

Federal Privacy Law Related to Dual Enrollment—Strategies for Coordinators

The application of federal privacy law to dual enrollment can be confusing because it transfers certain privacy rights from parents to students when students reach age 18 or enroll in college courses. This information sheet provides important tips on how the Family Educational Rights and Privacy Act (FERPA) applies to dual enrollment. Parents and coordinators can learn more at studentprivacy.ed.gov.

● In college courses, dual enrollment students gain rights under FERPA

Certain FERPA rights apply differently to the same dual enrollment student, depending on whether a high school course or college course is at issue. A high school is permitted, without limitation, to share the dual enrollment data of students younger than 18 with their parents, including records that the college or university disclosed to the high school. But when a minor enrolls in a college course, privacy rights under FERPA related to that class transfer from parents to the student. FERPA permits higher education institutions to disclose students' education records to parents who claim the students as dependents for federal tax purposes. And the law allows a high school and college to share students' dual enrollment data with each other without the students' consent.

● Communication about FERPA

Because FERPA's application to dual enrollment programs can be confusing, it is important to promote effective communication and engagement with parents and faculty so everyone understands and applies the law consistently. Many partnerships refer all parent requests to the dual enrollment coordinator. It's also helpful to have a college representative speak with dual enrollment students about their rights under FERPA and demonstrate how to log in to the college information system to review their grades.

● When does FERPA permit agencies, colleges, and schools to share information?

When there's written consent: An institution may share information with any other party if the institution obtains a student's written consent to disclose certain data covered by FERPA, and if the other party—including, in the case of a student who is age 18 or older or who is enrolled at a higher education institution, parents—is named in the waiver that the student signs. Because colleges may share a student's personally identifiable information with parents who claim the student as a dependent on their federal tax return, colleges should have a policy in place for this (there's a model form at studentprivacy.ed.gov in the section with material for parents). *continued →*

Colleges and high schools should consult their attorney to ensure their dual enrollment partnership's policies and practices meet state and federal legal requirements.

What is FERPA?

The federal Family Educational Rights and Privacy Act, commonly known as FERPA, applies to educational institutions and agencies that receive funding from the federal government, which includes almost all K-12 schools and higher education institutions in the U.S.

Generally, FERPA prohibits institutions from disclosing personally identifiable information (or PII) about students without written consent from a parent or eligible student. The law does not prohibit disclosing data that are aggregated, anonymous, or de-identified.

FERPA provides exceptions that permit institutions to disclose PII for certain studies, program evaluations, or audits, and to share it with other education agencies or institutions where the student intends to enroll or is enrolled. But it does not require institutions to disclose or share their students' information.

Resources

The federal government's FERPA website (<https://studentprivacy.ed.gov>) contains volumes of helpful resources, grouped by audience, and it may be easiest to find information there yourself. But Department of Education staffers will answer questions about FERPA by email or phone (visit the website to find contact information; the toll-free helpline is 1-855-249-3072).

Find links to additional information on FERPA and to sample consent forms at www.careerladdersproject.org/dual-enrollment-links.

● Other exceptions to FERPA's consent requirement

FERPA provides limited exceptions to its general consent requirements for sharing personally identifiable information (PII) but does not require institutions to share PII.

Examples of these exceptions include:

- 1. Directory information.** PII that is not generally considered harmful or invasive of privacy if disclosed may be designated “directory information” by a school district or postsecondary institution and may be disclosed—but parents or eligible students must receive notice about what is designated as directory information and have the option to opt out of disclosure.

Examples of directory information include a student’s name, address, and enrollment status. Directory information does not include a social security number.

- 2. School officials.** School officials may have access to specific PII in which they have what FERPA calls “legitimate educational interests.” School districts and postsecondary institutions must provide parents and eligible students an annual FERPA notification that discusses who is considered a school official and what constitutes a legitimate educational interest.

Examples of school officials include teachers, admissions officers, and information systems specialists. If a district or postsecondary institution outsources certain functions like school buses or meal services, third parties also may be designated as school officials, subject to certain conditions.

- 3. Other schools or institutions.** A student’s PII may be shared with another school or higher education institution where the student intends or seeks to enroll, or where the student is already enrolled.

This exception is limited to sharing for purposes related to the student’s application, enrollment, or transfer.

- 4. Audits and evaluations.** Students’ PII may be used for audits or evaluations of state- or federally-supported education programs. The person receiving the PII must be a state or local education authority or an authorized representative of a state or local education authority.

The authorized representative must safeguard the PII and must destroy it once they are finished using it for the intended purpose.

- 5. Studies.** PII may be used by researchers to conduct studies on behalf of agencies or institutions.

This exception applies only to studies that focus on: (a) developing, validating, or administering predictive tests; (b) administering student aid programs; or (c) improving instruction.

- 6. Health and Safety.** In the case of a health or safety emergency, or the use or possession of alcohol or a controlled substance by a student under age 21, colleges and high schools may provide information without the student’s consent to third parties who can assist in the situation.