

School officials are regularly asked to balance the interests of safety and privacy for individual students. While the *Family Educational Rights and Privacy Act (FERPA)* generally requires schools to ask for written consent before disclosing a student's personally identifiable information to individuals other than his or her parents, it also allows schools to take key steps to maintain school safety. Understanding the law empowers school officials to act decisively and quickly when issues arise.

Health or Safety Emergency

In an emergency, *FERPA* permits school officials to disclose, without consent, education records, including personally identifiable information from those records, to protect the health or safety of students or other individuals. At such times, records and information may be released to appropriate parties such as law enforcement officials, public health officials, and trained medical personnel. See 34 CFR § 99.31(a)(10) and § 99.36. This exception is limited to the period of the emergency and generally does not allow for a blanket release of personally identifiable information from a student's education records.

Law Enforcement Unit Records

Many school districts employ security staff to monitor safety and security in and around schools. Some schools employ off-duty police officers as school security officers, while others designate a particular school official to be responsible for referring potential or alleged violations of law to local police authorities. Under *FERPA*, investigative reports and other records created and maintained by these "law enforcement units" are not considered "education records" subject to *FERPA*. Accordingly, schools may disclose information from law enforcement unit records to anyone, including outside law enforcement authorities, without parental consent. See 34 CFR § 99.8.

While a school has flexibility in deciding how to carry out safety functions, it must also indicate to parents in its school policy or information provided to parents which office or school official serves as the school's "law enforcement unit." (The school's notification to parents of their rights under *FERPA* can include this designation. As an example, the U.S. Department of Education has posted a model notification on the Web at: <http://www.ed.gov/policy/gen/guid/fpco/ferpa/lea-officials.html>.)

Law enforcement unit officials who are employed by the school should be designated in its *FERPA* notification as "school officials" with a "legitimate educational interest." As such, they may be given access to personally identifiable information from students' education records. The school's law enforcement unit officials must protect the privacy of education records it receives and may disclose them only in compliance with *FERPA*. For that reason, it is advisable that law enforcement unit records be maintained separately from education records.

Security Videos

Schools are increasingly using security cameras as a tool to monitor and improve student safety. Images of students captured on security videotapes that are maintained by the school's law enforcement unit are not considered education records under *FERPA*. Accordingly, these videotapes may be shared with parents of students whose images are on the video and with outside law enforcement authorities, as appropriate. Schools that do not have a designated law enforcement unit might consider designating an employee to serve as the "law enforcement unit" in order to maintain the security camera and determine the appropriate circumstances in which the school would disclose recorded images.

Personal Knowledge or Observation

FERPA does not prohibit a school official from disclosing information about a student if the information is obtained through the school official's personal knowledge or observation, and not from the student's education records. For example, if a teacher overhears a student making threatening remarks to other students, *FERPA* does not protect that information, and the teacher may disclose what he or she overheard to appropriate authorities.

Transfer of Education Records

Finally, under *FERPA*, school officials may disclose any and all education records, including disciplinary records and records that were created as a result of a student receiving special education services under Part B of the *Individuals with Disabilities Education Act*, to another school or postsecondary institution at which the student seeks or intends to enroll. While parental consent is not required for transferring education records, the school's annual *FERPA* notification should indicate that such disclosures are made. In the absence of information about disclosures in the annual *FERPA* notification, school officials must make a reasonable attempt to notify the parent about the disclosure, unless the parent initiated the disclosure. Additionally, upon request, schools must provide a copy of the information disclosed and an opportunity for a hearing. See 34 CFR § 99.31(a)(2) and § 99.34(a).



Contact Information

While the education agency or institution has the responsibility to make the initial, case-by-case determination of whether a disclosure is necessary to protect the health or safety of students or other individuals, U.S. Department of Education staff members are available to offer assistance in making this determination. For further information about *FERPA*, contact the Department's Family Policy Compliance Office.

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Ave. S.W.
Washington, D.C. 20202-5920
202-260-3887

For quick, informal responses to routine questions about *FERPA*, school officials may also e-mail the Family Policy Compliance Office at FERPA@ED.Gov.

For inquiries about *FERPA* compliance training, e-mail FERPA.Client@ED.Gov.

Additional information and guidance may be found at FPCO's Web site at: <http://www.ed.gov/policy/gen/guid/fpc/index.html>.



Balancing Student Privacy and School Safety: A Guide to the *Family Educational Rights and Privacy Act* for Elementary and Secondary Schools

