

ADDENDUM J - THE FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT AND INSTITUTIONAL POLICY

EFFECTIVE: January 3, 2017

Family Policy Compliance Office (FPCO) Home

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 to the students and parents or guardians of dependent minors. The student has the right to file complaints with the US Department of Education 1-214-661-9490.

Student and parent or guardians of a dependent minor 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.

Student and parent or guardians of a dependent minor 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 guardians of dependent minors 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.

Recordkeeping

Source: Federal Student Aid Handbook, Volume II, 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 education records,
- to seek 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 the receipt of a 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 parent 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 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 admissions 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

Disclosures may be made to authorized representatives of the U.S. Department of Education for audit, evaluation, an enforcement purposes. “Authorized representatives” includes 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 –

Disclosure 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, 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 (formally 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

A school may release PII on 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.

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, a 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.

FERPA Responsibilities and Student Rights

A school is required to:

- Annually notify students of their rights under FERPA;
- Pat Goins Benton Road Beauty School provides students annual notification of students rights under FERPA October 1 of each year.
- 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 who 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 educational interest or to directory information).

Student has the right to:

- Inspect and review any education records pertaining to the student annually;
- 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.

Rights under FERPA

The Family Educational Rights and Privacy Act (FERPA) afford students certain rights with respect to their education records. These rights include;

- The right to inspect and review the student's education records within 45 days of the days the school receives a request for access.
- A student should submit to the president, or other appropriate official, a written request that identifies the record(s) the student wishes to inspect. The school official will make arrangements for access and notify the student of the time and place where the records may be inspected. If the records are not maintained by the school official to whom the request was submitted, that official shall advise the student of the correct person to whom the request should be addressed.
- The right to request the amendment of the student's education records that the student believes is inaccurate, misleading, or otherwise in violation of the student's privacy rights under FERPA.
- A student who wishes to ask the institution to amend a record should write the institution official responsible for the record, clearly identify the part of the record the student wants changed, and specify why it should be changed.

If the institution decides not to amend the record as requested, the institution will notify the student in writing of the decision and the student's right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the student when notified of the right to a hearing.

[Note: In addition, a school may want to include its directory information public notice, as required by Sec. 99.37 of the regulations, with its annual notification of rights under FERPA.]

HEALTH AND SAFETY EXEMPTION REQUIREMENT 34 CFR 99.31(a)(10) & 34 CFR 99.36

A health and safety exception permits the disclosure of personally identifiable information from a student's record in case of an immediate threat to the health or safety of students or other individuals. The school only discloses personally identifiable information from an education record to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals.