

**GUIDANCE FOR
THE FAMILY EDUCATIONAL RIGHTS
AND PRIVACY ACT (FERPA)**



Louisiana Department of Education

**Cecil J. Picard
State Superintendent of Education**

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Written by:
Robert Christopher Fruge'

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I. INTRODUCTION

These guidelines are intended to help Louisiana's local education authorities comply with the Family Educational Rights and Privacy Act (FERPA). These guidelines are written for records custodians of schools. The pronoun *you*, as it is used in these guidelines, refers to a school's records custodian.

FERPA is a federal law that sets forth the rights of a student's parents and of students, and the correlating duties of education agencies and institutions, regarding education records. FERPA, also sometimes referred to as the Buckley Amendment, is located in Title 20, Section 1232g of the United States Code. Administrative regulations promulgated under FERPA are located in Title 34, Part 99 of the Code of Federal Regulations.

FERPA applies to any education agency or institution that receives federal funds under any program administered by the United States Department of Education if that education agency or institution (1) provides educational services and/or instruction to students, or (2) is authorized to direct and control public elementary, secondary, or post-secondary education. Any education agency or institution that has a policy or practice of violating FERPA may be declared ineligible for federal funds.

II. DEFINITIONS

As you read these guidelines, you will see certain words or phrases that have particular meanings under the FERPA statute and the FERPA regulations. The following is a list of these words and phrases along with their definitions.

Attendance includes, but is not limited to, attendance in person or by correspondence and the period during which a person is working under a work-study program.

Dates of attendance means the period of time during which a student attends or attended an educational agency or institution. Examples of dates of attendance include an academic year, a spring semester, or a first quarter. It does not include specific daily records of a student's attendance.

Directory information means information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. It includes, but is not limited to, the student's name, address, telephone listing, e-mail address, photograph, date and place of birth, major field of study, dates of attendance, grade level, enrollment status (e.g., undergraduate or graduate; full-time or part-time), participation in officially recognized activities and sports, weight and height of members of athletic teams, degrees, honors and awards received, and the most recent educational agency or institution attended. (A STUDENT'S SOCIAL SECURITY NUMBER SHOULD NEVER be included as directory information.)

Disciplinary action or proceeding means the investigation, adjudication, or imposition of sanctions by an educational agency or institution with respect to an infraction or violation of the internal rules of conduct applicable to students of the agency or institution.

Disclosure means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records to any party, by any means, including oral, written, or electronic means.

Educational agency or institution means any public or private agency or institution to which funds have been made available under any program administered by the Secretary of the United States Department of Education if that agency or institution provides educational services or instruction, or both, to students or is authorized to direct and control public elementary, secondary, or postsecondary educational institutions.

Education records means records that are directly related to a student and are maintained by an educational agency or institution or by a party acting for the agency or institution. It does not include:

- records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record,
- records of the law enforcement unit of an educational agency or institution,
- records relating to a person who is employed by an educational agency or institution that are made and maintained in the normal course of business, relate exclusively to the person in that person's capacity as an employee, and are not available for use for any other purpose,
- records of a student who is eighteen years old or older, or is attending an institution of postsecondary education, that are (1) made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional capacity or assisting in a paraprofessional capacity; (2) made, maintained, or used only in connection with treatment of the student; and (3) disclosed only to persons providing the treatment. For the purpose of this definition, *treatment* does not include remedial education activities or activities that are part of a program of instruction at the agency or institution, or
- records that only contain information about a person after he or she is no longer a student at the agency or institution.

Eligible student means a student who has reached eighteen years of age or is attending an institution of postsecondary education.

Institution of postsecondary education means an institution that provides education to students beyond the 12th grade.

Parent means a custodial and non-custodial 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.

Party means an individual, agency, institution, or organization.

Personally identifiable information includes, but is not limited to:

- the student's name;
- the name of a student's parent or other family member;
- the address of the student or the student's family;
- a personal identifier, such as the student's social security number or student identification number;
- a list of personal characteristics that would make the student's identity easily traceable;
or
- other information that would make the student's identity easily traceable.

Record means any information recorded in any way, including but not limited to, handwriting, computer media, video or audio tape, film, microfilm, and microfiche.

Student means a person who is or has been in attendance at an educational agency or institution and regarding whom the agency or institution maintains education records.

III. FERPA RIGHTS

The rights of a student's parents under FERPA can be broadly classified as follows: (1) the right to receive annual notification of their FERPA rights from an education agency or institution the student is attending; (2) the right to inspect the student's education records; (3) the right to seek correction of the student's education records if the records are inaccurate, misleading, or an invasion of privacy; and (4) the right to prohibit a third party's access to the student's education records. These rights belong only to the student, not the parents, when the student becomes an *eligible student* by reaching the age of eighteen or by attending an institution of postsecondary education.

A. Annual Notification

FERPA requires you to annually notify students' parents of their FERPA rights. If a student is at least eighteen years old or is attending an institution of postsecondary education, then the student, not the parents, must receive the notification. The notification must, at a minimum, inform the parent or eligible student of:

- the right to inspect and review the student’s education records;
- the right to seek amendment of the student’s education records if the parent or eligible student believes the records are inaccurate, misleading, or otherwise in violation of privacy rights;
- the right to prohibit disclosure of personally identifiable information contained in the student’s education records, except to the extent the law allows disclosure without a parent’s or an eligible student’s consent;
- the right to file with the Family Policy Compliance Office a complaint regarding alleged failure by the educational agency or institution to comply with FERPA;
- the procedure for exercising the right to inspect and review education records;
- the procedure for requesting amendment of education records; and
- the criteria that the agency or institution uses to determine when education records can be disclosed, without prior written consent of the parent or eligible student, to other school officials within the agency or institution who are deemed to have legitimate educational interest in the education records.

FERPA does not specify the manner in which you must notify parents or eligible students. The only requirement is that the method used for putting out the notification must be reasonably likely to inform parents or eligible students of their rights. However, in general, the notification should be in writing. The notification can be in a letter to parents that is sent home with the students at the beginning of the school year. The notification could also be published in a school newsletter or a student handbook. These are some suggestions, but the decision as to how to “reasonably” notify parents or eligible students of their FERPA rights is left up to you.

FERPA requires that you “effectively” notify parents or eligible students who are disabled or who have a primary language other than English. If you are aware of one or more parents or eligible students whose primary language is a foreign language, and who are not also fluent in English, then the notification should be translated for them. If you are aware of one or more parents or eligible students who are disabled, then you should make any reasonable accommodations that may be necessary to effectively notify them of their rights. FERPA does not require any specific accommodation because the kind of accommodation that may be needed will depend on the kind of disability to be accommodated. You are expected to use good judgment and to be flexible in seeing that disabled parents or disabled eligible students receive effective notification of their rights.

You are not required to give the annual notification to a non-custodial parent. FERPA requires only that the annual notification be given to the parent who has custody of the student.

B. Disclosure of Education Records

Before reading this portion of the guidelines, it might be helpful for you to re-read the definitions of *directory information*, *disclosure*, *education record*, *eligible student*, *parent*, *personally identifiable information*, *student*, and *record*. Keep these definitions in mind as you read.

Although the phrase *personally identifiable information* has already been defined in Section II of these guidelines, it might be helpful to explore its meaning a little more closely because understanding this idea is key to understanding FERPA. In short, personally identifiable information is any fact or set of facts that, when disclosed, reveals a student's identity or makes the student's identity easily discernible. A student's name is perhaps the most obvious type of personally identifiable information. However, merely revealing a student's name, without more, generally will not violate FERPA. A student's name is considered to be directory information – the kind of information that can be revealed without violating a parent's or a student's privacy. So what's the difference between directory information and personally identifiable information? The difference is this: A piece of directory information becomes personally identifiable information when you disclose some other piece of information that, along with the directory information, reveals something more about a particular student. Consider the following examples:

Example 1: You are the records custodian at Fictitious Elementary School. Fictitious Elementary School has designated students' addresses and telephone numbers as directory information. John Doe is a fourth grader at Fictitious Elementary. John Doe's parents have been previously notified that this information is directory information, and they have not objected. John Q. Public asks for the address and telephone number for John Doe. Is this directory information or personally identifiable information?

Answer 1: This would be directory information that can be disclosed without John Doe's parent's prior written consent.

Example 2: You are the records custodian at Fictitious High School. Fictitious High School has previously designated students' names as directory information. No parent or eligible student has objected to the students' names being directory information. John Q. Citizen asks for a list of the seniors' names and for each senior's ACT score to be listed next to his or her name.

Answer 2: You cannot disclose to John Q. Citizen the ACT scores of the seniors in any way that would allow him to easily match any senior with his or her ACT score. A senior's name, although directory information, becomes personally identifiable information if it is disclosed along with information that allows John Q. Citizen to easily discern any particular senior's ACT score. You must have prior written consent from a parent or an eligible student before you can disclose to John Q. Public that student's ACT score.

Example 3: You are the records custodian at Fictitious Middle School. The principal has asked you for a breakdown of the eighth grade’s overall grade point average in math, according to a series of demographics, including race. The principal wants to publish the breakdown in the school newsletter. The principal assures you that no students’ names will be included, since the information will be broken down only according to broad demographic classifications. When you complete the racial breakdown, you realize that Alex Rodriguez is the only Hispanic student in the eighth grade. Although he will not be named specifically, it will not be difficult for many in the community to figure out that the math GPA listed next to the “Hispanic” category is that of Rodriguez.

Answer 3: Fictitious Middle School cannot include the “Hispanic” category in the breakdown because to do so would violate FERPA. Although Rodriguez is not identified by name, publishing the demographic breakdown with the “Hispanic” category would be tantamount to illegally informing the community of Rodriguez’s math GPA. Remember that the definition of *personally identifiable information* includes any set of facts that makes a student’s identity easily discernible.

Example 4: You are the records custodian at Fictitious Elementary School. The school’s principal wants you to put together a statistical analysis showing the percentage of eighth graders whose grades are above average, average, and below average in English. The principal wants to publish the statistical breakdown in the school’s newsletter. When you complete the statistical analysis, it is as follows:

Above average: 32%

Average: 55%

Below average: 13%

Can this information be published in the school’s newsletter without violating FERPA?

Answer 4: Yes. This is not personally identifiable information. This information does not make it easy to discern the English grade of any particular eighth grader.

Keep these simple examples in mind whenever you see the phrase *personally identifiable information* in these guidelines pertaining to disclosure of information in education records to anyone other than the student’s parent or an eligible student.

Keep in mind that these guidelines apply to student records transmitted in electronic form via the Internet. Electronic information transmitted via the Internet or other electronic means should be encrypted. Written documents containing personally identifiable information should be

shredded when disposed of in order to protect the confidentiality of personally identifiable information.

1. Disclosure to a parent or an eligible student

FERPA requires you to allow a parent of a student or an eligible student to inspect the student's education records. FERPA does not require you to disclose any education records to a parent or to an eligible student until the parent or the eligible student makes a specific request to inspect the records. FERPA does not require you to honor a parent's or an eligible student's "standing request" for inspection of education records. If a parent or an eligible student wants to inspect the records on a regular basis, he or she should submit a separate request prior to each inspection.

You must comply with a parent's or an eligible student's request to inspect the student's education records within 45 days of the time the request is received. FERPA does not require any specific procedures be used for receiving, evaluating, and approving or disapproving requests to inspect education records. However, you should develop such procedures. All requests to review education records should be in writing. It is preferable that you develop a request form which asks for the following information:

- the requester's name;
- the requester's address, telephone number, and a telephone number where the requester can be reached during business hours;
- the name of the person to whom the request is directed;
- the date the request is made;
- a description of the records that are the subject of the request;
- the name of the student whose records are the subject of the request;
- the name of the educational agency or institution that the student is attending;
- the relationship to the student of the person making the request (i.e., father, mother, legal guardian etc.); and
- an attestation, signed by the person making the request that all the information provided on the request form is true to the best of his or her knowledge.

When you receive the request, you should:

- indicate on the request form the date you received it and initial it or sign it to indicate that you received it,
- indicate on the request form the method used to verify the identity of the person making the request,
- keep a copy of the request form with the student's education records,
- notify the parent or the eligible student in writing of your decision on the request,
- if the request is denied, indicate on the notification your reason for denying the request,
- if the request is granted, indicate when and where the education records can be inspected,
- indicate on the notification form the date that it is sent and how it is sent (by mail, e-mail, hand-delivery etc.),

- keep a copy of the notification with the student's education records,
- verify the identity of the person who is asking to inspect the records,
- have the parent or the eligible student sign an acknowledgment stating that he or she has reviewed the records requested, and
- if the parent or the eligible student refuses to sign an acknowledgment, make a note of that and keep it with the student's education records.

Generally, FERPA does not require you to send copies of education records to a parent or an eligible student. In most cases, you are only required to make the original records available for inspection. FERPA only requires you to send copies if circumstances would otherwise effectively prevent the parent or eligible student from exercising the right to view the records. For example, if the parent or eligible student now lives far away from where the records are located, you should make copies and send them via the mail or other equally reliable delivery service.

You can charge a fee for copying the records, unless charging a fee would effectively prevent a parent or eligible student from exercising the right to inspect the records. For example, if the parent or eligible student now lives far away from where the records are located and is indigent, copies of the records should be sent via the mail or other equally reliable delivery service free of charge. However, you can never charge a fee for searching for and gathering records in response to a request for inspection.

As previously noted, before handing over education records or disclosing any information in education records, you should take reasonable steps to verify the identity of the person who is there to inspect the records. If the parent or the eligible student comes to the school in person to inspect the records, verify his or her identity by asking for photo identification, such as a driver's license. If you are sending copies of the records to the parent or the eligible student via the mail or other delivery service, and you will not see him or her in person prior to disclosing the information, then make a telephone call and ask for some identifying information, such as the student's date of birth or the last four digits of the student's social security number. You should refuse to disclose any personally identifiable information in education records until you are reasonably satisfied that the parent or the eligible student is the one requesting it.

You should also look over the records to make sure that they contain only information that the parent or the eligible student has a right to see. A parent or an eligible student cannot see any personally identifiable information about another student. An eligible student cannot see any information regarding his or her parent's financial status.¹

If the education record contains any of the information that the parent or eligible student is not allowed to know, then it should be removed from the record before the parent or the eligible student inspects it. If that information cannot be easily separated out, then you should make a copy of the record and sufficiently blackout that portion of the record so that it will not be disclosed.

¹ 20 USC 1232g(a)(C) and (D) exempt confidential recommendations from disclosure under some circumstances and these exemptions are relevant most often only to institutions of post-secondary education. For more information on these exemptions, refer to the statute.

You should make yourself available during the records inspection to answer any questions the parent or the eligible student might have. It is also important that you monitor the parent's or eligible student's inspection of the records to make sure that the records are not damaged or altered. After the parent or eligible student has inspected the records, you should have them sign a statement acknowledging that he or she has reviewed the records. You should keep a copy of the acknowledgment with the student's education records. If, for any reason, the parent or the eligible student does not provide you with a signed acknowledgment, make a note of it and keep it with the student's education records.

2. Disclosure to other school officials within the student's school or school system

You do not need to obtain prior written consent from the parent or from the eligible student before disclosing personally identifiable information in education records to other "school officials" within the student's school or school system who have "legitimate educational interests" in the information in the records. FERPA does not define what "legitimate educational interests" or who "school officials" are. Instead, FERPA leaves it to the school or the school system to define those two phrases. Remember that the criteria for what constitutes a "school official" and "legitimate educational interests" must be included in the annual notification. Therefore, you must have a written policy on the issue.

A *school official* should probably be defined as any teacher, teacher's aide, counselor, principal, vice-principal, other administrator, or administrative assistant. These are suggestions and there may be other positions within your school or school system that could also be classified as school officials. However, just because someone is a school official does not automatically mean that he or she gets unrestricted access to all information in education records in all situations. A school official may have a legitimate educational interest in some, but not all, information in education records. As a rule-of-thumb, you should ask yourself whether or not the school official needs the information in order to be able to effectively perform some aspect of his or her job? If the answer to that question is *yes*, then that official has a legitimate educational interest in the information.

You must inform all those designated as school officials that they can only use personally identifiable information in a student's education record for those things related to "legitimate educational interests." Otherwise, personally identifiable information about a student must remain strictly confidential. This requirement could be included in an employee handbook or personnel policy circulated to school employees.

3. Disclosure to people or organizations outside the student's school or school system

The general rule is that you must have prior written consent from a parent or an eligible student prior to disclosing to third parties any personally identifiable information in an education record. The written consent from the parent or the eligible student must, at a minimum:

- be signed and dated by the parent or the eligible student,
 - identify the student whose records are to be disclosed,
 - specify the records, or the information in the records, that may be disclosed,
 - state the purpose of the disclosure, and
 - identify the party or class of parties to whom information in records can be disclosed.
- The consent form should also contain the parent's or the eligible student's address and telephone number, including a telephone number where the parent or the eligible student can be reached during business hours.

You must have written consent of the parent or the eligible student even if the third party accompanies the parent or the eligible student in person to the school or agency to view the records. Verbal consent given by the parent or the eligible student, even if given at or near the time the third party is to inspect the records, is NOT sufficient.

You must provide the parent or the eligible student with a copy of any records disclosed pursuant to the written consent, if the parent or the eligible student has requested a copy.

In dealing with a request from a third party for disclosure of education records, you should:

- have the third party fill out a request form like the one described on page 8 of these guidelines,
- keep a copy of the request form with the student's education records,
- get a written consent form signed by the parent or the eligible student,
- take reasonable steps, like those described on page 9, to verify that the parent or the eligible student is the one who signed the consent form,
- take reasonable steps, like those described on page 9, to verify that the third party asking for disclosure of information is the third party identified in the consent form,
- keep a copy of the consent form with the student's education records,
- notify the third party in writing of your decision on the request,
- if the request is denied, indicate on the notification your reason for denying the request,
- if the request is granted, indicate when and where the education records can be inspected,
- indicate on the notification form the date the notification is sent and the means by which it is sent (mail, fax, hand-delivery, etc.),
- keep a copy of the notification with the student's education record,
- get a signed certification from the third party that he or she will not redisclose any personally identifiable information to any other third party without the prior written consent of the parent or the eligible student and will only use the information for the purposes for which the disclosure is made,
- ensure that third party's review of the records is limited to that information specified in the consent form and that the integrity of the records is protected,
- have the third party sign an acknowledgment stating that he has reviewed the records specified in the consent form,
- keep a copy of the acknowledgment form with the student's education records,
- if you have not received the signed acknowledgment, make a note of it, and keep the note with the student's education records.

There are situations in which you can disclose to third parties personally identifiable information in an education record without the prior written consent of the parent or the eligible student. These are disclosures of personally identifiable information to:

- school officials of another school or school system where the student wants to enroll and
- school officials of another school or school system where the student is enrolled or is receiving services.

In either of these two situations, you must make a reasonable attempt to notify the parent or eligible student of this disclosure, unless the parent or the eligible student is the one who initiated it or unless your annual notification tells parents and eligible students that it is your policy to forward education records to other schools or school system where the student wants to enroll, is enrolled, or is receiving services. In any event, if the parent or the eligible student requests a copy of the records that have been forwarded, you must provide a copy.

There are other situations in which you can disclose personally identifiable information in an education record without the prior written consent of the parent or the eligible student. These include disclosure:²

- to authorized representatives of:

- the Comptroller General of the United States,
- the Attorney General of the United States,
- the Secretary of the United States Department of Education,
- state or local educational authorities (school board, superintendent, etc.),

- in connection with financial aid³ for which the student has applied or which the student has received, if the information is necessary to:

- determine eligibility for the aid,
- determine the amount of the aid,
- determine the conditions for the aid,
- enforce the terms and conditions of the aid,

- to state or local authorities when the disclosure concerns the juvenile justice system and the ability of the system to serve the student, if the officials certify in writing that they will not disclose the information to any other party without the prior written consent of the student's parent,⁴

² There are a few other situations, other than the ones listed, in which personally identifiable information in a student's education record can be disclosed without prior written consent of the student, but those situations apply only to institutions of postsecondary education.

³ "Financial aid," as used here, means a payment of funds provided to an individual, or a payment in kind of tangible or intangible property, that is conditioned on the individual's attendance at an educational agency or institution.

⁴ See also La. R.S. 17:81.

- to organizations conducting studies for, or on behalf of, educational agencies or institutions to:
 - develop, validate, or administer predictive tests;
 - administer student aid programs; or
 - improve instruction
 as long as the organization does not disclose a student’s personally identifiable information to anyone other than representatives of that organization and the information is destroyed when it is no longer needed for the study,⁵ (You should put these restrictions in any contract you have with any person or company performing such work on behalf of the educational agency or institution.)
- to accrediting organizations to perform their accrediting function,
- to the parent of a student when the student is the parent’s dependent for tax purposes,
- to comply with a judicial order or lawfully issued subpoena, (You must make a reasonable effort to notify the parent or the eligible student of the subpoena or judicial order prior to complying with it, unless the court has ordered otherwise.)
- to a court, if the student’s education records are relevant to a legal action initiated by the educational agency or institution against the parent or the eligible student,
- to a court, if the education records are relevant to a legal action initiated by the parent or the eligible student against the educational agency or institution,
- in response to a health or safety emergency where disclosure of the information is necessary to protect the health or safety of the student or others, and
- of “directory information” designated as such by the educational agency or institution.

4. Directory information

The items you designate as directory information can be disclosed without a parent’s or an eligible student’s prior written consent, unless he or she has notified you that you are not to disclose that information without prior written consent. It might be helpful to re-read the definition of *directory information* in the first part of these guidelines. The examples given in the definition are good examples of the types of information that can generally be disclosed without violating a student’s or a parent’s right to privacy. However, these examples are illustrative and are not the only things that might be designated as directory information. Your list of directory information may include more or less information than what is suggested in the definition of *directory information* on page 2 of these guidelines. **HOWEVER, A STUDENT’S SOCIAL SECURITY NUMBER SHOULD NEVER BE DIRECTORY INFORMATION.**

⁵ “Organization” as used here includes federal, state and local agencies, and independent organizations.

You must give public notice to parents or eligible students of the types of personally identifiable information that you are designating as directory information. You must also inform parents or eligible students of their right to refuse to allow disclosure of the student's directory information without specific prior written consent. Finally, you must give parents and eligible students a reasonable time to make a choice about directory information. The notice about directory information should be given annually and can be included in the school's annual notification discussed on page 4 of these guidelines.

You can disclose directory information on former students without meeting the notice requirements described in the preceding paragraph.

Military Recruiters and Institutions of Higher Education

The No Child Left Behind Act, although not a part of FERPA, contains a provision that is relevant to these guidelines. This statute, codified at 20 USC § 7908, requires secondary schools to provide students' names, addresses, and telephone listings to military recruiters and to institutions of higher education when they request that information. You are required to provide this information to them even if your school has not designated this information as part of its "directory information" under FERPA.

However, like the FERPA "directory information" provision, the No Child Left Behind Act allows parents or eligible students to refuse to allow disclosure of that information without prior written consent. You must provide parents or eligible students with written notification of their right to refuse disclosure without prior written consent. You must give parents or eligible students a reasonable time to make that choice. You can provide this notification along with the notice about FERPA directory information discussed in the preceding paragraphs.

5. Redisdisclosure

Redisdisclosure can perhaps best be defined by example. Suppose that an educational agency or institution discloses personally identifiable information from an education record to A. Suppose then that A discloses the information to B. A's disclosure to B is what FERPA calls *redisdisclosure*.

Generally, you can disclose personally identifiable information only on the condition that it will not be redisdisclosed to anyone else without the prior written consent of the parent or the eligible student. Furthermore, that information can only be used for the purposes for which the disclosure is made.

If the Family Policy Compliance Office⁶ has determined that an organization or a person misuses or improperly redisdiscloses that information, then you cannot give that organization or person access to any more personally identifiable information from education records for at least five years.

⁶ The Family Policy Compliance Office is part of the U.S. Department of Education and is responsible for enforcing FERPA.

In general, you are required to notify those to whom disclosures are made of these restrictions on the use and redisclosure of the personally identifiable information. This is the reason for the signed certification mentioned on pages 10-11 of these guidelines. However, you do not have to notify parents, eligible students, or courts of these redisclosure restrictions when they are the ones requesting initial disclosure of the information. Furthermore, you do not have to notify anyone asking only for directory information of the redisclosure restrictions.

An educational agency or institution can disclose information to a person or organization with an agreement that the person or organization will make further disclosures (redisclosures) on behalf of the educational agency or institution. However, both the initial disclosure and the redisclosure must comply with FERPA's requirements. In other words, if it would violate FERPA if it were an initial disclosure, then it violates FERPA as a redisclosure.

6. Recordkeeping

It is important to note that FERPA does not require you to keep any particular types of education records, nor does FERPA require you to keep education records for any particular period of time. However, FERPA does require that you keep records of each request for disclosure of personally identifiable information in education records. The record of a request for disclosure must, at a minimum, include:

- the name of the person or institution requesting or receiving the information and
- the legitimate interest the person or institution had in requesting or obtaining the information.

If the educational agency or institution has entered into an agreement whereby a redisclosure of personally identifiable information will be made on its behalf, then your educational agency or institution must also keep a record of:

- the names of the people or organizations to whom redisclosure of personally identifiable information will be made and
- the legitimate interests that these people or organizations had in requesting or obtaining the information pursuant to the redisclosure.

The records of requests for personally identifiable information from a student's education records must be kept with the student's education records for as long as the student's education records are kept.⁷ Although not expressly required by FERPA, it is strongly recommended that you keep a copy of all request forms, consent forms, notifications, certifications, and acknowledgments filled out pursuant to a request for information. This will provide evidence that you complied with FERPA if anyone ever makes a FERPA complaint against the school. However, you are not required to keep any records of:

⁷ Education records must be maintained for a minimum of three years, but local school districts can require their schools to retain records for longer periods of time. La. R.S. 44:36, La. R.S. 17:415 and BESE Bulletin 741.

- requests from parents,
- requests from eligible students,
- requests pursuant to written consent of the parent or the eligible student,
- requests from school officials at the student's school,
- requests for directory information, or
- requests made or information furnished, pursuant to court order or subpoena when the court has ordered that it not be disclosed.

C. Amendment of Education Records

Only a parent or an eligible student has the right to ask an educational agency or institution to amend any education record that he or she believes is inaccurate, misleading, or an invasion of privacy. Any request for an amendment to an educational record should include:

- the name of the person requesting the amendment,
- the name of the student whose records are the subject of the request,
- the date the request is submitted,
- the relationship of the person making the request to the student,
- a description of the particular records that are in need of amendment,
- an explanation of why the existing record needs to be amended, and
- a statement of how the record should read if it is amended pursuant to the request.

You must notify the parent or the eligible student of your decision within a reasonable time after you receive the request for an amendment. If you decide not to amend the record as requested, you must notify the parent or the eligible student of your decision in writing. You must also inform the parent or the eligible student of his or her right to request a hearing on the issue.

If a hearing is requested, then you must hold the hearing within a reasonable time after you receive the request for the hearing. You must give the parent or the eligible student notice of the date, time, and place that the hearing is to occur. You should keep a copy of this notice with the student's education records. The parent or the eligible student must be given the notice reasonably in advance of the hearing. The hearing may be conducted by anyone, including a school employee, who does not have any direct interest in the outcome of the hearing. The parent or the eligible student must be given a fair opportunity to present evidence and has the right, at his or her own expense, to the assistance of an attorney or other representative.

The decision on the hearing must be based solely on the evidence presented at the hearing. The decision must be in writing and must include a summary of the evidence presented and the reasons for the decision. The decision must be rendered within a reasonable time after the conclusion of the hearing. You should keep a copy of the decision with the student's education records.

After the hearing, if it is decided that the education record should not be amended as requested, you must inform the parent or the eligible student of his or her right to place a statement in the education record commenting on the contested information and stating why he or she

disagrees with the decision. You must keep the parent's or the eligible student's statement with the education record for as long as you keep the education record. You must also disclose the statement whenever you disclose the disputed part of the education record.

Although FERPA states that this process must progress in a reasonable time, FERPA does not define what constitutes a reasonable time. You can establish your own timetable for the progress of the amendment/hearing process. You may wish to set a self-imposed time limit, such as thirty (30) days, for responding to requests for an amendment. As for any hearing that might subsequently be requested, you should remain flexible so that the hearing can be set at a date and time that is convenient for all those involved.

IV. ADDITIONAL INFORMATION

If you need additional information concerning FERPA's requirements, you should contact the U.S. Department of Education's Family Policy Compliance Office at:

Family Policy Compliance Office

U.S. Department of Education

400 Maryland Avenue, SW

Washington, DC 20202-4605

Telephone: 202-260-3887

Facsimile: 202-260-9001

Additional information is also available on the Family Policy Compliance Office website at www.ed.gov/offices/OM/fpco/

V. **APPENDIX**

- A. Checklists
- B. Sample Forms

**CHECKLIST FOR DISCLOSURE TO A PARENT
OR AN ELIGIBLE STUDENT**

- Has the parent or the eligible student filled out a request form with all the pertinent information on it?
- Have you retained a copy of the request form to be kept with the student's education record?
- Have you notified the parent or the eligible student in writing whether his or her request has been granted or denied?
- Have you kept a copy of the notification with the student's education record?
- Have you taken reasonable steps to verify that the person who is going to inspect the education record is the parent or the eligible student?
- Have you looked over the education records before disclosing them to ensure that only information about THAT student will be disclosed?
- Have you monitored the inspection of the records to protect their integrity and made yourself available to answer questions?
- Have you had the parent or the eligible student sign an acknowledgment, stating that they have reviewed the education records?
- Have you kept a copy of the signed acknowledgment with the student's education records?
- If you have not received a signed acknowledgment, have you made a note of that fact and kept the note with the student's education records?

**CHECKLIST FOR DISCLOSURE TO A THIRD PARTY
OUTSIDE THE STUDENT'S SCHOOL OR SCHOOL SYSTEM**

- ___ Has the third party filled out a request form?

- ___ Have you determined whether or not the third party fits within one of the enumerated categories of third parties to whom you can disclose information with prior written consent of the parent or the eligible student?

- ___ If prior written consent of the parent or the eligible student is required, have you obtained a signed written consent form?

- ___ Have you kept a copy of the signed consent form with the student's education records?

- ___ Have you taken reasonable steps to verify that the parent or the eligible student is the one who signed the consent form?

- ___ Have you notified the third party in writing of your decision on the request?

- ___ Have you kept a copy of the notification with the student's education records?

- ___ Have you taken reasonable steps to verify the third party asking for disclosure of records is the third party identified in the consent form?

- ___ Have you gotten the third party to sign an acknowledgment of the redisclosure restrictions (unless the initial disclosure is made pursuant to court order or subpoena)?

- ___ Have you kept a copy of that redisclosure acknowledgment with the student's education records?

- ___ If prior written consent is required, have you ensured that the third party's inspection of the records is limited to that information specified in the consent form?

- ___ Have you gotten a signed acknowledgment from the third party acknowledging that he or she has reviewed the records specified in the consent form?

- ___ Have you kept a copy of that acknowledgment with the student's education records?

- ___ If you have not received a signed acknowledgment of inspection, have you made a note of that and kept it with the student's education records?

SAMPLE ANNUAL NOTIFICATION OF FERPA RIGHTS

The Family Educational Rights and Privacy Act (FERPA), sometimes referred to as the Buckley Amendment, affords you certain rights with regard to the education records of your children. If you are a student who is at least eighteen years old, FERPA affords you, not your parents, these rights. Under FERPA, these are your rights:

- (1) You have the right to inspect your child's education records. To inspect your child's education records, please fill out and submit the appropriate request form, which can be picked up at our offices located at Fictitious School, 1000 Main Street, Capitol City, Louisiana 00001. All requests for inspection of education records should be sent to the attention of John Doe, Records Custodian. Within 45 days of receipt of your request, the records custodian will contact you regarding the date, time, and place for your inspection of the records.
- (2) Personally identifiable information from your child's education records can only be disclosed to third parties outside this school or school district with your express written consent, except to the extent that FERPA allows for such disclosures without your consent. FERPA contains a number of exceptions whereby information can be disclosed to certain enumerated parties without your consent. One of FERPA's exceptions allows for such disclosures to school officials employed by, or otherwise working for this school district. A school official is someone who has a legitimate educational interest in having access to personally identifiable information in your child's education record. A school official has a legitimate educational interest if he or she needs the information in order to perform some aspect of his or her job. Fictitious School also has a policy of disclosing, without your consent, personally identifiable information from your child's education record to any other school or school district where your child intends to enroll.
- (3) You have the right to ask for an amendment to any of your child's education records which you believe to be erroneous, misleading, or an invasion of your or your child's privacy. If you wish to ask for an amendment to your child's education records, please fill out and submit the appropriate form, which can be picked up at our offices located at Fictitious School, 1000 Main Street, Capitol City, Louisiana 00001. All requests for amendment of education records should be sent to the attention of John Doe, Records Custodian. Within a reasonable time after receiving your request for an amendment, you will be notified of the decision on your request. If you disagree with the initial decision of your request, you may request a hearing on the matter. A hearing will be held within a reasonable time after receipt of your request for a hearing. The hearing will be before a hearing officer who has no direct interest in its outcome. At the hearing, you will have the right to present evidence relevant to the contested issue and to be assisted by an attorney or other representative. You are responsible for hiring and paying for your own representation.
- (4) If you believe that Fictitious School or the Fictitious School District has violated your FERPA rights, you have the right to file a complaint with the United States Department of Education, Family Policy Compliance Office, 400 Maryland Avenue, SW, Washington DC 20202.

SAMPLE NOTIFICATION OF APPROVAL/DENIAL OF REQUEST TO INSPECT EDUCATION RECORDS

For office use only	
Date notification sent:	
Notification sent via	
Date copies mailed:	
Date copy fee received:	
Amount of copy fee received:	
Initials of records custodian:	

To: _____
(name of person who made the request)

(address of person who made the request)

From: John Doe
Records Custodian
Fictitious School
1000 Main Street
Capitol City, Louisiana 00001

Date: _____

Your request to inspect the education records of _____ was
(name of student)
received in my office on _____.
(date request received)

Your request was: ___ approved ___ denied

___ The education records will be available for your inspection at Fictitious School, 1000 Main Street, Capitol City, Louisiana 00001 during business hours Monday-Friday, 8:00 a.m. to 3:30 p.m.

___ As you requested, copies of the education records will be mailed to you at the address indicated on your request form no later than ten (10) business days after this office receives a copying fee of \$_____. Please make your check payable to Fictitious School and send your check to Fictitious School, 1000 Main Street, Capitol City, Louisiana 00001.

The reason your request was denied is: _____

If you have any questions regarding this notification, please contact me at the address indicated above or call (225)-555-0001.

John Doe, Records Custodian

**SAMPLE CONSENT FORM FROM PARENT OR ELIGIBLE STUDENT
TO ALLOW THIRD PARTY TO INSPECT EDUCATION RECORD**

For office use only
Date received: _____

I grant to _____ permission to
(name of person or organization to whom permission is given)

_____ inspect [check the appropriate blank(s)]
_____ obtain copies of

the following education records _____

of _____ .
(name of student whose education records are to be disclosed)

The purpose of this disclosure of education records is _____

I can be reached at the following address and daytime telephone number for the purpose of
verifying the information on this consent form: _____

(signature of parent or of eligible student)

(date)

CERTIFICATION OF NONDISCLOSURE

I certify, under penalty of law, that I will use the personally identifiable information obtained from these education records only for the purposes for which this consent is given and that I will not disclose any personally identifiable information to any other person or organization without the prior express written consent of the student's parent, if the student is a minor, or the student, after the student reaches the age of 18, except where the law allows for disclosure without prior written consent.

(signature of third party)

(date)

SAMPLE NOTIFICATION TO WITHHOLD DIRECTORY INFORMATION

For office use only
Date received: _____

TO: ALL PARENTS

FOR: 2002-2003 SCHOOL YEAR

Fictitious School considers the information listed below to be directory information pursuant to the Family Education Rights and Privacy Act (FERPA). This means that Fictitious School can disclose to anyone, any of this information about any of its students. However, under FERPA you have the right to demand that Fictitious School not disclose any of this information about your child. In addition, the No Child Left Behind Act of 2001 requires Fictitious School to disclose to recruiters for the United States military and to recruiters for colleges or universities students' names, addresses, and telephone numbers when they request that information.⁸ Like FERPA, the No Child Left Behind Act of 2001 also allows you to demand that Fictitious School not disclose any of this information to recruiters for the United States military or for colleges or universities.

Directory Information:

- ___ student's name
- ___ student's address
- ___ student's telephone number
- ___ awards earned by the student
- ___ student's grade level
- ___ officially sanctioned sports/activities in which the student participates
- ___ height/weight of members of athletic teams
- ___ photograph
- ___ others _____

Please check the blanks next to the items that you DO NOT wish to have disclosed as directory information. Any information that you do not want disclosed as directory information will not be disclosed without specific, prior written consent from you, except in instances where the law allows disclosure of such information without your prior consent.

If this form is not received by John Doe, Records Custodian, Fictitious School, 1000 Main Street, Capitol City, Louisiana 00001 prior to _____, it will be assumed that all the information listed above may be disclosed for the rest of the school year.

(child's name)

(signature of parent/legal guardian)

(date)

⁸ The provision about military recruiters and recruiters for colleges and universities applies only to secondary schools.

SAMPLE REQUEST FOR AMENDMENT OF EDUCATION RECORD

For office use only	
Date received:	
Approved:	Y/N
Date notification sent:	
Initials of records custodian:	

TO: John Doe
Records Custodian
Fictional School
1000 Main Street
Capitol City, Louisiana 00001

FROM: _____
(name of parent or eligible student)

(address of parent or eligible student)

(telephone number of parent or eligible student)

I have reviewed the education records of _____ and I believe that the
(name of student)
record should be amended. My relationship to the student is _____.

The education record currently states _____

The education record should state _____

I believe that the education record should be amended because _____

(signature)

(date)

**SAMPLE NOTIFICATION OF APPROVAL/DENIAL
OF REQUEST FOR AMENDMENT OF EDUCATION RECORD**

For office use only	
Date sent:	
Initials of records custodian:	

FROM: John Doe
Records Custodian
Fictional School
1000 Main Street
Capitol City, Louisiana 00001

TO: _____
(name of parent or eligible student)

(address of parent or eligible student)

(telephone number of parent or eligible student)

Your request for an amendment of the education record of _____ was
(name of student)
carefully considered. Your request is

___ approved and the education record will be amended as you requested.
___ approved in part and denied in part for the following reasons: _____

___ denied for the following reasons: _____

If your request for an amendment has been denied, in whole or in part, you have the right to a hearing on the issue. If you wish to request a hearing, please contact me by writing to the above address or by calling (225)-555-0001 for more information.

John Doe, Records Custodian

**SAMPLE NOTIFICATION OF HEARING ON
AMENDMENT OF EDUCATION RECORD**

For office use only	
Date sent:	
Initials of records custodian:	

FROM: John Doe
Records Custodian
Fictional School
1000 Main Street
Capitol City, Louisiana 00001

TO: _____
(name of parent or eligible student)

(address of parent or eligible student)

(telephone number of parent or eligible student)

Your request for a hearing regarding amendment of the education record of _____ has been received. A hearing on this issue is scheduled for:
(name of student)

(date)

(time)

(location/address)

You will have the opportunity to present evidence relevant to the contested issue(s). You also have the right to be represented by an attorney or other advocate of your choice, at your own expense. The hearing will be before an impartial hearing officer who has no direct interest in the outcome of the hearing. The hearing officer's decision must be based solely on the evidence presented at the hearing.

If you or your advocate cannot be present at the date and time listed above, please contact me so that the hearing can be rescheduled. If you have any questions, please contact me by writing to the above address or by calling (225)-555-0001 for more information.

John Doe, Records Custodian