

FERPA: What you Need to Know

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Roadmap

 Family Educational Rights and Privacy Act (FERPA)

Public Records Act (PRA)

Social Media as it relates to the PRA

Q & A Regarding FERPA





What is FERPA & What Does FERPA do?

- FERPA = Family Educational Rights and Privacy Act
- FERPA:
 - prevents the disclosure of a student's education records to third parties
 - Thereby protecting the privacy of a child's education records
 - gives parents/guardians the right to inspect their child's education records
- Applies to all schools receiving federal funding

What is an Education Record?

- Records that are directly related to a student and maintained by an educational agency or a party acting for or on behalf of the agency.
 - Records include, but are not limited to:
 - Grades
 - Transcripts
 - Class lists
 - Student course schedules
 - Health records
 - Student discipline files
- Records can be recorded in <u>any</u> format
 - 34 CFR § 99.2



Can All School Officials Access Education Records Without Consent?

- NO- Only school officials with "legitimate educational interests" in the information may access the information.
 - 34 CFR § 99.31(a)(1)
- "School Official" A teacher, school principal, president, chancellor, board member, trustee, registrar, counselor, admissions officer, attorney, accountant, human resources professional, information systems specialist, and support or clerical personnel
 - Can include contractors, consultants, volunteers, or other party to whom district has outsourced services

Who can Request to Inspect/Review under FERPA?

- Parents/guardians of students 18 or under
 - In the case of a divorced couple, both parents generally retain rights
- Eligible students (meaning rights transfer from parent/guardian to student)
 - Student who reaches age of 18; or
 - Students who attend a school beyond a high school level



What if...

- Student under 18 is enrolled at both a high school and a local college (i.e. running start program)?
 - Parents/guardians retain rights @ the high school;
 parents/guardians may inspect/review records sent by the college to the high school.
 - College may disclose personally identifiable information from the student's education records to the student's parents/guardians without consent <u>IF</u> student is a dependent for tax purposes.

How long do we have to keep student records?

- Washington State Records Retention Schedule for School Districts applies
- "Official Student Record" (high school and middle school/junior high transcripts, elementary enrollment hx. and grade progression, and records regarding successful request for changes to an official record) must be retained for 100 years after graduation or withdrawal
- Cumulative File must be retained for 3 years after graduation or withdrawal
- Student Discipline Files must be retained for 3 years after graduation or withdrawal



What Must Schools do Under FERPA?

- Notify parents and eligible students
 ANNUALLY of their rights under FERPA
 - Thus, schools must notify parents and eligible students by informing them in one or more of the following ways (school's discretion)
 - Special letters
 - PTA bulletins
 - Student Handbooks
 - Newspaper Article

What Rights do Parents and Eligible Students Possess?

- Right to inspect and review education records and the procedures to do so.
- Right to seek amendment to records believed to be inaccurate.
- Right to consent to disclosures of education records (other than disclosures lawfully made without consent).

Right to file a complaint concerning alleged violations.

34 CFR § 99.7



How to Respond to Requests under FERPA?

- Timing of response:
 - "Reasonable time" not to exceed 45 days.
- Duty to explain or interpret education

records?

- Yes, if requested.
- 34 CFR § 99.10(b)-(c)



Responding to Challenges of the Content of an Education Record

- Parents/eligible students have right to a hearing within a reasonable time if the information in an education record is challenged as inaccurate, misleading, or in violation of the privacy rights of the student
 - School must provide notice of date, time, & place of hearing in advance (reasonable time)
 - Parent/eligible student can have an attorney present at the hearing

What CAN a School Disclose Without Consent?

- "Directory Information"
 - Student's name, address, phone number, date
 & place of birth, honors & awards (not GPA),
 dates of attendance
 - -34 CFR § 99.3
- Limits
 - Schools must inform parents and students of directory information to allow parents/students to request non-disclosure of such information.



Disclosure Without Consent (cont.)

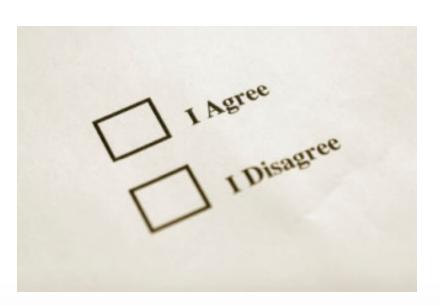
- FERPA allows schools to disclose the following records to the following parties without parental consent:
 - School officials with a legitimate educational interest
 - Schools to which a student is transferring
 - Specified officials for audit/evaluation purposes
 - Appropriate parties for financial aid purposes
 - Organizations conducting studies for/on behalf of the school
 - Accrediting organizations
 - Complying with a judicial order or lawfully issued subpoena
 - Appropriate officials in cases of health/safety emergencies
 - State/local authorities, within a juvenile justice system, pursuant to WA State law.



How to Obtain Consent to Disclose?

- Requirements
 - Signed and dated
 - Oral consent will NOT meet FERPA's requirements
 - Specificity as to the records to be disclosed
 - Purpose of disclosure
 - Identify party or entity to whom the disclosure may be made
- 34 CFR § 99.30





Can Schools Disclose Information Telephonically?

- FERPA does not prohibit telephonic disclosure
 - However, schools must employ reasonable efforts to identify and authenticate the identity of parents, students, school officials, or other parties to whom the information will go
- 34 CFR § 99.31(c).

What is Exempt From Disclosure?

- Education records which are kept in the sole possession of the maker of the records.
 - "Memory jogger" records

School official's notes regarding phone or face-to-





What About Law Enforcement Records?

- Records created by a law enforcement unit at an educational agency, created for a law enforcement purpose, and maintained by the law enforcement unit are NOT "education records" subject to FERPA's protections
 - Meaning these records CAN be disclosed without parental consent



What if...

 School receives a request for education records regarding one student, but the record displays information on one or more other students...

Answer:

 The requestor may inspect/review or be informed of ONLY the specific information regarding the student in question

What if...(cont.)

 Teacher witnesses a bullying incident and wants to call the victim's parents about what she observed and who she saw bullying the student...can the teacher do this under FERPA?

YES

 FERPA prohibits disclosure of information obtained through education records, NOT information obtained through observation or hearsay that is not specifically contained in an educational record.

FERPA Summary

- Ensure the protection of the privacy of a student's education records.
- Make sure that only school officials with LEGITIMATE EDUCATIONAL PURPOSE accessing records
- Notify parents/guardians + eligible students ANNUALLY of their rights under FERPA.
- Respond to requests in a reasonable time (not exceeding 45 days).
- Obtain <u>written</u> consent before disclosing.
- Remain mindful of the exceptions to the general non-disclosure without consent rule.

