

Federal Student Privacy Protections: What Is FERPA and Who Does It Protect?



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July 2015

How Does Federal Law Protect My Child's Privacy?

There are three primary federal laws that address the privacy of students and children. The **Children's Online Privacy Protection Act (COPPA)** regulates the online collection of personal information from children under the age of thirteen. COPPA applies to operators of commercial websites and online services directed to children younger than thirteen years and operators of general audience websites that knowingly collect personal information from children. The Federal Trade Commission regulates COPPA.

The **Children's Internet Protection Act (CIPA)** prevents children's access to obscene or harmful content over the internet. The law, regulated by the Federal Communications Commission (FCC), places requirements on schools or libraries that receive discounts for internet access or internal connections through the Schools and Libraries Program of the Universal Service Fund, commonly called E-rate. The federally funded E-rate program makes certain communications services and products more affordable for qualifying schools and libraries.

The **Family Educational Rights and Privacy Act (FERPA)** protects the privacy of student education records and provides parental access to them. The remainder of this document focuses on FERPA, which the U.S. Department of Education (ED) regulates.

What Is FERPA?

FERPA protects student privacy generally by prohibiting the improper disclosure of personally identifiable information (PII) derived from education records. PII refers to data that can identify an individual student, such as the student's name, name(s) of the student's parent(s) or other immediate family

members, the student's or family's home address, a personal identifier such as a social security number or student identification number, and personal characteristics or other information that would make the student's identity easily traceable.

Additionally, FERPA gives parents, legal guardians, and eligible students (students eighteen years or older attending school beyond high school) access to review an education record. FERPA broadly defines the term "education records" as those records that are (1) directly related to a student and (2) maintained by an educational agency (such as a school district) or institution or by a party acting for the agency or institution.¹ Any school that receives federal funds from ED must comply with FERPA.

What Does FERPA Mandate?

Any school required to comply with FERPA must provide privacy protection for the records it maintains. There are no requirements on what types of information a school *must* collect and a school can destroy an education record without a student's or parent's permission, unless a parent has an outstanding request to review it.

FERPA allows a parent, legal guardian, or eligible student to ask for an amendment to a student education record if he or she believes it contains inaccurate or misleading factual information. FERPA does not require schools to make the amendment, but they must consider the request. If the school denies the request, the student or parent can request a hearing from the educational agency or institution that governs the school, such as the local school district.² If the hearing does not change the outcome of the original decision, then the student or parent can insert a statement in the record challenging the information. Under FERPA, parents and students may challenge only *factual* information and not grades, opinions, or a substantial school decision such as an expulsion.

When Can a School Disclose an Education Record?

Under FERPA, a school may not sell personally identifying data from a student's education record to any party. A school also may not disclose a student's education record to a third party, including private vendors and businesses, without written permission unless that third party qualifies as an allowable exception. One exception is a school official with legitimate educational interest. Although FERPA does not clearly define who qualifies as a "school official," ED "generally interprets the term to include parties such as a teacher; administrator; board member; support or clerical staff; attorney; nurse and health staff; counselor; human resources staff; information systems specialist; school security personnel; and a contractor, consultant, volunteer or other party to whom the school has outsourced institutional services or functions."³

Additional exceptions include

- a school to which a student is transferring;
- specified officials conducting a school audit or evaluation;
- appropriate parties connected to a student's financial aid;
- organizations conducting certain studies for or on behalf of the school;
- accrediting organizations;
- requests to comply with a judicial order or lawfully issued subpoena;
- health and safety officials; and
- state and local authorities within a juvenile justice system.

Schools also may disclose directory information without written permission if the school has publicly specified the types of information it considers directory information. Directory information generally includes a student's name, address, email address,

telephone number, and specific information related to sports, such as weight and height. Parents of students eighteen years and older also may obtain student records without the student's written permission if the student qualifies as a "dependent student" under Section 152 of the Internal Revenue Code.

What Can Parents Do If They Believe Their Rights Have Been Violated?⁴

If parents believe a school has violated FERPA, they can file a complaint with ED's Family Policy Compliance Office (FPCO). Complaints can include failing to provide access to records after a parental request, failing to provide a parent with an opportunity to amend or correct inaccurate or misleading information, and improperly disclosing personally identifying information protected under FERPA. Parents should file any complaints within 180 days of the alleged incident to be considered timely. Parents can obtain [complaint forms](#) by calling 202-260-3887. FPCO does not address individual complaints through email. Instead, parents must mail completed complaint forms to the following address:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-8520

Additional Information and Legal Disclaimer

The information contained in this document does not constitute legal advice and does not contain all the information, requirements, and exceptions of FERPA. For additional information, visit the U.S. Department of Education's parents' guide at <http://www2.ed.gov/policy/gen/guid/fpco/brochures/parents.html> or contact 1-800-USA-LEARN.

Endnotes

¹ Family Educational Rights and Privacy Act, 34 CFR § 99.3, "Education records."

² ———, 20 U.S.C. § 1232(g)(a)(2), "Family educational and privacy rights."

³ U.S. Department of Education, "Parents' Guide to the *Family Educational Rights and Privacy Act: Rights Regarding Children's Education Records*," <http://www2.ed.gov/policy/gen/guid/fpco/brochures/parents.html> (accessed February 20, 2015).

⁴ Ibid.

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