

UNITED STATES DEPARTMENT OF EDUCATION  
WASHINGTON, D.C. 20202

FACT SHEET

FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF 1974  
(FERPA)

**FERPA** is a Federal law designed to protect the privacy of a student's education records. The law applies to all schools which receive funds under an applicable program from the U.S. Department of Education.

**FERPA** gives certain rights to parents regarding their children's education records. These rights transfer to the student or former student who has reached the age of 18 or is attending any school beyond the high school level. Students and former students to whom the rights have transferred are called eligible students.

- Parents or eligible students have the right to inspect and review all of the student's education records maintained by the school. Schools are not required to provide copies of materials in education records unless, for reasons such as great distance, it is impossible for parents or eligible students to inspect the records personally. The school may charge a fee for copies.
- Parents and eligible students have the right to request that a school correct records believed to be inaccurate or misleading. If the school decides not to amend the record, the parent or eligible student then has the right to a formal hearing. After the hearing, if the school still decides not to amend the record, the parent or eligible student has the right to place a statement with the record commenting on the contested information in the record.
- Generally, the school must have written permission from the parent or eligible student before releasing any information from a student's records. However, the law allows schools to disclose records, without consent, to the following parties:

School employees who have a need-to-know;  
Other schools to which a student is transferring;  
Certain government officials in order to carry out lawful functions;

Appropriate parties in connection with financial aid to a student;  
Organizations doing certain studies for the school;  
Accrediting organizations;  
Individuals who need to know in cases of health and safety emergencies; and  
State and local authorities to whom disclosure is required by State laws adopted before November 19, 1974.

Schools may also disclose, without consent, "directory" type information such as a student's name, address, telephone number, date and place of birth, honors and awards, and dates of attendance. However, the school must tell parents and students of the information that is designated as directory information and provide a reasonable amount of time to allow the parent or eligible student to request the school not to disclose that information about them.

Schools must notify parents and eligible students of their rights under this law. The actual means of notification (special letter, inclusion in a PTA bulletin, student handbook, or newspaper article) is left to each school.

Schools must adopt a written policy about complying with FERPA. Schools must give the parent or eligible student a copy of the policy on request.

If you wish to see your child's education records, or if you are over 18 or are attending college and would like to see your records, you should contact the school for the procedure to follow.

If you have any questions about FERPA, or if you have problems in securing your rights under the Act, you may call (202) 260-3887 or TDD (202) 260-8956 or write to:

Family Policy Compliance Office  
U.S. Department of Education  
600 Independence, SW  
Washington, DC 20202-4605

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**RIGHTS OF NON-CUSTODIAL PARENTS**

**FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF 1974**

The Family Educational Rights and Privacy Act (FERPA) sets out requirements designed to protect the privacy of parents and students. In brief, the law requires a school district to: (1) provide a parent access to records that are directly related to the student; (2) provide a parent an opportunity to seek correction of records he or she believes to be inaccurate or misleading; and (3) with some exceptions, obtain the written permission of a parent before disclosing information contained in the student's education record.

The definition of parent is found in the FERPA implementing regulation under 34 CFR 99.3.

"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 a guardian.

Section 99.4 gives an explanation of the rights of parents.

An education agency or institution shall give full rights under the Act to either parent, unless the agency or institution 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.

This means that, in the case of divorce or separation, a school district must provide access to both natural parents, custodial and non-custodial, unless there is a legally binding document that specifically removes that parent's FERPA rights. In this context, a legally binding document is a court order or other legal paper that prohibits access to education records, or removes the parent's rights to have knowledge about his or her child's education.

Custody or other residential arrangements for a child do not, by themselves, affect the FERPA rights of the child's parents. One can best understand the FERPA position on parent's rights by separating the concept of custody from the concept of rights that the FERPA gives parents. Custody, as a legal concept, establishes where a child will live, and often, the duties of the person(s) with whom the child lives. The FERPA, on the other hand, simply establishes the parents' right of access to, and control of education records related to the child.

Here are the answers to questions frequently asked about the rights of non-custodial parents.

1. Does the FERPA require a school to keep a parent informed of the child's progress even though the parent is divorced and living some distance from the child?

No. The FERPA does not require schools to inform parents of student progress whether the parents are divorced or not.

2. Does the FERPA require a school to provide a parent copies of records?

Generally, a school is not required to provide parents copies of records. However, if the distance is great enough to make it impractical for the parent to visit the school to review the records, the school must make copies of the records and send them to the parent when that parent requests access to the records.

3. May a school charge for copies of records?

Yes. A school may charge a reasonable fee for copying.

4. Does the non-custodial parent have the right to be informed of and to attend teacher conferences?

The FERPA does not address conferences for the purpose of discussing student performance. Thus, a school has no obligation under this law to arrange a conference to accommodate the non-custodial parent. However, if records of conferences are maintained, the non-custodial parent has the right to see those records.

5. Must the school notify the non-custodial parent of his/her FERPA rights?

No. The school would be considered in compliance with the law if it notifies only the parent who has custody of the child.

6. Must the school provide the non-custodial parent the same general notices it provides the custodial parent?

No. General notices, lunch menus, PTA information, announcement of teacher conferences, school pictures, and other similar information, are not "education records" as defined by the FERPA. Therefore, schools are not legally required to provide them.

7. Is the school required to honor a parent's "standing request" for access or copies?

No. The FERPA does not require a school to honor a standing request, but the school may do so if it wishes. If parents wish to obtain information from their child's records on a regular basis, they should submit requests periodically. The school must respond to each request within 45 days.

8. How can a non-custodial parent get access to records?

Any parent may ask the school for the opportunity to review records, either by going to where the records are kept or by requesting copies. The school may ask the parent for some identification.

9. Can the parent with custody prevent the non-custodial parent from exercising his or her FERPA rights?

No. FERPA rights are given to both parents. The school may assume that a parent has these rights unless it has evidence to the contrary. The school does not need the permission of the custodial parent to give access to the non-custodial parent.



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**The Basic Standards Required by Section 99.6 of the  
FERPA Regulations for Student Records Policies**

Section 99.6 of the Family Educational Rights and Privacy Act (FERPA) regulations outlines the provisions which educational agencies and institutions must include in their student records policies. Under this section each educational agency or institution shall, consistent with the minimum requirements of section 438 of the Act, formulate and adopt a policy which includes at least the following parts:

1. A statement of the educational agency or institution's intent to annually inform parents or eligible students of their FERPA rights under section 99.7 of the regulations and the method by which it will make such notification.
2. A procedure which the educational agency or institution will follow when a parent of a student or an eligible student makes a request to inspect and review the student's education record. The procedure should also include the steps a parent or eligible student is to follow in order to make such a request.
3. A list of any circumstances in which the educational agency or institution will deny copies of education records to a parent of a student or an eligible student. Such denial may not effectively deny a parent of a student or an eligible student the right to inspect and review the student's education record.
4. A schedule of fees the educational agency or institution intends to charge for copies of education records. The fee may not include a charge for search and retrieval. Further, the fee may not effectively deny a parent or a student or an eligible student the right to inspect and review the student's education record.
5. A list of the types and locations of education records that the educational agency or institution maintains with the titles and addresses of the custodians of the records.
6. A statement that the educational agency or institution will not disclose information contained in a student's education record without the prior written consent of the parent of the student or the eligible student except where permitted by the FERPA statute and regulations.
7. A specification of the criteria the educational agency or institution will use to determine which parties are school officials

who may have access to information contained in a student's education records under section 99.31(a)(1).

8. A specification of the criteria the educational agency or institution considers to be a legitimate educational interest for disclosures to school officials under section 99.31(a)(1).
9. A list of the items of personally identifiable information the educational agency or institution proposes to designate as directory information and the parents' right to and procedures for requesting exclusion from disclosure of this information under section 99.37. (See section 99.3 for an exemplary list.)
10. A statement of the educational agency or institution's intent to maintain a record of requests for and/or disclosures of information from the education records of a student under section 99.32 and to permit a parent of the student or the eligible student to inspect that record.
11. A statement of intent to provide a parent of a student or an eligible student an opportunity to seek correction of the student's education records through a request to amend the record or a hearing under Subpart C of the FERPA regulation. This part of the policy should include the right of a parent or eligible student to place a written rebuttal in the record if no change is made after a hearing under section 99.21(b).
12. The procedure which a parent of a student or an eligible student should follow to obtain a copy of the educational agency or institution's written student records policy.

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**How to File a Complaint with the  
Department of Education under  
The Family Educational Rights and Privacy Act of 1974**

The Family Educational Rights and Privacy Act (FERPA) regulations state that complaints alleging that a school has violated the provisions of FERPA must be submitted in writing to:

Family Policy Compliance Office  
U.S. Department of Education  
Room 3017, FB-6  
400 Maryland Avenue, S.W.  
Washington, D.C. 20202-4605

There is no standard format for preparing a letter of complaint. However, in preparing the letter, a complainant should include as much detail and evidence as possible to support the allegations, such as copies of letters, memoranda of telephone conversations or conferences, pertinent statements from other individuals, and sufficiently detailed, but concise and specific, description of events. At a minimum the letter should provide:

The exact name of the school and school district.

The correct address.

The name, title, and telephone number of the chief officer (Superintendent, President, Chancellor, Principal, or other title).

The names of the students who are the subjects of the complaint.

The names and titles of the school officials with whom the complainant has dealt.

The complainant's complete address and daytime telephone number.

The pertinent dates and circumstances surrounding the school's denial of or violation of the complainant's rights. (If the complaint concerns a school's denial of the right to inspect the review the education records, the date of the request for access should definitely be included. Under FERPA, a school has 45 days in which to respond to such a request).

Any other relevant documents or information that will assist the Office in investigating the complaint.