

**FERPA 101: The Short Version**  
**AACRAO - Chicago**

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# **FERPA Basics**

**Family Educational Rights and Privacy Act  
of 1974, as amended**

## **Applicable State Laws**

- Relationship between State Open Records Laws and FERPA.

# FERPA Basics

## Background

- Passed in 1974; amended several times since then. Major amendments in 2008.
- Designed to protect the privacy of education records and to provide information to parents (primary/secondary education) or to students (higher education).
- Intended that students' rights be broadly defined and exceptions narrowly construed.
- There is some institutional flexibility.
- Few legal cases - issue is typically access, not improper disclosure.

# FERPA Basics

## Definitions:

- “Directory Information” - information not considered harmful or an invasion of privacy if disclosed.
- “Education Records” - anything related to the student (broadly defined) with exceptions (narrowly defined):
  - Records in the sole possession of the maker.
  - Law enforcement records.
  - Employment records.
  - Medical/psychological treatment records.
  - Alumni records.

# FERPA Basics

## Definitions (cont.):

- “Parent” - either parent.
- “Eligible Student” -
  - 18 years of age or enrolled in higher education.
  - Must be enrolled.
  - Applies only to that segment of the institution in which the student is enrolled.

# **FERPA Basics**

## **Five basic rights of students under the Act:**

- Inspection and review of their records.
- Amend an incorrect record.
- Consent to disclosure (with exceptions).
- File a complaint with DOE.
- Obtain a copy of the institution's policy.

# FERPA Basics

## Inspection and review

- Can review everything, except:
  - Information about other students.
  - Financial records of parents.
  - Confidential letters of recommendation with access right waived (after 1/1/75).
  - Cannot destroy records once requested.
  - Can charge a reasonable fee.

# FERPA Basics

## Amending the record.

- Reasonable procedures outlined in the Act.

## Right to consent to disclosure.

- Must have a signed release. Note: use of e-signatures.
- When is prior consent not required? (may release, but not required)
  - Legitimate educational interest - “need to know.”
  - Disclosure to another institution where student seeks to enroll or is enrolled.

# FERPA Basics

- **When is prior consent not required? (cont.)**
  - Disclosure to DOE, state/local education authorities.
  - Disclosure in connection with the receipt of financial aid.
  - Disclosure to state/local officials in conjunction with legislative requirements.
  - Disclosure to organizations conducting studies to improve instruction, etc.
  - Disclosure to accrediting organizations.

# FERPA Basics

- **When is prior consent not required? (cont.)**
  - Disclosure to parents of dependent students.
  - To comply with a judicial order or lawfully issued subpoena.
  - Disclosure for health/safety emergency.
  - Disclosure of directory information – note “N” release requirement.
  - Disclosure to the alleged victim, information from disciplinary proceedings .

# **FERPA Basics**

- **When is prior consent not required? (cont.)**
  - Disclosure to parents of any student under the age of 21, a violation of Federal, State, local or institutional laws/regulations related to substance abuse.

**FERPA rights (and the right to privacy)  
end at death.**

**Record-keeping requirements.**

**Right to file a complaint with the DOE.**

# **FERPA Basics**

## **Resources**

Family Policy Compliance Office (DOE)

<http://www.ed.gov/policy/gen/guid/fpc/index.html>

National Assoc of College & University Attorneys

<http://www.nacua.org/>

# FERPA Basics

## Resources

### AACRAO

<http://www.aacrao.org/>

#### Publications (order on website)

- The AACRAO 2006 FERPA Guide
  - The FERPA Quick Guide
  - The Registrar's Guide (Evolving Best Practices)
- FERPA Chapter has lots of resource information

#### Compliance Information (website)

# FERPA Basics

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