

Family Educational Rights and Privacy Act (FERPA)
and the Disclosure of Student Information
Related to Emergencies and Disasters

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Introduction

The purpose of this guidance is to answer questions that have arisen about the sharing of personally identifiable information from students' education records to outside parties when responding to emergencies, including natural or man-made disasters. Understanding how, what, and when information can be shared with outside parties is an important part of emergency preparedness.

Summary

The Family Educational Rights and Privacy Act (FERPA) prohibits a school from disclosing personally identifiable information from students' education records without the consent of a parent or eligible student, unless an exception to FERPA's general consent rule applies. In some emergency situations, schools may only need to disclose properly designated "directory information" on students that provide general contact information. In other scenarios, school officials may believe that a health or safety emergency exists and more specific information on students should be disclosed to appropriate parties. Understanding the options available under

of “education records” and a list of records that are not included in the definition. Accordingly, all records, including immunization and other health records, as well as records on services provided to students under the Individuals with Disabilities Education Act (IDEA) records on services and accommodations provided to students under Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990, that are directly related to a student and maintained by a school are “education records” under FERPA.

The questions and answers below provide guidance to school officials on how FERPA applies to disclosures of students’ personally identifiable information that relate to natural or manmade disasters that affect students and their families. This guidance explains the various provisions in FERPA that might relate to and permit such disclosures and addresses how FERPA applies to schools working with other agencies in emergency preparedness activities.

Questions and Answers on the Applicability of FERPA to Disclosures Related to Disasters and Other Health or Safety Emergencies

1. Do parents and eligible students have to provide consent before a school discloses personally identifiable information from education records?

Generally, yes. A parent or eligible student must provide written consent before a school or school district discloses personally identifiable information from the student’s education records, unless one of the exceptions to FERPA’s general consent rule applies. (See Q&A 8.) FERPA requires that a consent form be signed and dated by a parent or eligible student and (1) specify the records that may be disclosed; (2) state the purpose of the disclosure; and (3) identify the party or class of parties to whom the disclosure may be made. 34 CFR § 99.30(b).

2. How does FERPA define “parent”?

Under FERPA, a “parent” means a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian. 34 CFR § 99.3 definition of “Parent.” Additionally, in the case of the divorce or separation of a student’s parents, schools are required to give full rights under FERPA to either parent, unless the school has been provided with evidence that there is a court order, State statute, or legally binding document relating to such matters as divorce, separation, or custody that specifically revokes these rights. 34 CFR § 99.4.

3. If a student is separated from his or her parent or guardian and is in the care of another individual who is acting as a parent in the absence of a parent or a guardian, can that individual have access to the student’s education records and provide consent for disclosures under FERPA?

Generally, yes. If a student is living in the care of an individual on a daily basis who is not his or her natural parent or guardian, such as a grandparent, relative, or family friend, that individual may be considered a “parent” under FERPA. As such, he or she may have access to the student’s education records and may provide consent for disclosures of information from the student’s education records. The definition of “parent” is more specific under 34 CFR §

Judicial Order or Lawfully Issued Subpoena

12. Does an interagency agreement with other State or local agencies enable a school to nonconsensually disclose education records?

No. Interagency agreements do not supersede the consent requirements under FERPA. Although an interagency agreement would be a helpful tool for planning purposes, schools must

student has provided consent, nor are they required to record the disclosure of “directory information.” 34 CFR § 99.32(d)(3).

Additional Resources

The Department’s Family Policy Compliance Office, the office that administers FERPA, is