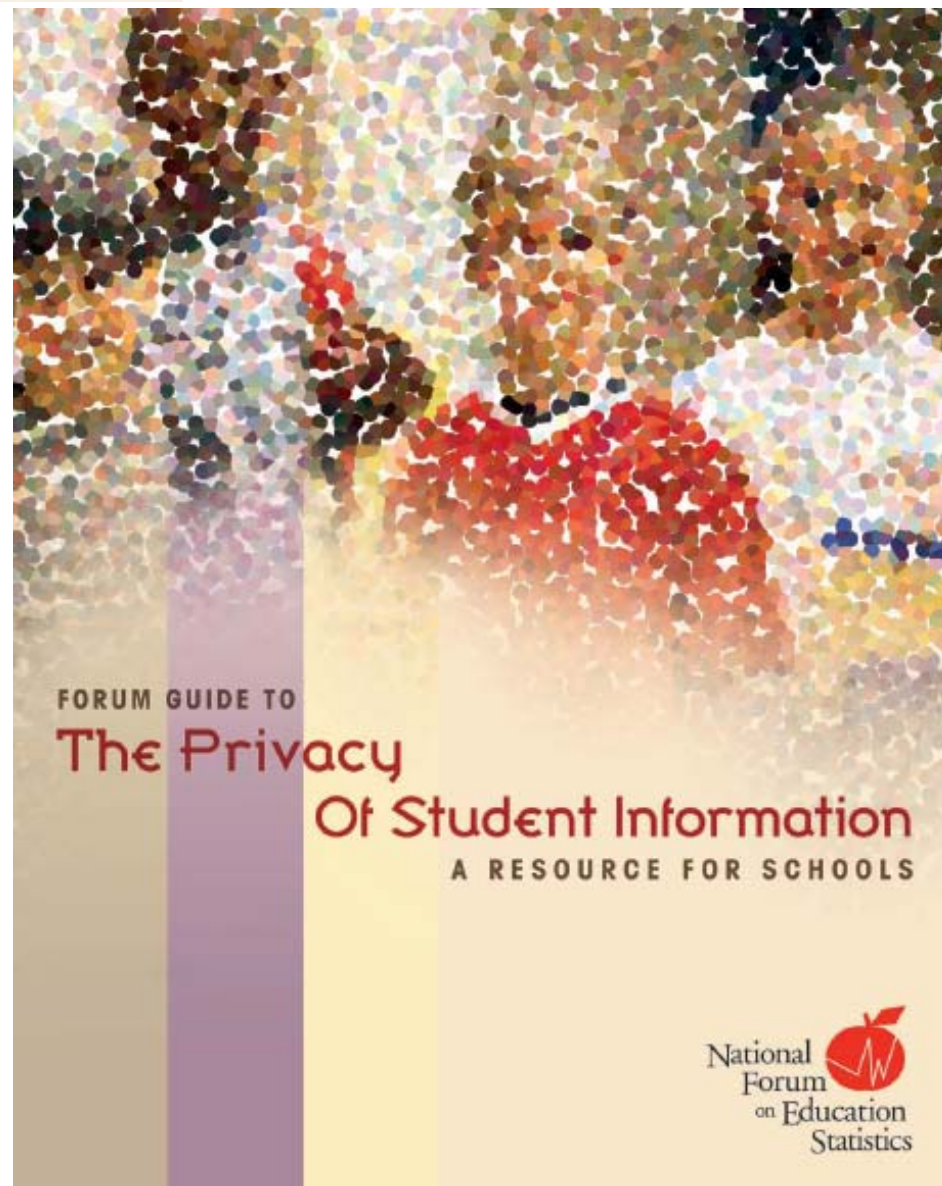


National Forum on Education Statistics

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Forum Guide to the Privacy of Student Information: A Resource for Schools

Who developed this guide?

- Members of the National Forum on Education Statistics
- Representatives of local and state education agencies (and other education organizations) who deal with and have access to individually identifiable or aggregate student data



Forum Guide to the Privacy of Student Information: A Resource for Schools

Why was this guide developed?

- To help schools and school districts better understand and apply the Family Educational Rights and Privacy Act (FERPA) and other federal laws that protect the privacy of student data
- To provide quick access to guidance and links to related resources

What is “FERPA?”

- ❖ Family Educational Rights and Privacy Act
- ❖ A federal law that protects the privacy of student records
- ❖ Applies to education agencies and institutions that receive funding from U.S. Department of Education

FERPA in a Nutshell

- ❖ Family Educational Rights and Privacy Act
- ❖ Gives parents the right to access and amend their children's education records
- ❖ Allows parents to control the disclosure of their children's education records
- ❖ Generally prevents an education agency or institution from disclosing education records of students, or personally identifiable information contained in these records, without the written consent of the parents

Important Terms: Education Records

- ❖ All records, files, documents, and other materials that contain information directly related to an individual student
- ❖ Those materials maintained by the education agency or institution or its representative
- ❖ Includes, but not limited to, handwriting, video or audio tape, and data or image in other electronic formats
- ❖ Health records maintained by an education agency or institution would generally be considered education records, and subject to FERPA

Important Terms: Parent or Eligible Student

- ❖ Parents or eligible students are afforded the right under FERPA
- ❖ “*Parent*” means natural or adoptive parent, legal guardian, or individual acting as a parent or guardian in absence of him or her
- ❖ “*Eligible Student*” means students:
 - Age 18 or above
 - Attending a postsecondary institution at any age

Disclosure of Student Information Requires Parental Consent, Except Under These Circumstances:

1. Directory Information: A portion of the education record that would not generally be considered harmful or an invasion of privacy if disclosed (e.g., student's name, address, phone number, date and place of birth, honors and awards, heights and weight of athletes, dates of attendance)
 - ❖ Schools must provide public notice
 - ❖ Parents may disallow such disclosure

Disclosure of Student Information Requires Parental Consent, Except Under These Circumstances:

2. School officials with a legitimate educational interest (*defined in FERPA regulations*)
3. Other schools into which a student is transferring or enrolling
4. Specified officials for audit or evaluation
5. Appropriate parties in connection with financial aid to a student (typically applies to postsecondary institutions)

Disclosure of Student Information Requires Parental Consent, Except Under These Circumstances:

6. Organizations conducting certain studies for or on behalf of the school
7. Accrediting organizations
8. Compliance with judicial order or lawfully issued subpoena
9. Appropriate officials in cases of health and safety emergencies
10. State and local authorities, within a juvenile justice system, pursuant to state law

What are Other Privacy Questions Specifically Covered in this Forum Guide?

- ❖ What do I do if military recruiters want a student listing?
- ❖ How and when should I notify parents of their rights and notification, as required in FERPA?
- ❖ How about the use of videotapes, online information, or media release?
- ❖ How about images captured in surveillance cameras?
- ❖ Does FERPA govern how data is maintained with new technologies?
- ❖ How may I transfer the disciplinary record of a student?
- ❖ Is health information contained in a student record covered by FERPA or another law?

Military Recruiters

- ❖ No Child Left Behind Act of 2001 and National Defense Authorization Act for Fiscal Year 2002
- ❖ Upon request and after notifying parents, military recruiters are entitled to receive the name, address, and phone number of juniors and seniors in high school

Parental Rights and Notification

- ❖ Annual notification process must ensure that parents understand their rights under FERPA, including the right to file a complaint concerning a school district's failure to comply
- ❖ The right of parents to access information is limited to their own child
- ❖ Either parent has equal rights unless there is evidence of a court order or state law revoking or restricting that right

The Use of Images on Videotape or Posted on Website

- ❖ Need prior consent for:

Videotapes or photographs created and kept by the school or education agency that are directly related a specific student (e.g., a student involved in an altercation)

- ❖ Do not need prior consent for:

Images of students who are considered “set dressing,” such as students walking down the hall or riding on a school bus

Surveillance Cameras

- ❖ FERPA doesn't govern how surveillance cameras are used
- ❖ Videotape can be part of an education record
- ❖ It is a good practice for the school and education agency to establish a policy regarding the maintenance and access to these images

Technology Use in School

- ❖ FERPA doesn't govern how education records are maintained
- ❖ It is the school and education agency's obligation not to disclose or transmit information to unauthorized parties
- ❖ School and education agency should consider establishing policies, procedures, and best practices that address issues such as use of portable data storage and offsite use of education records

Transfer of Disciplinary Records

- ❖ No Child Left Behind Act requires that states have a procedure in place to facilitate the transfer of disciplinary records

Health Information

- ❖ The Health Insurance Portability and Accountability Act (HIPAA) establishes standards regarding the electronic sharing of health information
- ❖ Student health information maintained by a school or agency is subject to FERPA; while information collected as part of services under Individuals with Disabilities Education Act (IDEA) is also subject to IDEA's confidentiality provisions

For More Information

❖ FPCO website:

<http://www.ed.gov/policy/gen/fpc/index.html>

FERPA documents, sample notifications (annual notice and that regarding military recruiting), “hot topics,” court cases, and training information

❖ National Forum on Education Statistics

http://nces.ed.gov/forum/FERPA_links.asp

Resources, guidelines, weblinks, and best practice data management recommendations