



School Administrators Association of New York State

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FERPA – What is It and How Does It Impact Me?

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The Family Educational Rights and Privacy Act (FERPA) is a federal law designed to protect the privacy rights of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education, including New York State K-12 public education institutions.

While the student is under the age of 18, FERPA gives certain rights to parents with respect to children's educational records, and the dissemination of information contained within those records. In particular, parents or eligible students have the right to inspect a student's education records in-person; parents or eligible students have the right to request the a school correct records that they believe are inaccurate or misleading, and if the school decides that not to amend the record, the requesting party has the right to a formal hearing to correct the record; and schools must generally have written permission from the parent or eligible student before disclosing or releasing any information from a student's record, unless the information released or the party to whom the information is released meets a specific category. Records may be released without permission under the following conditions or to the following parties: (1) school officials with a legitimate educational interest; (2) other schools to which a student is transferring; (3) specified officials for audit or evaluation purposes; (4) appropriate parties in connection with financial aid to a student; (5) organizations conducting certain studies for or on behalf of the school; (6) accrediting organizations; (7) to comply with a judicial order or lawfully issued subpoena; (8) appropriate officials in cases of health and safety emergencies; and (9) state and local authorities within the juvenile justice system, pursuant to State law.

Notably, schools may disclose, without consent, "directory" type information such as a student's name, address, telephone number, date and place of birth, honors and awards, and dates of attendance. Before doing so, schools must notify parents or the eligible student of the school's intention to disclose such directory information .

Schools must notify parents and eligible students of their rights under FERPA on an annual basis, though the form this notice takes is left to the discretion of the school and oftentimes takes the form of a letter, bulletin posting, included section in the student handbook, or newspaper article.

Considering the legitimate interest in preserving confidentiality with regard to a student's educational records, we advise taking precaution and considering some best practices whenever a possible dissemination of educational information of a student is or may be involved, whether intentionally or unintentionally.

1. First and foremost we recommend considering a FERPA Release/Authorization form be drafted, or reviewed if one already exists, for accuracy and purpose. This release can be drafted with both broad and fine strokes to be general in nature and then more narrowly tailored depending on the situation. Once the district and you are comfortable with the FERPA Release/Authorization form, we recommend that on all such occasions that you believe educational records or information may need to be shared, that you ensure the parent or eligible student has been provided the form and that they have signed off. While we note that notice of FERPA rights must be disseminated annually, and can be done so by general postings or inclusion of student handbooks, we would also recommend delineating some form of an authorization and release section that may deal with situations which the district will inherently deem the records to be

authorized to be released, as in the circumstances discussed above, or even in other circumstances.

2. Second, in any situation that may arise where a student's records may be involved and where an outsider may need to be present, we caution you on the dissemination of any information relative to the educational records of the student to any person not necessarily approved or required to be aware of such information.
- One example in particular could involve a teacher/parent meeting, or administrator/parent meeting, neither the teacher nor the administrator would be allowed to have a unit representative present with them, without the authorization of the parent or eligible student, should the meeting involve confidential educational records information pertaining to the student, which the unit representative would not have been privy to.
 - A second scenario could involve an administrator meeting with the parents of a student who was potentially involved with another student or students who may have been disciplined. In this situation, the administrator would need to be cautious not to share confidential information related to the disciplinary outcome or process related to the other students, when meeting with the parents of the other involved student or the eligible student.
 - A third scenario involves the dissemination of information related to a student's IEP. With regard to the IEP, as you all are aware, the hyper sensitive nature of the IEP from both a medical and educational perspective carries with it the utmost caution with who such information is provided to and when. When considering IEP information, this information may only be released to those members of the staff who are associated with providing or assisting with providing the services associated with the IEP. This same theme can assist with an overall understanding of FERPA. Think, "does this record involve this school employee or staff member, whether by way of being the author or implementer of such information, and if not, then they likely are not allowed to be privy to such information without authorization."

Overall, think of FERPA as being very similar or analogous to the commonly understood HIPAA federal law dealing with the confidential nature of medical records. Consider that any educational decision, outcome, or impact on the student, and the information involved must have a level of confidentiality applied to it, and unless authorized, that information must remain with the school and appropriate administrators and teachers involved, and the parents or eligible student. While there are carve-outs, and releases or authorizations can be helpful, ultimately preserving a high level of confidentiality and maintaining the integrity of that confidentiality will always prove most prudent.

This information, and more, can be found at the U.S. Department of Education's website, and specifically: <https://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html>.

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