

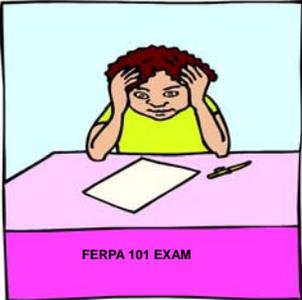


Update from the U.S. Department of Education on *FERPA and Student Privacy*

VA Public School Records Consortium Dale King, Director
 Summer Workshop Family Policy Compliance Office
 Staunton, Virginia U.S. Department of Education
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So what do you know about FERPA?



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EXERCISE : FERPA EXAM

1. FERPA only applies to schools that receive federal education funds. T F
2. Once a student turns 18, the school can't share education records with the parents. T F
3. If a child is living with a grandparent who is responsible for the day-to-day care of the child, the school must provide the grandparent with access to the child's education records. T F
4. Health records maintained by the school nurse are not education records. T F
5. Schools are required to provide parents with a copy of their child's education records upon request. T F
6. Designated directory information is not considered personally identifiable information and, therefore, the school may disclose the information without the consent or knowledge of the parent. T F
7. If a parent discusses a matter about his or her child in an open school board meeting, that constitutes "consent" under FERPA for school board members or other school officials to respond. T F
8. FERPA permits a parent to file a lawsuit against a school, district, or school board for violating their rights under FERPA. T F
9. Having a data sharing agreement with an outside vendor is sufficient for a school to disclose PII from education records to a vendor without consent of parents. T F
10. When a student transfers from School District A to School District B, District A can share all of the student's education records to District B without the consent of the parent, including disciplinary records and special education records. T F

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 Agenda

- Hot Topics
- Guidance
- New Website
 - FAQs
 - Community of Practice
 - FPCO letters
- Scenarios

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 What is FERPA?

A federal privacy law that affords parents the right to—

- have access to their children's education records,
- seek to have the records amended, and
- consent to the disclosure of personally identifiable information from education records, except as provided by law.

<https://www.youtube.com/watch?v=nhDKS8hvMU&sns=em>



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 Hot Topics

- Privacy is a national interest and high profile
- Congressional interest in FERPA
- Definition of education records (i.e., emails, text messages, etc.)
- Electronic Privacy Information Center (EPIC) FOIA request
- Outsourcing education services to vendors
- Educational Apps in the classroom
- Data mining by third parties and their using information for advertising purposes
- State legislatures passing privacy laws

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Guidance

- Sharing Information with Community Based Organizations
- Protecting Student Privacy While Using Online Educational Services
- FERPA and IDEA Part B and C crosswalk
- Guidance on Uninterrupted Scholars Act
- New Website
- PTAC resources <http://ptac.ed.gov/>

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Sharing information with Community-based organizations

- Provides guidance to schools regarding disclosure of PII to community-based organizations.
 - Is prior written consent of the parent or eligible student required to disclose information to community-based organizations?
 - May a school disclose directory information to a community-based organization without written consent?
 - Are there ways that a school or LEA may disclose PII from education records (other than directory information) to a community-based organization without obtaining written consent of the parent or eligible student?
 - Can schools disclose education records to community-based organizations performing outsourced tutoring programs using the school official exception?

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Protecting Student Privacy While Using Online Educational Services

This guidance relates to the subset of education services that are:

- Computer software, mobile applications (apps), or web-based tools;
- Provided by a third-party to a school;
- Accessed via the Internet by students and/or parents;
- AND
- Used as part of a school activity.



<http://ptac.ed.gov/document/protecting-student-privacy-while-using-online-educational-services-training-video>

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 **IDEA and FERPA Confidentiality Provisions**

- Provides a side-by-side overview of the IDEA Part B, IDEA Part C, and FERPA confidentiality provisions
- <http://www2.ed.gov/policy/gen/guid/ptac/pdf/idea-ferpa.pdf>

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 **FPCO New Resources Website**

- <http://familypolicy.ed.gov/>
- New resources website
- Organized to be more customer friendly
- FAQs
- E-complaint form
- Guidance and Resources
- Finding letters of significance

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 **TABLE TALK: Scenarios**



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TABLE TALK: Directory Information

- Your school designates name, address, telephone listing, email address, and honors and awards received as directory information. A community-based organization that has programs for special needs children approaches you regarding their programs and asks for the name, address, and telephone number of parents with students in your school who have a disability in order to contact parents regarding their programs. You like the programs offered by the organization and believe the programs may be of benefit to the students with disabilities in your school and their parents?
- A. Can the names and contact information for these students be disclosed to the organization as directory information? Why?
- B. Are there other ways you could help inform parents of the availability of the organizations programs that would be consistent with FERPA?

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TABLE TALK: Bus Video

- Bernie and Ricky get into a fight on the school bus on the way home. Frank, another student, tries to break up the fight and is pushed down by the fighting students and is injured. Ellen, the bus driver pulls over and intervenes to stop the fight. The incident is recorded by the school bus camera. The bus driver reports the incident to you, the principal, and you review the video. You suspend both Bernie and Ricky from school. Frank has a cast on his arm as a result of the fight. The parents of all three students are upset and are requesting to review the video of the incident. You also received a request from the local TV station requesting a copy of the video.
- A. How would you handle the request from the parents?
- B. What limitations, if any, would FERPA place on permitting you to provide access to the parents?
- C. How would you handle the request from the media?

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TABLE TALK: Disclosure to Police Officer

- A police officer shows up at the main office of your high school and asks if Paul Smith is attending school today. The police officer does not have a search warrant or a subpoena. The police officer wants to speak to the student regarding some gang violence that occurred three weeks ago. Additionally, Mrs. Jones, an 9th grade teacher, was in the office when the police officer made the request and told the officer that she overheard two other students talking about the gang violence episode.
- A. Would FERPA permit you to tell the officer whether or not the student is attending school today?
- B. Is it OK for Mrs. Jones to share with the officer the names of the other two students and what she heard?

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TABLE TALK: Officials of Another School

- Dominica attended George Washington High School and recently moved to Las Vegas with her family. Dominica is a student with a learning disability. Dominica's family is trying to enroll her in a Las Vegas high school and is having a hard time because the new high school wants Dominica's special education records from George Washington.
- Does George Washington High School have to share Dominica's special education records to the Las Vegas high school?
- Does George Washington High School need to obtain consent from Dominica's parents before disclosing her records to Las Vegas school?

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TABLE TALK: Dual Enrollment

- Janet is a 17 year old high school student at Henry County and is enrolled in the high school's career and technical education Culinary Arts Program of Study. The Culinary Arts Program has an articulation agreement with Northern Virginia Community College. As such, Janet also is dually-enrolled at the community college where she is taking the Artisan Breads and Pastries class. Janet's parents have requested access to and a copy of Janet's education records maintained at both the academy and the community college.
- A. How does FERPA apply in this scenario?
- B. Must the Henry County and the community college honor the parent's request to access Janet's records and to receive a copy of her records?

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TABLE TALK: Teacher Observation

- A teacher personally witnesses an incident, such as one student bullying another. Can the teacher call the victim's parents and tell them what she observed and who she saw bullying their child?
- A. How does FERPA apply to this scenario?

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TABLE TALK: Overdue Library Books

- A public school district lists the names of students who have overdue library books on their website, as well as posts the list on the school bulletin board.
- Is this permissible under FERPA? If so, under what exception to consent?

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TABLE TALK: Sharing Disciplinary Action

- A student is disciplined for a conduct that posed a significant risk to the safety or well-being of other students. He leaves the school and enters another institution without requesting a transfer. The new school finds out that he attended the first school and calls for information.
- Can the old school tell the new school about the disciplinary action? If so, under what FERPA exception to consent?

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TABLE TALK: College Prep Advisor

- A college prep advisor is housed at the local high school to provide guidance and counseling to students regarding college opportunities. The advisor is not an employee of the school system, but of the local college or college consortium.
- How would the advisor be able to obtain access to students' education records?
- Is there an exception to consent that would permit the school to disclose to the advisor?

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POP QUIZ: School Officials

True or False:

- A school board member is automatically considered a school official under FERPA and, therefore, can access any and all student education records.
- All teachers in a school have a legitimate educational interest in all the students in the school.
- Classroom volunteers are considered school officials with a legitimate educational interest.

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POP QUIZ: Judicial Order or Subpoena

- True or False
- FERPA requires schools to disclose information from education records pursuant to a judicial order or subpoena.

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POP QUIZ: Disclosure to Law Enforcement Unit

- Yes or No
- A student is expelled from high school. A copy of his disciplinary record is sent to the school district's law enforcement unit so that school security can keep the student off campus. The law enforcement unit maintains that record and discloses it to a reporter in response to a State open records request. Is this permissible under FERPA?

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POP QUIZ: Disclosure to Parents of Eligible Students

- Yes or No

- When Ricardo turned 18 years old, the rights under FERPA transfer from his parents to him. Can the high school still disclose information from Ricardo's education records to his parents absent his consent?

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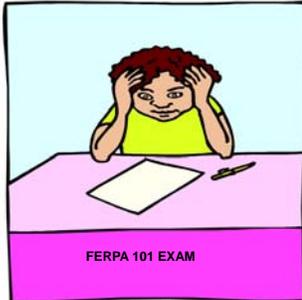
POP QUIZ: Disclosure to Child Welfare Agency

1. Are schools required to disclose personally identifiable information from education records to a child welfare agency or tribal organization?
2. A high school gets a request from the local child welfare agency (CWA) for all school records relating to certain students who are in foster care. Does the high school have to turn over all of these records, or just the information that the high school thinks the child welfare agency needs to see?
3. May a CWA use education records for purposes other than addressing a foster child's educational needs? For example, could the agency use these records to conduct investigations of child abuse or conduct research?
4. Can schools also disclose special education records to CWAs, such as Individualized Education Programs (IEPs) under this exception?

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So what do you know about FERPA?



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Need Help with FERPA?



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