

Knowing and Understanding The Family Educational Rights and Privacy Act (FERPA)

Family Educational Rights and Privacy Act

Although FERPA was passed over 20 years ago but it still generates confusion among teachers, administrators, and parents. The following discussion is provided to you so you will be familiar with the requirements of FERPA. In 1974, FERPA was passed by congress. This legislation specifically addresses the privacy of student records and access to those records.

Right To Confidentiality of Records:

FERPA was designed in part to protect the privacy of students and their parents. The school may not release personally identifiable information from a student's record without informed written consent of the parents or adult student. The school must obtain signed written consent from the parent or adult student before student information can be shared with another person or agency. Written consent must specify the records (specific information) to be released, the reason for the disclosure, and to whom the information will be disclosed.

Educational Records:

So what documents are considered to be "student records?" Under FERPA student records are defined as ANY records maintained by the schools that are DIRECTLY RELATED to the student. This is a very broad definition of student records, therefore, you should understand most all documents regarding a student is likely to be protected under FERPA.

Education Records means personally identifying information including but not limited to:

- Academic work completed
- Level of achievement
- Attendance record
- IQ and psychological tests

- Interest inventory results
- Health data
- Family background information
- Teacher or counselor ratings
- Classroom observation reports

Certain disclosures of education records are specifically allowed under FERPA. School personnel who have "legitimate educational interests" may have access to student records.

This means that teachers, counselors, school psychologists, and principals have the right to review student records without getting prior written consent.

Officials from a different school district may have access to a student's records upon notification to the original school that the student has transferred to their school district.

Additionally, certain governmental agencies may have access to student records for the purposes of complying with financial audits, monitoring of federal programs, or health and safety emergencies. Research organizations may have access as long as personally identifiable information concerning the student or the student's family remains concealed.

Other governmental agencies may gain access to a student's record without consent only when the school district is compelled to release the information under a subpoena or court order. The parent or adult student **must** be notified by the school district before **records** are released to the court.

You should be aware of another category of school record called "directory information." Directory Information is excluded from the FERPA requirements. Directory information is a special type of record that contains personally identifiable information but the school district may freely release this information to the public without written consent.

Directory information includes the following: Student Names, Addresses, Telephone number, Participation in sports and clubs, and Awards received.

The school district is required to inform parents about what kind of directory information is maintained by the school district.

Right to Inspect and Review Records:

FERPA was developed to ensure appropriate access to school records **by parents or adult students**. Under FERPA the school must provide annual notice to parents and adult students of their rights:

- To inspect and review student records.
- To request amendments to these records.
- To an explanation of a record.
- To know where records are maintained.
- To a copy of the student's record.
- To have a representative inspect the record.

Our school district provides this information in a written statement provided in the student handbook.

When a parent or adult student makes a request to inspect student records the school must comply with the request for access to records within a reasonable time but in no case more than 45 days. The school must provide a copy of the records requested if failure to do so would effectively prevent the parent or adult student from exercising their right to inspect the records. Schools may not destroy records if an outstanding request has been made.

Does this mean that a parent or adult student can inspect all of the files that the school district maintains? No. There are a number of different types of records maintained by schools that are explicitly excluded from FERPA. For example records maintained by a school based law enforcement unit or school district employee records are not available to parents. Additionally, if a school record contains the names of other students the parent or adult student may review this information unless the permission from the other parents is obtained or the identifiable information for these other students is removed.

Right to Request Amendments:

There are essentially 3 bases for a parent or adult student to request an amendment to student records:

- If the information in the student record is inaccurate.

If the information in the student record is misleading.

If the information in the student record violates other privacy rights of the student.

The school district may agree to amend the student's record, or disagree to amend the student's record. The parents must be notified of the school's decision. The parent or adult child has the right to petition for a hearing on the matter.

Complaints:

Persons may file complaints about violations of FERPA with the US Department of Education. The DOE investigates complaints. The DOE may terminate federal funds to any school that does not comply with FERPA within a specified time period.