

Family Educational Rights and Privacy Act

Federal Law: Family Educational Rights and Privacy Act (FERPA)

Citation: [20 U.S.C. § 1232g](#); [34 C.F.R. Part 99](#)

The Family Educational Rights and Privacy Act protects identifiable student education records.

THE LAW

What does the law do?

The Family Educational Rights and Privacy Act (FERPA) protects identifiable student education records. Under FERPA, parents have defined rights with respect to their children's education records, which transfer to the student when he or she becomes an [eligible student](#) (i.e., becomes 18 years old or attends a postsecondary school).

To whom does the law apply?

The [law applies to all educational agencies and institutions](#) (e.g., schools) that receive funds under a program administered by the U.S. Department of Education. Schools that do not receive funding from the Department of Education (e.g., some parochial or private schools) are not subject to FERPA.

How is “identifiable” information defined?

[FERPA regulations define “personally identifiable information”](#) (PII) to include “information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.” The regulations also provide examples of direct and indirect identifiers, such as names, addresses, dates of birth, and places of birth.

SHARING OF IDENTIFIABLE DATA

Does this law allow identifiable data to be shared?

Educational institutions can disclose information in education records in limited circumstances. Identifiable education records [can be disclosed with the consent of a parent or an eligible student](#). However, FERPA also allows education records to be shared in limited circumstances [without consent](#).

Certain PII is defined as [directory information and can be disclosed without consent](#) because it is generally considered not harmful or an invasion of privacy. [Directory information](#) includes names, addresses, phone

numbers, email addresses, photographs, field of study, activity participation, weight and height of members of athletic teams, degrees, honors, and awards received.

[FERPA also contains several exceptions](#) that permit the disclosure of education records without the consent of a parent or eligible child. The exceptions permit disclosure for a variety of purposes, including legitimate educational interests, school transfers, audits, evaluations, financial aid administration, educational studies, accreditation, compliance with judicial orders, and health and safety emergencies.

Among who?

Under the various [FERPA exceptions](#), the following persons or entities can receive disclosed records without consent: school officials, other educational institutions, financial aid administrators, parents, appropriate parties (in connection with a health or safety emergency), a victim of a violent or sex-related crime, organizations conducting studies for educational institutions or agencies, specified federal employees, and state and local educational authorities. A few FERPA exceptions allow disclosures to unspecified parties under specific circumstances (i.e., disclosure of directory information, results of a disciplinary hearing, registered criminal offenders, or records pursuant a judicial order or subpoena).

What are the prerequisites and conditions?

To [disclose PII pursuant written consent](#), the consent must specify the records that will be disclosed, the purpose of the disclosure, and the identity, or class, of recipients.

Additionally, each of FERPA's disclosure provisions have specific requirements. Three have limited relevance to public health: disclosures for audit and evaluation, educational studies, and health or safety emergencies. For disclosures for [audits, evaluations](#), and [educational studies](#), the activity must protect PII and prevent identification of individuals; data must be destroyed when no longer needed; and there must be a written agreement governing the activity and relevant parties. For disclosures in [connection with an emergency](#), there must be an articulable and significant threat to health or safety and knowledge of the disclosed information must be necessary to protect the health or safety of a student or other individuals.

SHARING OF DE-IDENTIFIED DATA

Does this law allow de-identified information to be shared?

FERPA allows educational institutions to release data without consent if the data does not contain PII.

Does this law define de-identification or standards to render the data de-identified?

The [FERPA regulations](#) provide that education records are de-identified after the removal of all PII (e.g., direct and indirect identifiers), and after a "reasonable determination that a student's identity is not personally identifiable... taking into account other reasonably available information." [Federal guidance](#) cautions that removal of all direct and indirect identifiers might not be sufficient in all situations. Accordingly, disclosure avoidance techniques such as masking, blurring, or perturbation may be required for the data to be legally de-identified in some situations. Additional federal guidance can be found [here](#).

DATA SHARING IMPLICATIONS FOR PUBLIC HEALTH

Does this law support data sharing to improve the health of communities?

FERPA lacks a specific exception to disclose educational records to promote public health. The emergency exception allows information sharing to address specific threats to health. The exceptions for audits, evaluations, and studies focus primarily on education measures or outcomes. However, [these exceptions could be used to understand potential health outcomes associated with education programs](#).

How does this law hinder data sharing to improve the health of communities?

The lack of a specific exception that permits sharing education records for public health purposes or broader research studies poses a significant limitation on data sharing to promote community health.

Does this law establish prerequisites, conditions, or limitations for data sharing, not previously identified?

Each of the 16 disclosure exceptions contains prerequisites, conditions, or limitations for data sharing. The exceptions most related to public health are discussed above. However, additional requirements can be found in [34 C.F.R. § 99.36](#).

What other terms apply to sharing this data?

None.

What remedies or solutions might be employed to support data sharing while complying with this law?

An [integrated data system](#) can be used to facilitate the sharing of education records between a state educational agency and a state health agency through FERPA's audit and evaluation exception. The integrated data system would allow the health agency to audit and evaluate education programs using cross-agency outcome data (e.g., students with physical and mental health issues).

What ethical considerations apply to the exercise of discretion to share data under this law?

Many students are minors (i.e., vulnerable populations and cannot provide consent). Additionally, education records can be highly sensitive. Disclosure of certain data can lead to adverse inferences (e.g., intelligence). Some individuals might feel coerced to supply their data since education is related to important outcomes (i.e., employment, health).

Additional federal guidance on the privacy of education records can be found [here](#).



SUPPORTERS

The Network for Public Health Law is a national initiative of the Robert Wood Johnson Foundation.

This document was developed by Cason Schmit, Research Assistant Professor, Texas A&M University and reviewed by Jennifer Bernstein, Deputy Director, Mid-States Region of The Network for Public Health Law. The Network for Public Health Law provides information and technical assistance on issues related to public health. The legal information and assistance provided in this document does not constitute legal advice or legal representation. For legal advice, please consult specific legal counsel.

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