

Family Educational Rights and Privacy Act (FERPA)

Appendix C

The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. §1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education.

FERPA gives parents certain rights with respect to their children's education records. These rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level. Students to whom the rights have transferred are "eligible students."

- Parents or eligible students have the right to inspect and review the student's education records maintained by the school. Schools are not required to provide copies of records unless, for reasons such as great distance, it is impossible for parents or eligible students to review the records. Schools may charge a fee for copies.
- Parents or eligible students have the right to request that a school correct records which they believe to be inaccurate or misleading. If the school decides not to amend the record, the parent or eligible student then has the right to a formal hearing. After the hearing, if the school still decides not to amend the record, the parent or eligible student has the right to place a statement with the record setting forth his or her view about the contested information.
- Generally, schools must have written permission from the parent or eligible student in order to release any information from the student's education record. However, FERPA allows schools to disclose those records, without consent, to the following parties or under the following conditions (34 CFR § 99.31):

- School officials with legitimate educational interest;
- Other schools to which a student is transferring;
- Specified officials for audit or evaluation purposes;
- Appropriate parties in connection with financial aid to a student;
- Organizations conducting certain studies for or on behalf of the school;
- Accrediting organizations;
- To comply with a judicial order or lawfully issued subpoena;
- Appropriate officials in cases of health and safety emergencies; and
- State and local authorities, within a juvenile justice system, pursuant to specific State Law.

Schools may disclose, without consent, "directory" information such as a student's name, address, telephone number, date and place of birth, honors and awards, and dates of attendance. However, schools must tell parents and eligible students about directory information and allow parents and eligible students a reasonable amount of time to request that the school not disclose directory information about them. Schools must notify parents and eligible students annually of their rights under FERPA. The actual means of notification (special letter, inclusion in PTA bulleting, students handbook or newspaper article) is left to the discretion of each school.

For additional information, you may call 1-800-USA-LEARN (1-800-872-5327) (voice). Individuals who use TDD may call 1-800-437-0833.

Privacy of Student Information (FERPA Rules)

The Family Educational Rights and Privacy Act (FERPA) sets limits on the disclosure of personally identifiable information from school records, and defines the rights of the student to review the records and request a change to the records.

With exceptions such as those noted in this section, FERPA generally gives postsecondary students the right

- To review their educational records,
- To see to amend inaccurate information in their records, and
- To provide consent for the disclosure of their records

These rules apply to all education records the school keeps, including admissions records (only if the student was admitted) and academic records as well as any financial aid records pertaining to the student. Therefore, the financial aid office is not usually the office that develops the school's FERPA policy or the notification to students and parents, although it may have some input.

Student's and parents' rights to review educational records

A school must provide a student with an opportunity to review his or her education records within 45 days of receipt of request. A school is required to provide the student with copies of education records or make other arrangements to provide the student access to the records, if a failure to do so would effectively prevent the student from obtaining access to the records. While the school may not charge a fee for retrieving the records, it may charge a reasonable fee for providing copies of the records, provided that the fee would not prevent access to student records.

While the rights under FERPA have transferred from a student's parents to the student when the student attends a postsecondary institution, FERPA does permit a school to disclose a student's education records to his or her parents if the student is a dependent student under IRS laws.

Note that the IRS definition of a dependent is quite different from that of a dependent student for FSA purposes. For IRS purposes, students are dependent if they are listed as dependents on their parent's income tax returns. (If the student is a dependent as defined by the IRS, disclosure may be made to either parent, regardless of which parents claims the student as a dependent.)

Prior written consent to disclose the student's records

Except under one of the special conditions described in this section, a student must provide written consent before an education agency or school may disclose personally identifiable information from the student's education records. The written consent must –

- State the purpose of the disclosure
- Specify the records that may be disclosed
- Identify the party or class of parties to whom the disclosure may be made, and
- Be signed and dated.

If the consent is given electronically, the consent form must –

- Identify and authenticate a particular person as the source of the electronic consent, and
- Indicate that person's approval of the information contained in the electronic consent.

The FERPA regulations include a list of exceptions where the school may disclose personally identifiable information from the student's file without prior written consent. Several of these allowable disclosures are of particular interest to the financial aid office, since they are likely to involve the release of financial aid records.

Disclosures to school officials

Some of these disclosures may be made to officials at your school or another school who have a legitimate interest in the student's records. Typically, these might be admission records, grades or financial aid records. Disclosure may be made to:

- Other school officials, including teachers, within the school whom the school has determined to have legitimate educational interests;
- To officials of another postsecondary school or school system, where the student receives services or seeks to enroll.

If your school routinely discloses information to other schools where the student seeks to enroll, it should include this information in its annual privacy notification to students. If this information is not in the annual notice, the school must make a reasonable attempt to notify the student at the student's last known address.

Disclosures to government agencies

Disclosure may be made to authorized representatives of the U.S. Department of Education for audit, evaluation, and enforcement purposes. "Authorized representatives" include employees of the Department – such as employees of the Office of Federal Student Aid, the Office of Postsecondary Education, the Office for Civil Rights, and the National Center for Education Statistics – as well as firms that are under contract to the Department to perform certain administrative functions or studies. In addition –

- Disclosures may be made if it is in connection with financial aid that the student has received or applied for. Such a disclosure may only be made if the student information is needed to determine the amount of the aid, the conditions for the aid, and the student's eligibility for the aid or to enforce the terms or conditions of the aid.
- A school may release personally identifiable information on an F, J, or M nonimmigrant student to U.S. Immigration and Customs Enforcement (formerly the Immigration and Naturalization Service) in compliance with the Student Exchange Visitor Information System (SEVIS) program without violating FERPA.

Disclosures in response to subpoenas or court orders

FERPA permits schools to disclose education records, without the student's consent, in order to comply with a lawfully issued subpoena or court order.

In most cases, the school must make a reasonable effort to notify the student who is the subject of the subpoena or court order before complying, so that the student may seek protective action. However, the school does not have to notify the student if the court or issuing agency has prohibited such disclosure.

A school may also disclose information from education records, without the consent or knowledge of the student, to representatives of the U.S. Department of Justice in response to an *ex parte* order issued in connection with the investigation of crimes of terrorism.

Documenting the disclosure of information

Except as noted below, the school must keep a record of each request for access and each disclosure of personally identifiable student information. The record must identify the parties who requested the information and their legitimate interest in the information. This record must be maintained in the student's file as long as the educational records themselves are kept.

A school is required to-

- ✓ Annually notify students of their rights under FERPA;
- ✓ Include in that notification the procedure for exercising their rights to inspect and review education records and
- ✓ Maintain a record in a student's file listing to whom personally identifiable information was disclosed and the legitimate interests the parties had in obtaining the information (does not apply to school officials with a legitimate interest or to directory information).

A student has the right to-

- ✓ Inspect and review any education records pertaining to the student;
- ✓ Request an amendment to his/her records; and
- ✓ Request a hearing (if the request for an amendment is denied) to challenge the contents of the education records, on the grounds that the records are inaccurate, misleading or violate the rights of the student.

STUDENTS' RIGHT TO PRIVACY:

Each student (or parent/guardian of a minor student) has the right to inspect his or her records. ICA protects each student's right to privacy. Any information pertaining to a student may not be released without a written release statement from the student or from the parent/guardian of a minor student. Directory type information will not be published without the written consent of the student or the parent/guardian of a minor student. Exceptions to the written release would be matters related to accreditation, authorized administrative and instructional staff, subpoenaed information, and any other agency that has regulatory authority over the school.

FERPA:

ICA provides the students with information regarding the Family Educational Rights and Privacy Act of 1974(FERPA). Please refer to **Appendix C.**

Authorization Form – Release of Information

I understand that I have the right to gain access to my records according to the school's Access to Files Policy by making an appointment with the Academic Director or Financial Aid Administrator.

I also understand that I have the right to authorize certain individuals, organizations, or class of parties (such as potential employers) to gain access to certain information in my student file. I also understand that I have the right to rescind the authorization in writing at any time.

I hereby authorize _____ to
have access to the following information.

Signature

Date

Note: This form is to be used each time the school wants or has a need to release information from the student file to a third party unless a specific group has been identified.

The student needs to fill this out for each third party that is requesting this information.

This form is not necessary for releasing information from the student's file to the student or student's parent if the student is a dependent student under IRS laws. This also will apply with accrediting agencies or subpoenas.