

## ***Family Educational Rights and Privacy Act (FERPA)***

Also known as the Buckley Amendment

Statute: 20 U.S.C. § 1232(g)

Regulations: 34 CFR Part 99

---

### **Primary Rights of Students under FERPA**

- Right to inspect and review education records
  - Right to seek to amend education records
  - Right to have some control over the disclosure of information from education records
- 

### ***Subpart A – General***

#### **• § 99.1 *To which educational agencies and institutions do these regulations apply?***

- FERPA applies to each educational agency and institution that receives funds under any program administered by the Secretary of Education.
  - “Educational institutions” means: schools or other entities that provide educational services and are attended by students.
  - “Educational agencies” means: entities that are authorized to direct and control public elementary or secondary, or postsecondary, institutions.
- 

#### **§ 99.3 *What definitions apply to these regulations? (Partial)***

- “Education records” are records which –
    - (1) contain information which is directly related to a student; and
    - (2) are maintained by an educational agency or institution or by a party acting for the agency or institution.
- 

#### **“Education records,” cont.**

- Exceptions to “education records” include –
    - Sole possession records.
    - Records created and maintained by a law enforcement unit for a law enforcement purpose.
    - Employment records (unless contingent on attendance).
    - Medical records made and maintained in the course of treatment and disclosed only to those individuals providing treatment.
    - Records that only contain information about a student after he or she is no longer a student at that institution (e.g., alumni records).
- 

#### **Definitions, cont.**

- “Personally identifiable information” includes, but is not limited to:
    - The student’s name.
    - Name of the student’s parent or other family members.
    - Address of the student or student’s family.
    - A personal identifier, such as a social security number or student number.
    - A list of personal characteristics or other information that would make the student’s identity easily traceable.
-

---

**Definitions, cont.**

- “Directory information” is –
    - Information not generally considered harmful or an invasion of privacy if disclosed.
    - Includes, but is not limited to:
      - name, address, telephone listing, electronic mail address
      - date and place of birth, photographs
      - participation in officially recognized activities and sports
      - field of study
      - weight and height of athletes
      - enrollment status (full-, part-time, undergraduate, graduate)
      - degrees & awards received
      - dates of attendance
      - most recent previous school attended
      - grade level
  - Directory information cannot include student identification numbers or social security numbers.
- 

**Definitions, cont.**

- “Record” means any information maintained in any way, including, but not limited to:
    - Handwriting
    - Video or audio tape
    - Computer media
    - Film
    - Print
    - Microfilm and microfiche
- 

**Definitions, cont.**

- “Student” means any individual:
    - who is or has been in attendance at an institution; and
    - regarding whom the institution maintains education records.
- 

**§ 99.7 What must an educational agency or institution include in its annual notification?**

- Institutions must annually notify students *in attendance* of their rights under FERPA, including:
    - Right to inspect and review education records;
    - Right to request amendment of education records;
    - Right to consent to disclosures, with certain exceptions;
    - Right to file a complaint with U.S. Department of Education
- 

**Annual notification, cont.**

- The annual notification must also include the following:
    - Procedure to inspect and review education records;
    - A statement that education records may be disclosed to school officials without prior written consent, including:
      - Specification of criteria for determining who are school officials and
      - What constitutes a legitimate educational interest.
-

---

**Annual notification, cont.**

- FERPA does not specify the means of notification, other than by any means reasonably likely to inform the students. Examples include:
    - Student handbook
    - School newspaper or catalog
    - Local newspaper
    - Inclusion in student's registration packet
- 

**Subpart B – Inspection and Review of Education Records**

- § 99.10 *What rights exist for a student to inspect and review education records?*
    - School must comply with request within 45 days.
    - Generally required to give copies only if failure to do so would effectively deny access – example would be a student or former student who does not live within commuting distance.
    - School may *not* destroy records if request for access is pending.
- 

**Inspection and Review, cont.**

- § 99.11 *May an educational agency or institution charge a fee for copies of education records?*
    - Yes – unless imposing a fee effectively prevents a student from exercising his or her right to inspect and review education records.
- 

**Inspection and Review, cont.**

- § 99.12 *What limitations exist on the right to inspect and review education records?*
    - If the records contain information on more than one student, the requesting student may inspect, review, or be informed of only the specific information about his or her records.
    - An institution does not have to permit a student to inspect and review education records that are –
      - Confidential letters and statements of recommendation – regarding admission, application for employment, or receipt of an honor or honorary recognition – if the student has waived his or her right to inspect and review those letters and statements.
      - Financial records of his or her parents.
- 

**Subpart C – What are the Procedures for Amending Education Records**

- § 99.20, § 99.21, § 99.22
    - Once a student identifies a record he or she believes to contain inaccurate or misleading information:
      - Institution must decide within reasonable period of time whether to amend as requested.
      - If institution decides not to amend, must inform student of right to a hearing.
      - After hearing, if decision is still not to amend, student has a right to insert a statement in the record.
- 

**Subpart D – Disclosure of Personally Identifiable Information From Education Records by an Educational Agency or Institution**

- § 99.30 *Under what conditions is prior consent required to disclose information?*
    - Except for specific exceptions, a student shall provide a signed and dated written consent before a school may disclose education records. The consent must:
      - Specify records that may be disclosed;
      - State purpose of disclosure; and
      - Identify party or class of parties to whom disclosure may be made.
-

---

***Disclosure provisions, cont.***

- **§ 99.31 *Under what conditions is prior consent not required to disclose information?***
    - The exceptions which relate to postsecondary institutions are:
      - To school officials with legitimate educational interests (defined in annual notification)
      - To schools in which a student seeks or intends to enroll
      - To Federal, State, and local authorities conducting an audit, evaluation, or enforcement of education programs
      - In connection with financial aid
- 

***Disclosure provisions, cont.***

- **Exceptions, cont.**
    - To organizations conducting studies on behalf of educational institutions
    - To accrediting organizations
    - To parents of a dependent student
    - To comply with a judicial order or subpoena (reasonable effort to notify)
    - In a health or safety emergency
    - Directory information
    - To the student
- 

***Disclosure provisions, cont.***

- **Exceptions, cont.**
    - Results of a disciplinary hearing to an alleged victim of a crime of violence
    - Final results of a disciplinary hearing concerning a student who is an alleged perpetrator of a crime of violence and who is found to have committed a violation of the institution's rules or policies
    - Disclosure to parent of student under 21 if the institution determines that the student has committed a violation of its drug or alcohol rules or policies
- 

***Recordkeeping***

- **§ 99.32 *What recordkeeping requirements exist concerning requests and disclosures?***
  - An institution must maintain a record of each request for access to and each disclosure from an education record. This record of access must:
    - Be maintained as long as record is maintained;
    - Include the parties who have requested or received information from education records; and
    - Include the legitimate interest parties had in receiving information.
- 

***Recordkeeping, cont.***

- The recordkeeping requirement does not apply if the request was from, or the disclosure was made to:
    - The student
    - A properly designated school official for a legitimate educational purpose
    - A party with written consent from the student
    - A party seeking directory information
    - A party with a law enforcement subpoena or court order which specifies that the existence or contents of the subpoena or court order not be disclosed
-

---

### ***Redisdisclosure***

- **§ 99.33** *What limitations apply to the redisclosure of information?*
    - When disclosing information from education records to one of the parties listed under § 99.31, an institution should inform the receiving party that the information may not be further disclosed, except when:
      - The disclosure is to the eligible student
      - The receiving party discloses information on behalf of the educational agency or institution under § 99.31
      - The information disclosed is directory information
- 

### ***Redisdisclosure, cont.***

- The disclosure was made pursuant to a court order, subpoena, or in connection with litigation between the institution and student
  - The disclosure is to the parents of a dependent student
  - The disclosure is the final results of a disciplinary hearing concerning a student who is an alleged perpetrator of a crime of violence and who is found to have committed a violation of the institution's rules or policies
- 

### ***Directory Information***

- **§ 99.37** *What conditions apply to disclosing directory information?*
  - An institution may disclose directory information if it has given public notice to students in attendance of:
    - What items the institution has designated as directory information.
    - A student's right to refuse to let the institution designate any or all of the information as directory information.
    - The time within which a student must notify the school in writing that he or she does not want any or all of the information designated as directory information.
- 

### ***Directory Information, cont.***

- FERPA does not define "public notice" – left to the individual school to decide.
  - Means of notice could include:
    - Student handbooks or catalog
    - School or local newspaper
    - Student's registration packet
  - School may choose to include notice regarding directory information with the annual notification required by § 99.7.
  - Notice to former students is not necessary.
- 

### ***Subpart E – What are the Enforcement Provisions?***

- **§§ 99.60-99.67**
    - The Family Policy Compliance Office is authorized by the Secretary of Education to investigate, process, and review complaints and violations under FERPA.
    - Students may file complaints with the U.S. Department of Education.
-

---

For technical assistance and advice to school officials:

Family Policy Compliance Office  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202-5920

Phone: (202) 260-3887  
Fax: (202) 260-9001



---

For *informal* requests for technical assistance,  
e-mail us at:



FERPA@ed.gov

---

#### FPCO ListServ

- Postsecondary officials:
- <http://www.ed.gov/policy/gen/guid/fpco/tps/ps/fpcopssignup.html> to <http://www.ed.gov/policy/gen/guid/fpco/tps/ps/index.html>
- *Type the word "privacy" in both the password and user ID text boxes.*
- *Announcement only ListServ*



---

Visit our web site:

[www.ed.gov/offices/OII/fpco](http://www.ed.gov/offices/OII/fpco)  
or  
<http://www.ed.gov/policy/gen/guid/fpco/index.html>

