



FERPA: A Student's Right to Privacy and Your Institution

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Important Note

This presentation is intended to provide viewers general information about FERPA.

It is not intended as, nor is it a substitute for, legal advice on any particular issue.



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We Will Discuss

- ▼ What is FERPA?
- ▼ Definitions
- ▼ Student Rights and FERPA
- ▼ Right to Access, Review and Amend an Education Record
- ▼ Students' Rights and Disclosure
- ▼ Compliance, Complaints and Enforcement
- ▼ Case Studies



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Family Educational Rights and Privacy Act of 1974

- ▼ Protects the privacy of a student's educational records
- ▼ Applies to all educational agencies or institutions that receive funds under any program administered by the Secretary of Education
- ▼ Enforced by the Family Policy Compliance Office of the U.S. Department of Education



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Protections Offered by FERPA

- ▼ The eligible student has a right to access and review his/her education records
- ▼ Parents do not have an automatic right to view their children's postsecondary education records



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Protections Offered by FERPA

- ▼ All education records are confidential (except directory information in most cases) and cannot be disclosed unless the student consents or the request fits one of the exceptions
- ▼ Faculty and staff generally may not see a student's education records without first identifying a legitimate educational interest or one of the other exceptions under which records may be reviewed



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Definitions



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Definition

Eligible Student

- ▼ Any individual who is 18 years or over; or attending a postsecondary institution; is or has been in “attendance” at the school and regarding whom the school maintains education records



Reference §99.5



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Definition

Attendance

- ▼ Attendance in person or by paper correspondence, videoconference, satellite, Internet, or other electronic information and telecommunications technologies for students who are not physically present in the classroom; and the period during which a person is working under a work-study program



Reference §99.3



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Definition

Dates of Attendance

- ▼ The period of time during which a student attends or attended an educational agency or institution



Reference §99.3



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Definition

Education Record

- ▼ Those records that are
 - ▼ (1) directly related to a student; and
 - ▼ (2) maintained by an educational agency or institution or by a party acting for the agency or institution



Reference §99.3



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Definition

Education Record (cont.)

- ▼ Includes, any information or data recorded in any medium including but not limited to; handwriting, print, tapes, film, email, microfilm, and microfiche, which is directly related to a student



Reference §99.3



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Not an Education Record

- ▼ Institution law enforcement records
- ▼ Employment records when the employment is not connected to student status
- ▼ Medical and mental health records used only for treatment of the student
- ▼ Alumni records which do not relate to or contain information about the person as a student
- ▼ Sole possession records



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Reference §99.30 – 38, §99.8

Definition

Disclosure

- ▼ To permit access to or the release, transfer, or other communication of personally identifiable information contained in education records by any means, including oral, written, or electronic means, to any party except the party identified as the party that created the record



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Reference §99.3

Definition

Personally Identifiable

- ▼ Includes, but it not limited to: the student's name; the name of the student's parents or other family members; the address of the student's or the student's family



Reference §99.31



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Definition

Personally Identifiable (cont.)

- ▼ A personal identifier, such as the student's social security number; student number, or biometric record
- ▼ Other indirect identifiers, such as the student's date of birth; place of birth, or mother's maiden name



Reference §99.31



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Definition

Personally Identifiable (cont.)

- ▼ Other information that, alone or in combination is linked or linkable to a specific student
- ▼ Information requested by a person who the institution reasonably believes knows the identity of the student to whom the education record relates



Reference §99.31



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Definition

Directory Information

- ▼ Information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed



Reference § 99.37



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Directory Information

- ▼ Student's name
- ▼ Address
- ▼ Telephone listing
- ▼ Electronic mail address
- ▼ Photograph
- ▼ Date and place of birth
- ▼ Major field of study
- ▼ Grade level
- ▼ Degree
- ▼ Recent school attended
- ▼ Enrollment status
- ▼ Date of attendance
- ▼ Participants in officially recognized activities and sports
- ▼ Weight and height of athletic teams
- ▼ Honors/awards



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Directory Information

- ▼ Does not include a student's:
 - ▼ Social Security Number; or
 - ▼ Student identification (ID) number*
*only



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Student Rights and FERPA



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Student Rights Offered by FERPA

- ▼ The right to access educational records kept by the school
- ▼ The right to request amendment of educational records
- ▼ The right to demand educational records be disclosed only with student consent
- ▼ The right to file complaints against the school for disclosing educational records in violation of FERPA



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Complaint Process

- ▼ A complaint must:
 - ▼ Be submitted within 180 days of alleged violation or reasonably should have known of the alleged violation
 - ▼ Department may extend time limit
 - ▼ Names and titles of those school officials and other third parties involved
 - ▼ Specify the violation that occurred



Reference §99.63



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Parent Rights

- ▼ The parent has no right to access student record information unless:
 - ▼ Student provides written consent
 - ▼ Full rights may be given to the parent at the school's discretion under certain circumstances



Reference §99.5



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Right to Access, Review and Amend an Education Record



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Right to Access and Review

- ▼ Institution's Responsibility
 - ▼ Must provide copies of the records or otherwise make arrangements to inspect the records within 45 days of the day the school receives a request for access
 - ▼ Cannot charge a fee merely to search for a student's records
 - ▼ May charge a copying fee



Reference §99.10, §99.11, §99.20



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Limitations of Right to Review

- ▼ Institution's Responsibility
 - ▼ An institution does not have to permit inspection and review of education records that
 - ▼ Include more than one student
 - ▼ Contain financial records, including any information those records contain, of his or her parents



Reference §99.12



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Limitations of Right to Review

- ▼ Confidential letters or statements of recommendation placed in their files
 - ▼ Before January 1, 1975
 - ▼ After January 1, 1975, if:
 - ▼ The student has waived his or her right to inspect and review those letters and statements; and
 - ▼ Admission to the school
 - ▼ Application for employment
 - ▼ Honorary recognition



Reference §99.12



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Right to Amend Education Record

- ▼ Institution's Responsibility
 - ▼ Must allow eligible students the right to request that education records be amended
 - ▼ If a school denies such a request, eligible students have a right to a hearing to review the school's decision



Reference §99.10, §99.11, §99.20



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Right to Amend Education Record

- ▼ Institution's Responsibility
 - ▼ When student asks to amend a record, the institution must
 - ▼ Decide within a reasonable timeframe
 - ▼ Amend record as requested
 - ▼ Inform student of their right to a hearing, if denied
 - ▼ Allow the student to insert a statement in their record, if denied after hearing



Reference §99.20



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Students' Rights and Disclosure



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Disclosure of Education Records

Institution's Responsibility

- ▼ Student education records may not be disclosed to anyone unless the student has given written consent
- ▼ Adequate written consent must state
 - ▼ The precise records to be disclosed
 - ▼ The purpose of the disclosure
 - ▼ To whom the disclosure may be made; and be signed and dated by the student



Reference §99.30 - 38



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Disclosure of Education Records

- ▼ Institution's Responsibility
 - ▼ Student education records may not be disclosed to anyone unless the request fits one of the legal exceptions



Reference §99.30 - 38



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Legal Exceptions

- ▼ Directory Information
 - ▼ May be viewed and released to the public, unless the student has decided to opt out of directory information disclosures
 - ▼ Student may not use the right to opt out of directory information disclosures to prevent the student's name or other identifier in the classroom



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Student Identification Number

- ▼ Can be used as directory information only if:
 - ▼ The identifier cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user's identity



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Legal Exceptions

- ▼ School officials with legitimate educational interest
- ▼ Other schools to which a student is transferring
- ▼ Specified officials for audit or evaluation of compliance with education programs
- ▼ Financial aid officials
- ▼ To comply with a subpoena or court order



Reference § 99.30 - 99.38



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Legal Exceptions

- ▼ Organizations conducting certain studies for or on behalf of the school
- ▼ Accrediting organizations
- ▼ Parents of a dependent student
- ▼ Emergency personnel, in a emergency
- ▼ The result of a disciplinary hearing where the student is the perpetrator crime of violence or a non-forcible sex offense



Reference § 99.30 - 99.38



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Legal Exceptions

- ▼ A student under the age of 21 who has committed a drug or alcohol related offense
- ▼ State and local authorities
- ▼ The Patriot Act of 2001
- ▼ Campus Sex Crimes Prevention Act



Reference § 99.30 - 99.38

All these exceptions are limited in scope,
check with legal counsel on campus



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Disclosure of Education Records

▼ Institution's Responsibility

- ▼ Schools are required to maintain a list of all individuals or organizations that have requested or obtained a student's education records, the list must;
 - ▼ Be kept with education record
 - ▼ State the specific interest of the party requesting the record
- ▼ Inform the receiving party that the information may not be further disclosed without student's written consent

Reference §99.30 - 38



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Identification and Authentication of Identity

▼ Institution's Responsibility

- ▼ Use reasonable methods to identify and authenticate the identity of parents, students, school officials, and other parties before disclosing education records
 - ▼ Identification means determining who is the intended or authorized recipient of the information
 - ▼ Authentication means ensuring that the recipient is who he or she claims to be



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Compliance, Complaints and Enforcement



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Steps to Compliance

- ▼ Grant access by students or parents, if applicable, to education records
- ▼ Notify current students annually in writing of their rights under FERPA



Reference §99.1-8



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Recordkeeping

- ▼ An institution's records must
 - ▼ Reflect each request for access to, and each disclosure from, an education record
 - ▼ Be maintained as long as the student record is active
 - ▼ Include the parties who have requested or received information from a student's records
 - ▼ Include the legitimate interest parties had in receiving information



Reference §99.32



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Annual Notification

- ▼ Institution's Responsibility
 - ▼ Supply students in attendance with an annual notification of the rights available under FERPA



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Annual Notification

▼ Must include:

- ▼ Review education records
- ▼ Seek amendment of the student's education records
- ▼ Consent to disclosure of a student's personally identifiable information
- ▼ File a complaint with the U.S. Department of Education:
Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-5901



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Annual Notification

▼ Must also include:

- ▼ The procedure for inspection and review of records
- ▼ The procedure for requesting amendment of records
- ▼ A statement indicating that education records may be disclosed to school officials without prior written consent



Reference §99.7



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Annual Notification

- ▼ School must define:
 - ▼ School official
 - ▼ Legitimate educational interests
 - ▼ Directory information
 - ▼ Explain the right to “opt out” of directory information disclosures
 - ▼ Timeframe



Reference §99.7



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Enforcement

- ▼ The Secretary may:
 - ▼ Withhold further payments;
 - ▼ Issue a complaint to compel compliance through a cease-and-desist order; or
 - ▼ Terminate eligibility to receive funding



Reference §99.66



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Case Studies



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What Would You Do?

Sarah Stone signed a document restricting the release of directory information. A woman called saying she was Sarah's mother, Mrs. Stone. Mrs. Stone stated that she had an address for Sarah but wanted to make sure she had the correct one. Sarah moves a lot, she said. Mrs. Stone has a basket of baked goods that she would like to send to her daughter as a surprise. Can you verify the address on file for Sarah so she gets her basket of goodies?



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What Would You Do?

A faculty member from the education department just asked you for a list of student sophomores with an EFC between \$0-\$2000. She needs this information so that she can award several scholarships to a few lucky students. Is written consent needed from each of the students on the list?



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What Would You Do?

Mrs. Stone, Sarah's mom called the school asking for a copy of Sarah's class schedule. She has not been able to reach her daughter for two weeks. She said that Sarah is not answering her calls or responding to any emails. According to Sarah's friends, her mom said, Sarah was not feeling well and missed a few classes. She is very worried. Can you give Sarah's mom her class schedule?



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What Would You Do?

Howard Hughes called the school regarding his wife, Hannah Hughes. She was unable to register last week because she had an outstanding balance. Hannah submitted additional paperwork last week and Howard wanted to know if her financial aid has been credited to her account and how much (if anything) is still due on her bill. He explained he wants to give you his credit card information over the phone and get the bill paid so that she may register for the next term. Can you give Howard the information he is seeking?



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What Would You Do?

The department work-study student's job duties require them to access student records. Has the department violated FERPA by allowing the student this access?



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Next Steps



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Ensure Compliance

- ▼ Review your campus policy annually
 - ▼ Check for updates
 - ▼ Annual notification to students
 - ▼ Address any areas of weakness
 - ▼ Provide periodic training to staff
- ▼ Compliance questions to: ferpa@ed.gov



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Resources

- ▼ Ifap.ed.gov
- ▼ Ed.gov/policy/gen/guid/fpco/ferpa
- ▼ NASFAA.org
- ▼ Clhe.org



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It is important to respect
the privacy of all students



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Have a Wonderful Afternoon!

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