

THE FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA) OVERVIEW

The Family Educational Rights and Privacy Act of 1974, commonly known as FERPA, protects the rights of students and insures the privacy and accuracy of student's educational records which applies to all institutions, recipients of federal aid administered by the Secretary of Education. The records are to be kept confidential unless written parental or adult student consent or judicial order/subpoena (EC 49075) are provided prior to disclosure that specify the type of information being disclosed and designated recipient. Unless specified by the judicial order or subpoena to not inform, a reasonable effort must be made to notify the parent/legal guardian and student before disclosure (Section 49077). A log shall be maintained listing all persons, agencies or organizations requesting or receiving record information. Picture identification, badge and case number need to be verified (EC 49064 before disclosure. Additionally, the consent notice must be kept permanently with the record file (EC 49075). Furthermore, the transmission of the information to others without the consent notice is prohibited.

Educational record is defined for official purposes, as any appropriate, necessary, and relevant record that contains personally identifiable information that directly relate to a student and that are maintained by an educational agency or institution or by a party or organization acting on behalf of the agency or institution in the form of student files (e. g. disciplines, evaluations, transcripts, etc.) and student system databases such as any written/printed/emailed documents, film, microfilm, computer media, photo, video, audio or other media. Some records are not considered educational records under FERPA such as personal/private notes of individual staff not kept in student files, police records and medical records.

Aside from natural parents, adoptive or legal guardians of a dependent student and students 16 or older or who have completed the 10th grade (under supervision), there are specific limited exceptions to disclosing student's education records without prior written consent such as (EC 49076):

- School officials and district employees requiring information for a specific reason
- Members of a school attendance review board, and any volunteer aide age 18 or older, who has been investigated, selected and trained by such a board to provide follow-up services to referred student
- Officials and employees of other public/private schools or school systems where the student intends or is directed to enroll, including local, county or state correctional facilities where education programs leading to high school graduation are provided (EC 49068)
- Federal, state, and local agencies, as needed for program audits or compliance with law
- Any district attorney who is participating in or conducting a truancy mediation program (EC 48263.5) or participating in the presentation of evidence in a truancy petition (WIC 681)
- A prosecuting agency of consideration against a parent/guardian for failure to comply with compulsory education laws
- Any probation officer or district attorney for the purposes of conducting a criminal investigation or an investigation in regards to declaring a person a ward of the court or involving a violation of a condition of probation
- Any judge or probation officer for the purpose of conducting a truancy mediation program for a student, or for purposes of presenting evidence in a truancy petition (WIC 681)
- County child welfare services workers, responsible for the case plan of a minor who is being placed in foster care (WIC 16010)
- Foster family agencies with jurisdiction over currently enrolled or former students may access those students' records of grades and transcripts, and any IEPs developed and maintained by the district with respect to such students (EC 49069.3)
- When authorized by law to assist law enforcement in investigations of suspected kidnapping, the Superintendent or designee shall provide information about the identity and location of the student as it relates to the transfer of the student's records to another district or private school within the state; the information shall be released only to designated peace officers, federal criminal investigators and federal law enforcement officers whose names have been submitted by their law enforcement agency in writing
- A county placing agency for the purpose of fulfilling the requirements of the required health and education summary (WIC 16010) or for the purpose of fulfilling educational case management responsibilities required by the juvenile court or by law and to assist with the school transfer or enrollment of a pupil. School districts, county offices of education, and county placing agencies may develop cooperative agreements to facilitate confidential access to and exchange of the pupil information by electronic mail, facsimile, electronic format, or other secure means
- Organizations conducting studies for the purpose of developing, validating, or administering predictive test, student aid programs, and improving instruction (with privacy and security safeguards) and accrediting organizations to perform accrediting functions
- Appropriate persons in connection with an emergency if knowledge of the information is necessary to protect the health and safety of the student or others. An emergency is a situation that presents imminent danger to a student, other students, or members of the school community or a situation that requires immediate access to information from education records in order to avert or respond to serious threats to health or safety (e. g. terrorist threats, kidnapping, etc.) (EC 49076.5)
- Only the designated peace officers and federal criminal investigators and federal law enforcement officers whose names have been submitted to the school district in writing by the agency conducting the investigation may request and receive information for the sole purpose of assisting its investigation (Penal Code 830.1). The designated peace officer requesting information authorized for release by this section shall make a record on a form created and maintained by the law enforcement agency which shall include the name of the pupil about whom the inquiry was made, the consent of a parent having legal custody of the pupil or a legal guardian, the name of the officer making the inquiry, the date of the inquiry, the name of the school district, the school district employee to whom the request was made, and the information that was requested.

No school district, or official or employee thereof, shall be subject to criminal or civil liability for the release of pupil record information in good faith as authorized by this section (EC 49076.5)