

Student Records and the Law

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What law governs student records?

- The Family Educational Rights and Privacy Act (FERPA) is a federal law and is the main law governing student records. Virtually all questions relating to student records can be answered by reading FERPA.
- The Individuals with Disabilities Education Act (IDEA) is the federal special education law and expands upon FERPA in the area of special education records.
- The Iowa public records law covers student records, but refers back to the federal law.

In conclusion, the first reference point for issues dealing with student records should always be FERPA. If the question is not answered in FERPA, it's probably best to contact an expert in student records law.

What is a student record?

The term "student record" is not defined in FERPA, but "educational record" is. An educational record is defined as one that is directly related to the student and maintained by an educational agency. A "record" is defined as information recorded in any way including, but not limited to, handwriting, computer media, audio or visual tape, film, microfilm or microfiche.

What restrictions are placed on school districts for releasing student records?

School districts must allow parents access to their child's records. School districts must comply with a parent's request to view or copy their child's records within 45 days of the request. School districts may charge minimal fees for copying student records, referring to the school district's policy on copying of records.

School districts cannot release student records without parental consent except to certain individuals or entities listed below or unless the information is considered directory information.

School districts can release student records to representatives of juvenile justice agencies under certain conditions. They can only release information if it is to be used to serve, prior to adjudication, the student whose records are being released. They must have an agreement with the juvenile justice agencies. For purposes of FERPA, juvenile justice agencies must be governmental entities. A sample agreement is attached.

Who are the certain individuals or entities that can access student records without parental consent?

School districts can release information contained in student records to:

- School officials, including teachers, whom the school district has determined to have a legitimate educational interest;
- Officials of another school system in which the student wishes to enroll;
- Certain authorized officials - U.S. Department of Education, Iowa Department of Education, etc.
- Officials determining eligibility for financial aid for which the student has applied;
- Educational research organizations if specific criteria are met;
- Accrediting organizations;
- Parents of an eligible student if the student is still a dependent for tax purposes;
- Officials subpoenaing the records; and
- Officials in connection with a health or safety emergency.
- Juvenile justice agencies with which the school district has an official agreement.

Who is an "eligible student"?

An eligible student is one who is either age 18 or attending a post-secondary institution. Eligible students have the right to access their records without parental consent. For purposes of FERPA, enrollment in a class or classes pursuant to the post-secondary enrollment options act while the student is still enrolled in high school does not qualify the student as an eligible student. Even though a student is 18, a parent still has the right to access the student's records if the student is considered a dependent for tax purposes.

What is directory information?

Directory information is the information that school districts consider to be the "public record" of the student, and it is not generally considered harmful if the information is released. Directory information can be released at any time without parental consent provided the school district followed the law and gave the proper notices. School districts determine what they consider to be directory information. Annually, school districts must inform parents what will be considered directory information for the school. Parents must notify the school district if they do not want the school district to release directory information on their child. Information that can be considered directory information is:

Name, address, phone number, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, e-mail address, most recent educational institution attended and photograph.

School districts can add to or subtract from this list as they see fit.

How are non-custodial parents treated in the law?

Non-custodial parents have the same rights as custodial parents. However, school districts generally only maintain regular contact with the custodial parent unless asked to do otherwise. If a non-custodial parent asks for all information received by the custodial parent, school districts must comply with this request. This may entail notifying teachers and sponsors of the non-custodial parent's request for information as well.

The only time school districts can deny student record access to non-custodial parents is when a court order denying access, such as terminating parental rights, has been added to the student's file.

Does a school district need parental consent to release records to a new school district?

No. School districts receiving requests from a new school district do not have to obtain parental consent to transfer copies of the records to the new school district. The sending school district, however, does have to notify the parent of the new school district's request at the last known address of the parent, give them copies of the records transferred, if requested, and offer them an opportunity to request a hearing on the records unless there is a general notice in the annual student records notice. School districts should never send original records with parents. The original records should be forwarded to the new school district.

What type of annual notice does a school district need to give?

The annual notice recommended by the U.S. Department of Education, which includes all of the legal requirements.

Can parents amend their child's records?

Parents have the right to ask that their child's records be amended if they believe that the records are inaccurate, misleading or in violation of the student's privacy rights. It is up to the school district to determine whether to amend the records. The parents have a right to a hearing and a decision by the school district. If the school district disagrees with the parents and does not amend the student's records, the parents may place a statement in the records stating why the parent disagrees with the school district's information.

What records do school districts need to keep when individuals access student records?

Except for parents, appropriate school employees, release of directory information, in compliance with a subpoena, and individuals with parental consent, school districts must maintain a log of individuals accessing the records, the date of access and the purpose of the access.

Family Policy Compliance Office - <http://www.ed.gov/policy/gen/guid/fpco/index.html>

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