

Family Educational Rights and Privacy Act

The Family Educational Rights and Privacy Act (FERPA) is a Federal law that protects the privacy of student education records. Under FERPA, schools must generally afford parents:

- (1) access to their children's educational records
- (2) an opportunity to seek to have the records amended
- (3) some control over the disclosure of information from the records

These rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level. Students to whom the rights have transferred are "eligible students."

Access to Educational Records

Schools are **required** by FERPA to: Provide a parent with an opportunity to inspect and review his or her child's education records within 45 days of the receipt of a request. Provide a parent with copies of education records or otherwise make the records available to the parent if the parent, for instance, lives outside of commuting distance of the school. Remove the names and other personally identifiable information about other students that may be included in the child's education records. Explain the records to you when you do not understand them*.

** You may also take a friend or a knowledgeable professional with you to help review the records and explain confusing parts. When you do this, however, you will be asked to sign a form giving that person permission to see your child's records.*

Schools are **not required** by FERPA to: Create or maintain education records, provide parents with calendars, notices, or other information which does not generally contain information directly related to the student or respond to questions about the student. Schools **may** charge a fee for copies.

Amendment of Education Records

Under FERPA, a school **must**: Consider a request from a parent to amend inaccurate or misleading information in the child's education records. Offer the parent a hearing on the matter if it decides not to amend the records in accordance with the request.* Offer the parent a right to place a statement to be kept and disclosed with the record if, as a result of the hearing, the school still decides not to amend the record**.

** The school must schedule a hearing on any disputed records within a reasonable time, and you must be notified of the time and place of the hearing reasonably in advance. What is reasonable in your school system will be spelled out in district policy. These same policies will also explain: (1) your right to have someone, even an attorney, assist or represent you at the hearing; (2) the length of time the school system has to make its decision after the hearing; and (3) the requirement that the hearing officer include in the decision a discussion of the evidence and the justification and rationale for the decision reached.*

*** Statement can be a written explanation of the parent's objections, detailing why they believe the material is inaccurate, biased, incomplete, or otherwise inappropriate. Because this statement is kept with the record, everyone who sees the record will be informed of the objection to its contents.*

A school is **not required** to consider requests for amendment under FERPA that: Seek to change a grade or disciplinary decision; seek to change the opinions or reflections of a school official or other person reflected in an education record; or seek to change a determination with respect to a child's status under special education programs.

Disclosure of Education Records

A school **must**: Have a parent's consent prior to the disclosure of education records, then ensure that the consent is signed, dated, and states the purpose of the disclosure.

A school **may** disclose education records **without** consent when:

- The disclosure is to school officials who have been determined to have legitimate educational interests as set forth in the school district's annual notification of rights to parents.
- The student is seeking or intending to enroll in another school.
- The disclosure is to state or local educational authorities auditing or evaluating Federal or State supported education programs or enforcing Federal laws which relate to those programs.
- The disclosure is pursuant to a lawfully issued court order or subpoena, or the disclosure is to State and local authorities, within a juvenile justice system, pursuant to specific State law.
- The disclosure is to officials in cases of health and safety emergencies; and
- The information disclosed has been appropriately designated as directory information by the school*.

* *Schools may disclose, without consent, "directory" information such as a student's name, address, telephone number, date and place of birth, honors and awards, and dates of attendance. However, schools must tell parents and eligible students about directory information and allow parents and eligible students a reasonable amount of time to request that the school not disclose directory information about them.*

Additionally, FERPA allows schools to disclose records, without consent, to the following parties:

- Appropriate parties in connection with financial aid to a student;
- Organizations conducting certain studies for or on behalf of the school;
- Accrediting organizations;

Annual Notification

A school **must** annually notify parents of students that they must allow parents to: Inspect and review their children's education records; seek amendment of inaccurate or misleading information in their children's records; consent to **most** disclosures of personally identifiable information from education records.

The annual notice **must** also include: Information for a parent to file a complaint of an alleged violation with the FPCO (Family Policy Compliance Office); a description of who is considered to be a school official and what is considered to be a legitimate educational interest so that information may be shared with that person; information about who to contact to seek access or amendment of education records.

Means of notification: Can include local or student newspaper, calendar, student programs guide, rules handbook, or other means of reasonable likely to inform parents. Notification **does not** have to be made individually to parents.

Resources:

- Dear Colleague Letter about Family Educational Rights and Privacy Act Final Regulations, 12/17/08; www.ed.gov/policy/gen/guid/fpco/hottopics/ht12-17-08.html
- FERPA Section by Section Analysis, 12/08; www.ed.gov/policy/gen/guid/fpco/pdf/ht12-17-08-att.pdf

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