

# Family Educational Rights and Privacy Act (FERPA)

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 "eligible students."

- Parents or eligible students 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.
- Parents or eligible students 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 eligible student 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.
- Generally, schools must have written permission from the parent or eligible student in order to release any information from a student's education record. However, FERPA allows schools to disclose those records, without consent, to the following parties or under the following conditions (34 CFR § 99.31):
  - School officials with legitimate educational interest;
  - Other schools to which a student is transferring;
  - Specified officials for audit or evaluation purposes;
  - Appropriate parties in connection with financial aid to a student;
  - Organizations conducting certain studies for or on behalf of the school;
  - Accrediting organizations;
  - To comply with a judicial order or lawfully issued subpoena;
  - Appropriate officials in cases of health and safety emergencies; and
  - State and local authorities, within a juvenile justice system, pursuant to specific State law.

Schools may disclose, without consent, "directory" information such as a student's name, address, telephone number, date and place of birth, honors and awards, and dates of attendance. However, schools must tell parents and eligible students about directory information and allow parents and eligible students a reasonable amount of time to request that the school not disclose directory information about them. Schools must notify parents and eligible students annually of their rights under FERPA. The actual means of notification (special letter, inclusion in a PTA bulletin, student handbook, or newspaper article) is left to the discretion of each school.

For additional information, you may call 1-800-USA-LEARN (1-800-872-5327) (voice). Individuals who use TDD may use the [Federal Relay Service](#).

Or you may contact us at the following address:

Family Policy Compliance Office U.S. Department of Education 400 Maryland Avenue,  
SW Washington, D.C. 20202-8520

# Frequently Asked Questions

## 1. What is FERPA?

The Family Educational Rights and Privacy Act (FERPA) is a federal law that affords parents the right to have access to their children's education records, the right to seek to have the records amended, and the right to have some control over the disclosure of personally identifiable information from the education records. When a student turns 18 years old, or enters a postsecondary institution at any age, the rights under FERPA transfer from the parents to the student ("eligible student"). The FERPA statute is found at 20 U.S.C. § 1232g and the FERPA regulations are found at 34 CFR Part 99.

## 2. How am I informed about my rights under FERPA?

Educational agencies and institutions are required to notify parents and eligible students about their rights under FERPA. Section 99.7 of the FERPA regulations sets forth the requirements for the notification and there is a model notification on this Web site. Schools do not have to individually notify parents and eligible students but do have to notify them by any means that are reasonably likely to inform the parents or eligible students of their rights.

## 3. Under what circumstances may a school disclose information from education records without consent?

There are several exceptions to FERPA's general prior consent rule that are set forth in the statute and the regulations. See § 99.31 of the FERPA regulations. One exception is the disclosure of "directory information" if the school follows certain procedures set forth in FERPA. (34 CFR § 99.31(a)(11).)

## 4. What is "Directory Information"?

FERPA defines "directory information" as information contained in the education records of a student that would not generally be considered harmful or an invasion of privacy if disclosed. Typically, "directory information" includes information such as name, address, telephone listing, date and place of birth, participation in officially recognized activities and sports, and dates of attendance. A school may disclose "directory information" to third parties without consent if it has given public notice of the types of information which it has designated as "directory information," the parent's or eligible student's right to restrict the disclosure of such information, and the period of time within which a parent or eligible student has to notify the school in writing that he or she does not want any or all of those types of information designated as "directory information." The means of notification could include publication in various sources, including a newsletter, in a local newspaper, or in the student handbook. The school could also include the "directory information" notification as part of the general notification of rights under FERPA. The school does not have to notify a parent or eligible student individually. (34 CFR § 99.37.)

**5. If I am a parent of a college student, do I have the right to see my child's education records, especially if I pay the bill?**

As noted above, the rights under FERPA transfer from the parents to the student, once the student turns 18 years old or enters a postsecondary institution at any age. However, although the rights under FERPA have now transferred to the student, a school may disclose information from an "eligible student's" education records to the parents of the student, without the student's consent, if the student is a dependent for tax purposes. Neither the age of the student nor the parent's status as a custodial parent is relevant. If a student is claimed as a dependent by either parent for tax purposes, then either parent may have access under this provision. (34 CFR § 99.31(a)(8).)

**6. Can a postsecondary institution disclose financial records of an eligible student with the student's parents?**

If the student is a dependent for income tax purposes, the institution may disclose any education records, including financial records to a student's parents. If the student is not a dependent, then the student must generally provide consent for the school to disclose the information to the parents.

**7. What if my child is a minor and he or she is taking classes at a local college while still in high school - do I have rights?**

If a student is attending a postsecondary institution - at any age - the rights under FERPA have transferred to the student. However, in a situation where a student is enrolled in both a high school and a postsecondary institution, the two schools may exchange information on that student. If the student is under 18, the parents still retain the rights under FERPA at the high school and may inspect and review any records sent by the postsecondary institution to the high school.

**8. May a postsecondary institution disclose to a parent, without the student's consent, information regarding a student's violation of the use or possession of alcohol or a controlled substance?**

Yes, if the student is under the age of 21 at the time of the disclosure. FERPA was amended in 1998 to allow such disclosures. See § 99.31(a)15 of the FERPA regulations. Also, if the student is a "dependent student" as defined in FERPA, the institution may disclose such information, regardless of the age of the student.

## **Protection of Pupil Rights Amendment (PPRA)**

The Protection of Pupil Rights Amendment (PPRA) (20 U.S.C. § 1232h; 34 CFR Part 98) applies to programs that receive funding from the U.S. Department of Education (ED). PPRA is intended to protect the rights of parents and students in two ways:

- It seeks to ensure that schools and contractors make instructional materials available for inspection by parents if those materials will be used in connection with an ED-funded survey, analysis, or evaluation in which their children participate; and
- It seeks to ensure that schools and contractors obtain written parental consent before minor students are required to participate in any ED-funded survey, analysis, or evaluation that reveals information concerning:
  - Political affiliations;
  - Mental and psychological problems potentially embarrassing to the student and his/her family;
  - Sex behavior and attitudes;
  - Illegal, anti-social, self-incriminating and demeaning behavior;
  - Critical appraisals of other individuals with whom respondents have close family relationships;
  - Legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers; or
  - Income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program).

Parents or students who believe their rights under PPRA may have been violated may file a complaint with ED by writing the Family Policy Compliance Office. Complaints must contain specific allegations of fact giving reasonable cause to believe that a violation of PPRA occurred.

For additional information or technical assistance, you may call (202) 260-3887 (voice). Individuals who use TDD may call the Federal Information Relay Service at 1-800-877-8339. Or you may contact us at the following address:

**Family Policy Compliance Office U.S. Department of Education 400 Maryland Avenue, SW Washington, D.C. 20202-5920**

# Notification of Rights Under the Protection of Pupil Rights Amendment (PPRA)

PPRA affords parents certain rights regarding our conduct of surveys, collection and use of information for marketing purposes, and certain physical exams. These include the right to:

Consent before students are required to submit to a survey that concerns one or more of the following protected areas ("protected information survey") if the survey is funded in whole or in part by a program of the U.S. Department of Education (ED)-

- Political affiliations or beliefs of the student or student's parent;
- Mental or psychological problems of the student or student's family;
- Sex behavior or attitudes;
- Illegal, anti-social, self-incriminating, or demeaning behavior;
- Critical appraisals of others with whom respondents have close family relationships;
- Legally recognized privileged relationships, such as with lawyers, doctors, or ministers;
- Religious practices, affiliations, or beliefs of the student or parents; or
- Income, other than as required by law to determine program eligibility.

Receive notice and an opportunity to opt a student out of -

1. Any other protected information survey, regardless of funding;
2. Any non-emergency, invasive physical exam or screening required as a condition of attendance, administered by the school or its agent, and not necessary to protect the immediate health and safety of a student, except for hearing, vision, or scoliosis screenings, or any physical exam or screening permitted or required under State law; and
3. Activities involving collection, disclosure, or use of personal information obtained from students for marketing or to sell or otherwise distribute the information to others.

Inspect, upon request and before administration or use -

1. Protected information surveys of students;
2. Instruments used to collect personal information from students for any of the above marketing, sales, or other distribution purposes; and
3. Instructional material used as part of the educational curriculum.

These rights transfer to from the parents to a student who is 18 years old or an emancipated minor under State law.

Talbot County Public Schools (TCPS) has developed and adopted policies, in consultation with parents, regarding these rights, as well as arrangements to protect student privacy in the administration of protected information surveys and the collection, disclosure, or use of personal information for marketing, sales, or other distribution purposes. TCPS will directly notify parents of these policies at least annually at the start of each school year and after any substantive changes. TCPS will also directly notify, such as through U.S. Mail or email, parents of students who are scheduled to participate in the specific activities or surveys noted below and will provide an opportunity for the parent to opt his or her child out of participation of the specific activity or survey. TCPS will make this notification to parents at the beginning of the school year if the District has identified the specific or approximate dates of the activities or surveys at that time. For surveys and activities scheduled after the school year starts, parents will be provided reasonable notification of the planned activities and surveys listed below and be provided an opportunity to opt their child out of such activities and surveys. Parents will also be provided an opportunity to review any pertinent surveys. Following is a list of the specific activities and surveys covered under this requirement:

- Collection, disclosure, or use of personal information for marketing, sales or other distribution.
- Administration of any protected information survey not funded in whole or in part by ED.
- Any non-emergency, invasive physical examination or screening as described above.

*Parents who believe their rights have been violated may file a complaint with:*

Family Policy Compliance Office U.S. Department of Education 400 Maryland Avenue, S.W. Washington, D.C. 20202-5901

## Notice for Directory Information

The *Family Educational Rights and Privacy Act* (FERPA), a Federal law, requires that Talbot County Public Schools (TCPS), with certain exceptions, obtain your written consent prior to the disclosure of personally identifiable information from your child's education records. However, TCPS may disclose appropriately designated "directory information" without written consent, unless you have advised the District to the contrary in accordance with District procedures. The primary purpose of directory information is to allow the TCPS to include this type of information from your child's education records in certain school publications. Examples include:

- A playbill, showing your student's role in a drama production;
- The annual yearbook;
- Honor roll or other recognition lists;
- Graduation programs; and
- Sports activity sheets, such as for wrestling, showing weight and height of team members.

Directory information, which is information that is generally not considered harmful or an invasion of privacy if released, can also be disclosed to outside organizations without a parent's prior written consent. Outside organizations include, but are not limited to, companies that manufacture class rings or publish yearbooks. In addition, two federal laws require local educational agencies (LEAs) receiving assistance under the *Elementary and Secondary Education Act of 1965* (ESEA) to provide military recruiters, upon request, with the following information – names, addresses and telephone listings – unless parents have advised the LEA that they do not want their student's information disclosed without their prior written consent. <sup>(1)</sup>

***If you do not want TCPS to disclose directory information from your child's education records without your prior written consent, you must annually notify the District in writing by September 30<sup>th</sup> of the current school year. TCPS has designated the following information as directory information:***

- || **Student's Legal Name**
- || **Student's Grade and School**
- || **Homeroom Assignment**
- || **Honor Roll and Perfect Attendance List**
- || **Dates of Attendance**
- || **Graduation Date**
- || **Photograph**
- || **Degrees and Awards Received**
- || **Participation in officially recognized Activities and Sports**
- || **Weight and Height of members of Athletic Teams**
- || **Names and address of parents/guardians to allow for mass mailings of education information when approved by the Superintendent**