
Family Educational Rights and Privacy Act (FERPA)

FERPA for School Officials (Part II)

Student Accessibility and Disability Services
Edgewood College

Objectives

- Learn different education record disclosure situations under FERPA
 - Financial aid
 - Student use or possession of alcohol or controlled substance
 - Research study
 - Directory information
 - Audit or evaluation
 - Health or safety emergency
 - Parties with legitimate educational interests
 - School transfer

Disclosure to Parties in Connection with Financial Aid



May a post-secondary institution disclose financial aid records without written consent?

- Institutions may 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
- Except when 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

Disclosure to a Parent of a Student at a Post-Secondary Institution Use or Possession of Alcohol or Controlled Substance



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

- **Yes.** A college or university can let parents of students under the age of 21 know when the student has violated any law or policy about the use or possession of any controlled substance

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



May an educational agency or institution disclose PII from students' education records to 3rd parties for the purpose of conducting a study on its behalf?

- Yes. An educational agency or institution may disclose PII from education records without consent to organizations conducting studies for, or on its behalf
- Organizations must specify the purpose, the use, and destruction of the information in a written agreement

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 studies and audits/evaluations require the parties to execute a written agreement when disclosing PII without consent
- The mandatory elements of that agreement vary slightly between studies and audits/evaluations
 - See FPCO's Guidance for Reasonable methods and Written Agreements (http://www2.ed.gov/policy/gen/guid/fpc/pdf/reasonablemtd_agreement.pdf) for more information regarding the mandatory elements for written agreements

Disclosure of Information Designated as Directory Information



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

- **No. A school cannot 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?

- Check with school administration to see what has been defined as directory information
- Unless the use of application requires disclosure more than directory information or students have opted out of directory information, then it will not be a violation

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
- The parent or eligible student has right to restrict the disclosure of such information
- A school is not required to request former students or the parents of former students consent unless 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. A student may not use his/her right to opt out of directory information disclosures to prevent school officials from identifying the student

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

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
- Directory information may include a student's user ID or other unique identifier used by the student to access or communicate in electronic systems

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, unless the student withdraws the opt out request**

Disclosure to Officials for Audit or Evaluation Purposes

•=====•

May an educational agency or institution disclose PII 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
 - The Attorney General of the United States for specified purposes

What is an education program?

- Any program dedicated to the provision of education, including, but not limited to
 - Early childhood education
 - Elementary and secondary education
 - Post-secondary education
 - Special education
 - Job training
 - Career and technical education
 - Adult education
 - Any program that is administered by an educational agency or institution

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 studies and audits/evaluations require the parties to execute a written agreement when disclosing PII without consent
- The mandatory elements of that agreement vary slightly between studies and audits/evaluations
 - See FPCO's Guidance for Reasonable methods and Written Agreements (http://www2.ed.gov/policy/gen/guid/fpc/pdf/reasonablemtd_agreement.pdf) for more information regarding the mandatory elements for written agreements

Disclosure in Connection with a Health or Safety Emergency



When is it permissible to utilize FERPA's health or safety emergency exception for disclosures?

- When disclosing PII from a student's education records is necessary to protect the health or safety of the student or other individuals
 - Examples of health or safety emergency: natural disaster, a terrorist attack, a campus shooting, or the outbreak of an epidemic disease
- The exception to FERPA's general consent requirement is strictly limited to the period of the emergency
- Additional information available at Addressing Emergencies on Campus (<http://www2.ed.gov/policy/gen/guid/fpco/pdf/emergency-guidance.pdf>)

What is a threat assessment team?

- A group of officials assembled to identify, evaluate, and address threats or potential threats to school security
- Members of a threat assessment team can be school principals, counselors, school law enforcement unit officials, as well as outside medical and mental health professionals and local law enforcement officers

FERPA's health or safety emergency provision

- Some schools may need assistance in determining whether a health or safety emergency exists in order to know whether a disclosure may be made under FERPA's health or safety emergency provision
- Additional information available:
 - Threat Assessment in Schools: A Guide to Managing Threatening Situations and to Creating Safe School Climates
(<http://www2.ed.gov/admins/lead/safety/edpicks.jhtml?src=ln>)
 - Guide for Developing High-Quality School Emergency Operations
(http://rems.ed.gov/docs/REMS_K-12_Guide_508.pdf)

Does FERPA permit the sharing of education records with outside law enforcement officials, mental health officials, and other experts in the community who serve on a school's threat assessment team?

- Yes. A school or school district may disclose PII from education records without consent to threat assessment team members who are not employees of the school or school district
- Even though FERPA does not require, schools can prevent members from re-disclosing PII by
 - Having them write an agreement that specifies their requirements and responsibility
 - Reminding them that they may only use PII for the purposes for which the disclosure is made

Who are considered “appropriate parties” that may receive information under the health or safety emergency exception?

- Any party whose knowledge of such information is necessary to protect the health or safety of the student or other persons, such as:
 - Local or State law enforcement officials
 - Public health officials
 - Trained medical personnel
 - Parents (including parents of an eligible student)

What does “articulable and significant threat” mean?

- A school official is able to explain, based on all the information available at the time, what the significant threat is when he/she makes and records the disclosure

May a school make disclosures under FERPA's health or safety emergency provision for emergency preparedness exercises?

- No. Disclosures made under the health or safety emergency provision must be related to an actual, impending, or imminent emergency, such as natural disaster, a terrorist attack, a campus shooting, or the outbreak of an epidemic disease

Does a school have to record disclosures made under FERPA's health or safety emergency exception?

- Yes. Schools must record, in the student's education records, the articulable and significant threat that formed the basis for the disclosure, and the parties to whom the information is disclosed

Are there other situations in which school officials may non-consensually disclose PII from education records of students who have been disciplined for conduct that posed a significant risk to the safety of the school community?

- Yes. When:
 - Another school has legitimate educational interests in the behavior of a student who has been disciplined
 - The student who has been disciplined poses a significant risk to the safety or well being of individuals at another school

How does a school know when a health or safety emergency exists so that a disclosure may be made under this exception to consent?

- A school must make this determination on a case-by-case basis, considering the totality of the circumstances pertaining to a threat to the health or safety of a student or others

Disclosure to School Officials with a Legitimate Educational Interest



Who is a “school official” under FERPA?

- Teacher
- School principal
- President
- Chancellor
- Board member
- Trustee
- Registrar
- Counselor
- Admission officer
- Attorney
- Accountant
- Human resources professional
- Information systems specialist
- Support or clerical personnel
- Other party to whom a school has outsourced institutional services or functions

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

- No. Schools can only disclose, without consent, PII to school officials within the schools that have determined to have legitimate educational interests in the information
- Generally, a school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his/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?

- Schools must use reasonable methods, such as physical or technological access controls, and administrative policy for controlling access to education records

Does FERPA permit school officials to release information that they personally observed or of which they have personal knowledge?

- A school official is permitted to release information about a student that is obtained through the school official's personal knowledge or observation

Are there any limitations to sharing information based on personal knowledge or observations?

- The general rule regarding personal knowledge and observations does not apply when a school official learns of information about a student through his/her official role in making a determination about the student and the determination is maintained in an education record

Disclosing Education Records when Students Transfer to New Schools



Does FERPA permit schools to disclose any and all education records on a student to another school where the student seeks or intends to enroll?

- Yes. A school may disclose education records, without parental consent, to another school in which a student seeks or intends to enroll
- This also applies when a student is being placed in a juvenile justice facility that is considered a school

What federal law required that States provide assurance to the Secretary of Education that they have procedures in place to facilitate the transfer of student disciplinary information with respect to an LEA's suspension or expulsion of a student?

- Section 4155 (b) of the Elementary and Secondary Education Act (ESEA) requires each State receiving funds under the ESEA to provide an assurance to the Secretary
- Schools should include a notice in their annual notification of rights that they forward education records to other schools that have requested the records and in which the student seeks or intends to enroll
- See FPCO's model notification of rights at <http://www2.ed.gov/policy/gen/guid/fpc0/ferpa/lea-officials.html>

For specific sections of FERPA,
please refer to

•=====•

<http://www2.ed.gov/policy/gen/guid/fpco/pdf/ferparegs.pdf>