclose the final results of the disciplinary proceeding regardless of whether the institution concluded a violation was committed.

Disclosure to Comply with a Judicial Order or Subpoena (1)

May an educational agency or institution disclose education records without consent if ordered to by a court?

Yes, an educational agency or institution may disclose personally identifiable information from education records in order to comply with a judicial order or lawfully issued subpoena. However, the agency or institution must make a reasonable effort to notify the parent or eligible student of the order or subpoena in advance of compliance so that the parent or eligible student may seek protective action unless the disclosure meets a specific exception found at 34 CFR §99.31(a)(9)(ii). These exceptions include when a court has ordered that either a federal grand jury subpoena not be disclosed, a court or other issuing agency has ordered that a subpoena for law enforcement purposes not be disclosed, or when an *ex parte* court order has been obtained by the United States Attorney General concerning certain investigations or prosecutions.

Disclosure to Accrediting Organizations (1)

Is an educational institution or agency permitted to disclose student records without consent to accrediting organizations?

Yes, an educational institution or agency is permitted to disclose student records to the extent accrediting organizations need the records in order to carry out their accrediting function.

Postsecondary School Officials (41)

General (7)

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.

What records are exempted from FERPA?

Exempted from the definition of education records are those records which are kept in the sole possession of the maker of the records and are not accessible or revealed to any other person except a temporary substitute for the maker of the records. Once the contents or information recorded in sole possession records is disclosed to any party other than a temporary substitute for the maker of the records, those records become education records subject to FERPA. Generally sole possession records are of the nature to serve as a "memory jogger" for the creator of the record. For example, if a school official has taken notes regarding telephone or face to face conversations, such notes could be sole possession records depending on the nature and content of the notes.

[Click to see related scenario](#)

Can parents view a child's post-secondary education record?

FERPA generally prohibits the nonconsensual disclosure of information derived from education records, except in certain specified circumstances. One of these exceptions permits the nonconsensual disclosure of information derived from education records to that student's parent if the student is a dependent student. Further, neither the age of the student nor the parent's status as custodial parent is relevant to determining whether disclosure of information from the education records of eligible students to a parent without written consent is permissible under FERPA. If a student is claimed as a dependent by either parent for tax purposes, then either parent may have access under this provision.

[Click to see related scenario](#)

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 so do; 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

Does an educational agency or institution have discretion over what education records it decides to create and keep?

Yes. FERPA does not require schools to create education records nor does it require schools to maintain education records, unless there is an outstanding request by a parent or eligible student to inspect and review the records.

Source: 34 CFR § 99.10(e)

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"

Inspection and Review of Education Records (3)

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.

Consent to Disclose Personally Identifiable Information from Education Records (5)

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 education records if they are involved in litigation against a parent of student or an eligible student?

Yes, the educational agency or institution may disclose to the court the education records of the student that are relevant for the educational agency or institution to proceed with or defend against the legal action. 34 CFR §99.31(a)(9)(iii).

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).

What constitutes de-identified records and information?

Records and information are de-identified once all personally identifiable information has been removed including but not limited to any information that, alone or in combination is linkable to a specific student that a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.

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 Parties in Connection with Financial Aid (1)

May a postsecondary institution disclose financial aid records without written consent?

FERPA permits institutions to disclose, without consent, personally identifiable information 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 for such purposes as to: (a) determine eligibility for the aid; (b) determine the amount of the aid; (c) determine the conditions for the aid; or (d) enforce the terms and conditions of the aid.

Disclosure to a Parent of a Student at a Postsecondary Institution Use or Possession of Alcohol or Controlled Substance (1)

Can parents be informed about students' violation of alcohol and controlled substance rules?

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 or possession of alcohol or a controlled substance.

Disclosure of Information from Education Records to Parents of Students Attending Postsecondary Institutions Document (1)

Can parents be informed about students' violation of alcohol and controlled substance rules?

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 or possession of alcohol or a controlled substance.

Disclosure to Organizations Conducting Studies for or on Behalf of the School (2)

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)

Must an educational agency or institution have a written agreement to disclose PII from education records without consent for the purposes of conducting a study or an audit or evaluation of an education program?

Yes. Both the studies exception and the audit or evaluation exception specifically require that the parties execute a written agreement when disclosing PII from education records without consent. The mandatory elements of that agreement vary slightly between the two exceptions. See FPCO's Guidance for Reasonable Methods and Written Agreements for more information regarding the mandatory elements for written agreements.

Disclosure of Information Designated as Directory Information (7)

Is it permissible to release GPA to honors organizations without consent?

No. FERPA does not generally permit a school to disclose a student's GPA without the parent's or eligible student's consent.

I want to use online tool or application as part of my course. However, I am worried that it is a violation of FERPA. What should I do?

A teacher should check with their school administration to see what has been defined as directory information. As long as using the application would not require disclosing more than directory information and none of the students have opted out of directory information, it would not be a violation of FERPA.

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.

A student has opted out of directory information and wants to be anonymous on an online course. Are we required to allow the student to take the course anonymously?

No. Under FERPA, a student may not use his or her right to opt out of directory information disclosures to prevent school officials from identifying the student by name or disclosing the student's electronic identifier or institutional e-mail address in class.

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 (3)

May an educational agency or institution disclose personally identifiable information from student's 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 student's 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.?

Must an educational agency or institution have a written agreement to disclose PII from education records without consent for the purposes of conducting a study or an audit or evaluation of an education program?

Yes. Both the studies exception and the audit or evaluation exception specifically require that the parties execute a written agreement when disclosing PII from education records without consent. The mandatory elements of that agreement vary slightly between the two exceptions. See FPCO?s Guidance for Reasonable Methods and Written Agreements for more information regarding the mandatory elements for written agreements.

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 other individuals.

Disclosure to School Officials with a Legitimate Educational Interest (3)

Who is a ?school official? under FERPA?

A ?school official? includes a teacher, school principal, president, chancellor, board member, trustee, registrar, counselor, admissions officer, attorney, accountant, human resources professional, information systems specialist, and support or clerical personnel. A contractor, consultant, volunteer, or other party to whom a school or institution has outsourced institutional services or functions may also be considered a ?school official? provided that they are performing an institutional service or function for which the agency would otherwise use employees and is under the direct control of the agency or institution with respect to the use and maintenance of education records. See 34 CFR § 99.31(a)(1)(i)(B).

Under FERPA, may an educational agency or institution disclose education records to any of its employees without consent?

No. FERPA permits an educational agency or institution to disclose, without consent, personally identifiable information from students' education records only to school officials within the educational agency or institution that the educational agency or institution has determined to have legitimate educational interests in the information. 34 CFR § 99.31(a)(1). Generally, a school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.

What must educational agencies or institutions do to ensure that only school officials with a legitimate educational interest see protected education records?

An educational agency or institution must use reasonable methods to ensure that school officials obtain access to only those education records in which they have legitimate educational interests. An educational agency or institution that does not use physical or technological access controls must ensure that its administrative policy for controlling access to education records is effective and that it remains in compliance with the legitimate educational interest requirement.

Disclosure to Officials of Other Schools and Institutions (1)

Does FERPA require a school to transfer education records to a new school?

The disclosure to officials of another school in which a student seeks or intends to enroll is permitted by FERPA, not required. However, State and local laws may require that such disclosures be made.

Disclosure to Comply with a Judicial Order or Subpoena (1)

May an educational agency or institution disclose education records without consent if ordered to by a court?

Yes, an educational agency or institution may disclose personally identifiable information from education records in order to comply with a judicial order or lawfully issued subpoena. However, the agency or institution must make a reasonable effort to notify the parent or eligible student of the order or subpoena in advance of compliance so that the parent or eligible student may seek protective action unless the disclosure meets a specific exception found at 34 CFR §99.31(a)(9)(ii). These exceptions include when a court has ordered that either a federal grand jury subpoena not be disclosed, a court or other issuing agency has ordered that a subpoena for law enforcement purposes not be disclosed, or when an *ex parte* court order has been obtained by the United States Attorney General concerning certain

investigations or prosecutions.

Disclosure to a Victim of an Alleged Perpetrator of a Crime of Violence or a Non-Forcible Sex Offense (1)

May a postsecondary institution disclose information about a disciplinary proceeding to the victim of a crime of violence or a non-forcible sex offense?

Yes, a postsecondary institution may disclose only the final results of the disciplinary proceeding to a victim of an alleged perpetrator of a crime of violence or a non-forcible sex offense. In disclosures to the victim, the institution may disclose the final results of the disciplinary proceeding regardless of whether the institution concluded a violation was committed.

Disclosure in Connection with a Disciplinary Proceeding at a Postsecondary (3)

What constitutes the final results of a disciplinary proceeding?

?Final results? means a decision or determination, made by an honor court or council, committee, commission, or other entity authorized to resolve disciplinary matters within the institution.

What constitutes a crime of violence or a non-forcible sex offense?

The offenses that constitute a crime of violence or a non-forcible sex offense include arson, assault offenses, burglary, criminal homicide (manslaughter by negligence), criminal homicide (murder and nonnegligent manslaughter), destruction/damage/vandalism of property, kidnapping/abduction, robbery, forcible sex offenses, statutory rape, and incest.

May postsecondary institutions disclose results of disciplinary proceedings?

Postsecondary institutions may disclose the final results of disciplinary proceedings if the institution has found that the student has violated the institution's rules or policies in regards to a crime of violence or a non-forcible sex offense. Furthermore, the institution may not disclose the name of any other student, including a victim or witness, without the prior written consent of that student.

Disclosure to Accrediting Organizations (1)

Is an educational institution or agency permitted to disclose student records without consent to accrediting organizations?

Yes, an educational institution or agency is permitted to disclose student records to the extent accrediting organizations need the records in order to carry out their accrediting function.

The Privacy Policy of the United States Department of Education is as follows: no personal information about you is collected unless you choose to provide it. The Department of Education does not give, share, sell, or transfer any personal information to a third party. If you want to know more about how non-personal information about your visit is recorded or how the information that you voluntarily submit is used, please click [here](#).

Source URL: <http://fpc0.aem-tx.com/faq-page/ferpa-school-officials>