

**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.

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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.

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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.

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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.

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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.

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- **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.

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- **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 .

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- **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.

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Resources

Family Policy Compliance Office (DOE)
<http://www.ed.gov/policy/gen/guid/fpco/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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