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National Student Loan Program

Family Educational Rights and Privacy Act (FERPA)




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Today's topics

- What is FERPA?
- Definitions
- Student rights
- School responsibilities
- Things to remember

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FERPA

- *Family Educational Rights and Privacy Act of 1974, as amended:*
 - protects the privacy of students and families
 - sets conditions on the disclosure of personal information

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What is FERPA to schools?

- Specifies which records require written consent to be released
- Defines school's procedural requirements
- Establishes rules governing the disclosure of student information to parties other than the student
- Defines records not in FERPA

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Definitions

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Eligible student

- At least 18 years of age
- Attending an institution of postsecondary education receiving funds under any program administered by the Department

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Education records

- Any record containing personally identifiable information related to the student
 - direct
 - indirect

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Biometric records

- Records of one or more measurable biological or behavioral characteristics
 - fingerprints
 - retina and iris patterns
 - voiceprints
 - DNA
 - facial characteristics
 - handwriting

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Education records are not

- Sole possession records*
- Law enforcement records*
- Employment records
- Health records

*definitions to follow

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Education records are not

- Alumni records
- Campus police records
- Campus medical records
- Statistical data compilations without student identifiers

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Sole possession records

- Memory or reference tool
- Kept in possession of the maker
- Shared only with a temporary substitute for the maker
- Maintained without anyone else's knowledge

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Law enforcement records

- Created by a school's law enforcement unit
- Created for law enforcement purposes
- Maintained by school's law enforcement unit

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Law enforcement records are not

- Records created and maintained by a component of the institution *other* than the school's law enforcement unit
- Records created and maintained by a law enforcement unit exclusively for non-law enforcement purposes (institutionally conducted disciplinary actions)

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Releasing crime records

- Release of information to the *victim* of the *outcome* involving an alleged crime of violence (34 CFR 99.31(a)(13))
- Release final results of any disciplinary hearing to anyone against an alleged person *found in violation* of the school's rules or policies (34 CFR 99.31(a)(14))

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Statutory changes

- Ex parte court orders
 - allows disclosures without consent
- Registered sex offenders
 - allows disclosure without consent
 - Victim of alleged perpetrator of a violent crime or nonforcible sex offense (Clery Act; 20 U.S.C. 1092(f))
 - Individuals required to register under the Violent Crime Control and Law Enforcement Act of 1994 (Wetterling Act; 42 U.S.C 14071)

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Directory information

- Information generally not considered harmful or an invasion of privacy if disclosed
 - name, address, telephone number, email
 - photograph
 - date and place of birth
 - major, attendance, grade level, enrollment, degree, awards
 - participation in activities or sports, height and weight of athletes, recent school attended
 - student school ID/user ID

Student Rights

Student rights

- FERPA gives students the right to
 - inspect and review their education records
 - request an amendment to their records
 - request a hearing

Student rights

- Requirements for disclosure
 - provide signed/dated consent
 - written or electronic:
 - specify records
 - state purpose of disclosure
 - identify to whom the information may be disclosed

Student rights cont'd

- Conditions **not** requiring prior consent
 - school officials/teachers at *current* school
 - contractor, consultant, third party entity
 - school officials/teachers at *another* school
 - government representative
 - organizations

Student rights cont'd

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Student rights cont'd

- Conditions **not** requiring prior consent
 - parents of dependent students
 - federal, state, or local alcohol or controlled substance law violations
 - compliance with judicial orders
 - health or safety emergency
 - directory information

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Student rights cont'd

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Student rights limitations

- Record contains multiple student information
- Review of student's parents' information

FERPA School Responsibilities

School responsibilities

- Annual notification
- Specify officials with access to records without consent
- Notification of designated directory information
- Comply within 45 days of request to review records

School responsibilities

- Student's right to opt out of directory information
- Maintain detailed record of each request
- Access due to court order/subpoena
- Reports to the Department

Things to Remember

Remember

- IRS definition of dependent different than for FSA purposes:
 - if dependent by IRS, disclosure to either parent
 - if dependent by FSA, disclosure to parent listed on FAFSA

Remember


- Record of disclosure
 - example: *“These financial records were disclosed to XXX on (month/day/year) to determine compliance with financial aid requirements.”*
- Redisclosure

Remember


- HIPPA and FERPA
- Court orders and subpoenas
- Health and safety exemption

Remember


- Federal Trade Commission safeguards
 - customer information
 - establishing and maintaining security
 - safeguards achieve:
 - security and confidentiality
 - protect against threats to security
 - protect against unauthorized access
- Comprehensive security program

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Questions




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Helpful tools

- <http://www.ed.gov/policy/gen/guid/fpco/index.html>
- <http://www.ifap.ed.gov/qadocs/ConsumerModule/ConsumerInfoAct6.doc>
- <http://www.ifap.ed.gov/qadocs/ConsumerModule/ConsumerInfoAct7.doc>
- <http://www.ed.gov/policy/gen/guid/fpco/hottopics/ht12-17-08.html>
- 34 CFR Part 99 – Family Educational Rights and Privacy Act Regulations

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