



Family Educational Rights and Privacy Act (FERPA)

What is FERPA?

- ✚ Federal law that protects the privacy of student education records
- ✚ Applies to all schools that receive funds under any applicable program of the U.S. Department of Education



What is an Education Record?

- ✚ Records directly related to a student
- ✚ Maintained by an educational institution
- ✚ Include, but not limited to
 - Grades
 - Transcripts
 - Class lists
 - Student course schedules
 - Student financial information
 - Student discipline files
- ✚ Records may be recorded in any way, including but not limited to
 - Handwritten
 - Printed
 - Computer media
 - Videotape
 - Audiotape
 - Film
 - Microfilm or microfiche
 - Email

What obligations does my school have?

- ✚ Annual notification of the student (parent) rights under FERPA.
- ✚ 34 CFR 99.7
- ✚ The actual means of notification is left to the discretion of each school
- ✚ Allow student to inspect and review education records within 45 days of a request
- ✚ Allow amendments to education records believed to be inaccurate
- ✚ Allow students to deny the disclosure of personally identifiable information (PII)
- ✚ School officials need to understand their roles and responsibilities under FERPA
- ✚ Protect the information
- ✚ Uphold the student's right to privacy under FERPA



Do parents have any rights to information about their student?

- + Parents have certain rights with respect to their children's education records.
- + Those rights transfer to the student when he or she reaches the age of 18 OR attends a postsecondary educational institution
- + For example, a student who is 22 and living away from home is dependent for financial aid purposes, but is perhaps not being claimed by her parents.
- + You can disclose information if the student is a dependent student
- + If the student is claimed as a dependent by either parent for tax purposes, then either parent may have access to information (age of the student and custodial status of the parent do not matter)
 - It is not safe to assume that all students who are dependent for financial aid purposes are also dependent students for FERPA purposes.

The student's spouse has NO rights under FERPA.

- + You need written consent to release information to the student's spouse



What rights do students have?

- + Student has the right to inspect and review the student's education record maintained by the school.
 - School does not have to provide copies unless it is impossible for the student to review the records any other way.
 - School may charge a fee if copies have to be provided
- + Student can request that records be corrected if they believe them to be inaccurate or misleading.
 - Student has the right to a formal hearing if the school decides not to amend the record.
 - If the decision is still not amend, the student can place a statement in the record setting forth his/her view about the contested information
- + Student has the right to provide written consent before the school discloses personally identifiable information (PII)
- + Student has the right to file a complaint with the U.S. Department of Education concerning alleged failures by the school to comply with FERPA requirements



What is "Directory Information?"

- + School can disclose without consent
 - Name
 - Address
 - Phone number
 - Date and Place of Birth
 - Honors and awards
 - Dates of attendance

- ✦ Have to tell student about this information and allow her a reasonable amount of time to request that the school not disclose directory information about her



When is it OK to disclose Personally Identifiable Information without a release?-

- ✦ To other school officials
- ✦ To officials at another school where student seeks or intends to enroll
- ✦ To authorized representatives of various government offices (federal, state, or local authorities) in connection with an audit or evaluation or for enforcement of or compliance with requirements related to those programs
- ✦ To accrediting organizations
- ✦ To comply with judicial order or lawfully issued subpoena
- ✦ To appropriate officials in cases of health & safety emergencies
- ✦ To organizations conducting certain studies for or on behalf of the school
- ✦ To state and local authorities, within a juvenile justice system, pursuant to specific State law
- ✦ From the student's education records if the disclosure is in connection with the student's application for or receipt of financial aid.
 - To determine eligibility for aid
 - To determine the amount of aid
 - To determine the conditions of the aid
 - To enforce the terms and conditions of the aid
- ✦ FERPA permits a college or university to let parents of students under the age of 21 know when the student has violated any law or policy concerning the use or possession of alcohol or a controlled substance
- ✦ Law enforcement unit records can be disclosed to anyone without the consent of the student.
 - These records are exempt from the FERPA privacy restrictions
- ✦ You can share information based on your personal knowledge or observation as long as that information is not based on information contained in an education record.
 - You could not share details about a financial aid award
 - You could discuss behavior the student exhibited in your office



Authorization Forms

- ✦ Explanation of what the student is authorizing
- ✦ Student name, ID, address, phone number, date of birth
- ✦ Person(s) being authorized to have access to the student's education record
- ✦ Multiple people on one form
- ✦ Separate form for each person
- ✦ Specific form for the release of information to parent(s)
- ✦ Information to be released
 - All information?
 - Specific information?
 - Offer a list of record types?
 - Allow the student to specify record types?

- ✚ Time period authorization is effective
- ✚ Student signature
 - Does the signature have to be notarized?
- ✚ Name the college official or office that must receive the form
- ✚ Paper form or electronic form?
- ✚ Require a picture ID when the form is submitted?

Some language that might be used in Authorization Forms

- ✚ Consent for full access to educational records
- ✚ Consent for limited access to educational records
- ✚ Access to ALL my records
- ✚ Access to these specific records
- ✚ Valid for
 - One time use only
 - Limited use, with expiration date
 - As long as I am enrolled
- ✚ I am a student at XXXX. I hereby give my voluntary consent for XXXX officials to disclose the following education records . . .
- ✚ I understand that some of my records may be protected under the Family Educational Rights and Privacy Act of 1974 and cannot be released without my written consent. I hereby waive all provisions of the law and privilege relating to the records described in this disclosure. I certify that this consent has been given freely and voluntarily. I may revoke this consent at any time by providing written notice of such revocation to the University office or person who maintains the records of this authorization. This authorization is good for one year from the date I sign this release, unless noted differently above, and photocopies of this release form may be accepted, when presented in person with appropriate identification. The person and or agency receiving this information may not disclose the information received as a result of this disclosure unless specifically authorized in the “purpose” section of this release.

References:

FERPA Information is available at

<http://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html>

Dear Colleague Letter is available at

http://familypolicy.ed.gov/sites/fpco.ed.gov/files/DCL_Medical%20Records_Final%20Signed%208-23.pdf

Guidance and Model Notices are available at

<http://familypolicy.ed.gov/content/ferpa-school-officials-guidance-and-notices>

Model Notification of Rights under FERPA can be found at

<http://familypolicy.ed.gov/content/model-notifications-rights-under-ferpa-postsecondary-institutions>

FERPA Guidance for Reasonable Methods and Written Agreements

http://familypolicy.ed.gov/sites/fpco.ed.gov/files/reasonablemtd_agreement.pdf

*I am not a FERPA expert and this is not an exhaustive study of the subject
– Rose Mary Stelma 9/2016*