



The Family Educational Rights and Privacy Act

Guidance for Eligible Students

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The following guidance provides eligible students with general information about the Family Educational Rights and Privacy Act (FERPA). This document is a compilation and update of various letters and guidance documents previously issued to respond to a variety of questions about FERPA. While this guidance reflects the best and most current

an outstanding request by an eligible student to inspect and view education records, FERPA permits the school to destroy such records without notice to the student.

Access to Education Records

Under FERPA, a school must provide an eligible student with an opportunity to inspect and review his or her education records within 45 days following its receipt of a request. A school is required to provide an eligible student with copies of education records, or make other arrangements, if a failure to do so would effectively prevent the student from obtaining access to the records. A case in point would be a situation in which the student does not live within commuting distance of the school.

A school is not generally required by FERPA to provide an eligible student with access to academic calendars, course syllabi, or general notices such as announcements of specific events or extra-curricular activities. That type of information is not generally directly related to an individual student and, therefore, does not meet the definition of an education record.

Under FERPA, a school is not required to provide information that is not maintained or to create education records in response to an eligible student's request. Accordingly, a school is not required to provide an eligible student with updates on his or her progress in a course (including grade reports) or in school unless such information already exists in the form of an education record.

Amendment of Education Records

Under FERPA, an eligible student has the right to request that inaccurate or misleading information in his or her education records be amended. While a school is not required to amend education records in accordance with an eligible student's request, the school is required to consider the request. If the school decides not to amend a record in accordance with an eligible student's request, the school must inform the student of his or her right to a hearing on the matter. If, as a result of the hearing, the school still decides not to amend the record, the eligible student has the right to insert a statement in the record setting forth his or her views. That statement must remain with the contested part of the eligible student's record for as long as the record is maintained.

However, while the FERPA amendment procedure may be used to challenge facts that are inaccurately recorded, it may not be used to challenge a grade, an opinion, or a substantive decision made by a school about an eligible student. FERPA was intended to require only that schools conform to fair recordkeeping practices and not to override the accepted standards and procedures for making academic assessments, disciplinary rulings, or placement determinations. Thus, while FERPA affords eligible students the right to seek to amend education records which contain inaccurate information, this right cannot be used to change a grade or an individual's opinion, or a substantive decision made by a school about a student. Additionally, if FERPA's amendment procedures are not applicable to an eligible student's request for amendment of education records, the school is not required under FERPA to hold a hearing on the matter.

Disclosure of Education Records

Under FERPA, a school may not generally disclose personally identifiable information from an

has claimed the student as a dependent on the most recent year's income tax statement, the school may non-consensually disclose the eligible student's education records to both parents under this exception.

Postsecondary institutions may also disclose personally identifiable information from education records, without consent, to appropriate parties including parents of an eligible student, in connection with a health or safety emergency. Under this provision, colleges and universities may notify parents when there is a health or safety emergency involving their son or daughter, even if the parents do not claim the student as a dependent.

FERPA also permits a school to disclose personally identifiable information from education records without consent when the disclosure is to the parents of a student at a postsecondary institution regarding the student's violation of any Federal, State, local law, or of any rule or policy of the institution, governing the use or possession of alcohol or a controlled substance. The school may non-consensually disclose information under this exception if the school determines that the student has committed a disciplinary violation with respect to that use or possession and the student is under 21 years of age at the time of the disclosure to the parent.

Another exception permits a school to non-consensually disclose personally identifiable information from a student's education records when such information has been appropriately designated as directory information. "Directory information" is defined as information contained in the education records of a student that would not generally be considered harmful or an invasion of privacy if disclosed. Directory information could include information such as the student's name, address, e-mail address, telephone number, photograph, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, the most recent previous educational agency or institution attended, grade level or year (such as freshman or junior), and enrollment status (undergraduate or graduate, full-time or part-time).

A school may disclose directory information without consent if it has given public notice of the types of information it has designated as directory information, the eligible student's right to restrict the disclosure of such information, and the period of time within which an eligible student has to notify the school that he or she does not want any or all of those types of information designated as directory information. Also, FERPA does not require a school to notify eligible students individually of the types of information it has designated as directory information. Rather, the school may provide this notice by any means that inform eligible students of the types of information it has designated as directory information.

There are several other exceptions to FERPA's prohibition against non-consensual disclosure of personally identifiable information from education records, some of which are briefly mentioned below. Under certain conditions (specified in the FERPA regulations), a school may non-consensually disclose personally identifiable information from education records:

- to authorized representatives of the Comptroller General of the United States, the Attorney General of the United States, the U.S. Secretary of Education, and State and local educational authorities for audit or evaluation of Federal or State supported

education programs, or for the enforcement of compliance with Federal legal requirements that relate those programs;

- to organizations conducting studies for or on behalf of the school making the disclosure for the purposes of administering predictive tests, administering student programs, or improving instruction;
- to comply with a judicial order or a lawfully issued subpoena;
- to the victim of an alleged perpetrator of a crime of violence or a non-forcible sex offense concerning the final results of a disciplinary proceeding with respect to the alleged crime; and
- to any third party the final results of a disciplinary proceeding related to a crime of violence or non-forcible sex offense if the student who is the alleged perpetrator is found to have violated the school's rules or policies. The disclosure of the final results only includes: the name of the alleged perpetrator, the violation committed, and any sanction imposed against the alleged perpetrator. The disclosure must not include the name of any

Law Enforcement Units and Law Enforcement Unit Records

A "law enforcement unit" means any individual office, department, division or other component of a school, such as a unit of commissioned officers or non-commissioned security guards, that is officially authorized or designated by the school to: enforce any local, State, or Federal law, or refer to appropriate authorities a matter for the enforcement of any law against any individual or organization; or to maintain the physical security and safety of the school. The law enforcement unit does not lose its status as a law enforcement unit if it also performs other, non-law enforcement functions for the school, including investigation of incidents or conduct that constitutes or leads to a disciplinary proceeding against a student.

"Law enforcement unit records" (i.e., records created by the law enforcement unit, created for a law enforcement purpose, and maintained by the law enforcement unit) are not "education records" subject to the privacy protections of FERPA. As such, the law enforcement unit may refuse to provide an eligible student with an opportunity to inspect and review law enforcement unit records, and it may disclose law enforcement unit records to third parties without the eligible student's prior written consent. However, education records, or personally identifiable information from education records, which a school shares with the law enforcement unit do not lose their protected status as education records because they are shared with the law enforcement unit.

Complaints of Alleged Failures to Comply with FERPA

FERPA vests the rights it affords in the eligible student. The statute does not provide for these rights to be vested in a third party who has not suffered an alleged violation of their rights under FERPA. Thus, we require that a student have "standing," i.e., have suffered an alleged violation of his or her rights under FERPA, in order to file a complaint.

The Office may investigate those timely complaints that contain specific allegations of fact giving reasonable cause to believe that a school has violated FERPA. A timely complaint is defined as one that is submitted to the Office within 180 days of the date that the complainant knew or reasonably should have known of the alleged violation of FERPA. Complaints that do not meet FERPA's threshold requirements for timeliness are not investigated.

If we receive a timely complaint that contains a specific allegation of fact giving reasonable cause to believe that a school has violated FERPA, we may initiate an administrative investigation into the allegation in accordance with procedures outlined in the FERPA regulations. If a determination is made that a school violated FERPA, the school and the complainant are so advised, and the school is informed of the steps it must take to come into compliance with the law. The investigation is closed when voluntary compliance is achieved.

Please note that the eligible student should state his or her allegations as clearly and specifically as possible. To aid us in efficiently processing allegations, we ask that an eligible student only include supporting documentation that is relevant to the allegations provided. Otherwise, we may return the documentation and request clarification. This Office does not have the resources

to review voluminous documents and materials to determine whether an allegation of a violation of FERPA is included. An eligible student may obtain a complaint form by calling (202) 260-3887. For administrative and privacy reasons, we do not discuss individual allegations and cases via email. Please mail completed complaint forms to the Office (address below) for review and any appropriate action.

Complaint Regarding Access

If an eligible student believes that a school failed to comply with his or her request for access to education records, the student may complete a FERPA complaint form and should include the following specific information: the date of the request for access to the education records; the name of the school official to whom the request was made (a dated copy of any written request to the school should be provided, if possible); the response of the school official, if any; and the specific nature of the information requested.

Complaint Regarding Amendment

If an eligible student believes that a school failed to comply with his or her request for amendment of inaccurate information in education records or failed to offer the student an opportunity for a hearing on the matter, the student may complete a FERPA complaint form and should include the following specific information: the date of the request for amendment of the education records; the name of the school official to whom the request was made (a dated copy of any written request to the school should be provided, if possible); the response of the school official, if any; the specific nature of the inaccurate information for which amendment was requested; and evidence provided to the school to support the assertion that such information is inaccurate.

Complaint Regarding Disclosure

If an eligible student believes that a school has improperly disclosed personally identifiable information from his or her education records to a third party, the student may complete a FERPA complaint form and should include the following specific information: the date or approximate date the alleged disclosure occurred or the date the student learned of the disclosure; the name of the school official who made the disclosure, if that is known; the third party to whom the disclosure was made; and the specific nature of the education records disclosed.

This guidance document is designed to provide students with some general information regarding FERPA and their rights, and to address

If, after reading this guidance document, you have questions regarding FERPA which are not addressed here, you may write to Office at the following address:

6 W X W 3 U L Y D F \ 3 R O L F \ Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-8520