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A Guide to the Family Educational Rights and Privacy Act and Participation in Juvenile Justice Programs

Program Report

U.S. Department of Justice
Office of Juvenile Justice and Delinquency Prevention

U.S. Department of Education
Family Policy Compliance Office

Shay Bilchik, Administrator
Office of Juvenile Justice and Delinquency Prevention

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The principal authors of this document are:

Michael L. Medaris, Office of Juvenile Justice and Delinquency Prevention
Ellen Campbell, Family Policy Compliance Office
Professor Bernard James, J.D., Pepperdine University School of Law

The Office of Juvenile Justice and Delinquency Prevention is a component of the Office of Justice Programs, which also includes the Bureau of Justice Assistance, the Bureau of Justice Statistics, the National Institute of Justice, and the Office for Victims of Crime.

The Family Policy Compliance Office is part of the Office of Management within the Department of Education. The Family Policy Compliance Office administers the Family Educational Rights and Privacy Act (FERPA).

Foreword

The growth of serious and violent delinquency in our Nation and its impact on our schools concerns us all. Every day, many children face fighting and other intimidating behavior at school or on the way to and from school. In addition to the cost to children and their families, school violence may have broad and long lasting effects on society because it disrupts education and diminishes students' sense of security in their learning environment. Clearly then, providing safe schools is one of our most important responsibilities. Children must feel safe and nurtured in school, and they must be challenged to learn rather than challenged to survive.

Maintaining safe schools requires the forging of partnerships to share information between schools and youth-serving agencies, including the police department, court system, youth parole and probation offices, and child protective services. These partnerships rely on effective information sharing among all the agencies responsible for delivering services to children. Educators who see the first warning signs of delinquency or who have critical information about juveniles involved in the juvenile justice system can, by sharing information with other justice and youth-serving agencies, help develop effective intervention strategies. At the other end of the spectrum, when the juvenile justice system is about to send an alleged or adjudicated juvenile offender back into the regular school system, justice officials should notify the school of the timing and circumstances of the student's return so the school can take steps to provide needed support services to help the student succeed. In addition, there are other circumstances in which it is both appropriate and necessary to share information to ensure public safety and the welfare of our children.

This guide is for educators, law enforcement personnel, juvenile justice professionals, and community leaders who are interested in developing interagency information sharing agreements to fully involve the schools in a holistic approach to intervention and delinquency prevention. Educators and other youth-serving professionals will find clear directions here on how to share information while complying with the Family Educational Rights and Privacy Act.

It is our hope that this guide will be useful as communities and schools across America work to provide safe havens for learning for our children.

Shay Bilchik
Administrator
Office of Juvenile Justice and Delinquency Prevention
U.S. Department of Justice

LeRoy Rooker
Director
Family Policy Compliance Office
U.S. Department of Education

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Introduction

In an era of scarce resources and alarming juvenile violence, all agencies serving children and families need to maximize their ability to share information so they can coordinate their services to make them more effective. When State and local agencies begin to implement comprehensive strategies for addressing juvenile delinquency, the cooperation of schools in sharing information about students is critical to the success of these efforts. Educators hold a unique position of influence in the children's lives. Consequently, the Nation's schools can be invaluable partners with the juvenile justice and other systems—including the social service, health, and mental health systems—as they seek to serve the needs of those students at high risk for delinquency. No student's needs should be neglected—and no school community should go unprotected—because of confusion over the extent of the right to privacy.

Educators typically approach participation in agency information sharing programs with caution because they have legitimate concerns about the privacy of students and their families. To a large extent, their caution reflects an awareness of legal restrictions on information sharing. All public elementary and secondary schools are subject to the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g), a Federal law that governs the disclosure of information from education records. Some States have similar privacy and confidentiality laws that also address the issue of sharing information from education records.

This guide provides basic information on FERPA for elementary and secondary education professionals and those involved in delivery of services to juveniles, including those students involved in the juvenile justice system. The information in the guide makes it clear that FERPA need not be an impediment to full participation by educators in their community's efforts to serve the needs of juveniles. Educators and those providing services to our children share a common ultimate goal: to see all children grow and thrive in safe homes, schools, and communities and become healthy, productive members of society.

The guide provides an overview of FERPA, discusses the Act's restrictions on information sharing and exceptions to those restrictions, explains recordkeeping requirements under the Act, and summarizes recent changes to the regulations for implementing FERPA. Examples are provided to illustrate some key points. The guide also explores the role of multiagency agreements in facilitating information sharing and looks at one effective program that relies on such agreements. Sources of technical assistance are given in the guide, including a brief summary of the Office of Juvenile Justice and Delinquency Prevention's (OJJDP's) information sharing initiatives. For convenient reference, the FERPA regulations are included in appendix A. In addition, four appendixes (B through E) present information for schools, other youth-serving agencies and organizations, and the juvenile justice and related systems to use in developing a juvenile justice network that will enable them to work together to address the problems of youth who are delinquent or at risk of becoming delinquent.

Although portions of the guide may also be of interest to educators at colleges and universities, the issues specific to that audience are beyond the scope of this work. Educators of postsecondary institutions should examine the text and regulations of FERPA independently and seek additional sources for guidance.

Information Sharing Between Schools and Other Youth-Serving Agencies Under the Family Educational Rights and Privacy Act

The Family Educational Rights and Privacy Act (FERPA) is a complex Federal law that protects the privacy interests of parents and students with regard to education records. It affects every public elementary and secondary school and virtually every postsecondary institution in the country. First enacted in 1974, FERPA has been amended by Congress seven times, most recently through the Improving America's Schools Act of 1994 (IASA).

FERPA defines the term "education records" broadly to include all records, files, documents, and other materials, such as films, tapes, or photographs, containing information directly related to a student that an education agency or institution or a person acting for the agency or institution maintains. For example, education records include information that schools maintain on students in report cards, surveys and assessments, health unit records, special education records, and correspondence between the school and other entities regarding students. Education records also include information that a school maintains about parents.

Examples of Valid Disclosures Under FERPA—Jane

Jane, 10, has been reported to the child protective services agency as a possible sex abuse victim. The agency contacts Jane's teachers to determine if Jane has exhibited any unusual behavior. FERPA permits Jane's teachers to share information about their observations regarding Jane. Oral information based on personal observation or knowledge is not subject to the provisions of FERPA.

Generally, FERPA gives parents the right to inspect and review their children's education records, request amendment of the records, and have some control over the disclosure of information from the records. When a student turns 18 or enters college, FERPA classifies him or her as an "eligible student" and transfers the rights under the Act from the parent to the student. FERPA requires school districts to notify parents and eligible students annually of their rights under the Act. (See appendix B for a sample notification document.)

The recent IASA amendments to FERPA enhanced the penalty for improperly disclosing information from education records. FERPA now prohibits a school from providing information for at least 5 years to a third party who received information and redisclosed it without the required consent.

Examples of Valid Disclosures Under FERPA—Ryan (Part I)

Ryan, 13, is adjudicated delinquent for breaking into a warehouse. As this is his first offense, the court returns Ryan to school and shares information about the offense with the school. FERPA does not govern the decision by local juvenile justice system officials to divulge this information to the schools. Schools may receive and use information from law enforcement, courts, and other justice system components in order to provide services to Ryan and to maintain a safe and effective learning environment. However, once the information on Ryan is received and maintained by the school, it is subject to FERPA and exceptions.

The Prior Consent Requirement for Disclosure of Education Records

For elementary or secondary school students, FERPA restricts the release of their school records or information from their records that could identify the student ("personally identifiable information"). Before releasing such records or information to a party outside the school system, the school must obtain the consent of the student's parents unless the student is 18 or over, in which case only the student can consent to the release, or unless the release falls under one of the exceptions to the consent requirement.

Educators are free to share information with other agencies or individuals concerning students based on their personal knowledge or observation, provided the information does not rely on the contents of an education record. Oral referrals to other agencies based on personal observations are not subject to the provisions of FERPA. Of course, the process of interagency information sharing is a dynamic process, and educators should take care not to circumvent the requirements of FERPA by making a referral that is predicated on knowledge obtained from education records.

Exceptions to the Prior Consent Requirement

Statutory exceptions applicable to the prior consent requirement are set forth in detail under § 99.31 of the FERPA regulations. As a general rule, educators may disclose information without prior consent if they can answer yes to any of the following questions.

Is the disclosure being made—

- To other school officials, including teachers, within the school or school district who have been determined to have legitimate educational interests? (A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.) (See § 99.31(a)(1) of the FERPA regulations.)
- To officials of another school, school system, or postsecondary institution where the student seeks or intends to enroll? (See § 99.34 of the FERPA regulations.)
- To authorized representatives of the Comptroller General of the United States, the U.S. Secretary of Education, or State and local education authorities? This exception applies only under certain conditions. Typically, disclosures under this provision must be in connection with an audit or evaluation of a Federal- or State-supported education program or in compliance with Federal legal requirements related to those programs. (See § 99.35 of the FERPA regulations.)
- In connection with the student's application for or receipt of financial aid? (See § 99.31(a)(4) of the FERPA regulations.)
- To State and local officials or authorities in compliance with a State statute that concerns the juvenile justice system and the system's ability to effectively serve, prior to adjudication, the student whose records are being released? (This condition is discussed further in "Disclosures Under the Juvenile Justice System Exception," p. 8.) (See § 99.31(a)(5) and § 99.38 of the FERPA regulations.)
- To organizations conducting studies for, or on behalf of, education agencies or institutions, in order to develop tests, administer student aid, or improve instruction? (See § 99.31(a)(6) of the FERPA regulations.)
- To accrediting organizations to carry out their accrediting functions? (See § 99.31(a)(7) of the FERPA regulations.)
- To parents of a dependent student, as defined by the Internal Revenue Code, even if the student is an "eligible student" under FERPA? (See § 99.31 (a)(8) of the FERPA regulations.)
- To comply with a judicial order or lawfully issued subpoena? The regulations direct the school to make a reasonable effort to notify the parent or eligible student of the court order or subpoena in advance of compliance. (See appendix C for sample court orders.) However, the IASA amend-

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ments removed this notification requirement for instances in which a court or other agency issues either a Federal Grand Jury subpoena or a subpoena for a law enforcement purpose and the court has ordered the school not to disclose the existence of the subpoena. (See § 99.31(a)(9) of the FERPA regulations.)

- In connection with a health or safety emergency? (See § 99.31(a)(10) of the FERPA regulations. See also "Disclosures Under the Health or Safety Emergency Exception," p. 7.)
- To teachers and school officials in other schools who have legitimate educational interests in the behavior of the student when the information concerns disciplinary action taken against the student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community? (See § 99.36 of the FERPA regulations.)
- To provide information that the school district has designated as "directory information"? (See § 99.37 of the FERPA regulations. See also "Disclosures Under the Directory Information Exception," p. 7).
- To provide information from the school's law enforcement unit records? (See § 99.3 definition of "education records" and § 99.8 of the FERPA regulations. See also "Disclosures Under the Law Enforcement Unit Records Exception," p. 5).

Four of the exceptions specified above require additional explanation:

- Disclosures Under the Law Enforcement Unit Records Exception.
- Disclosures Under the Directory Information Exception.
- Disclosures Under the Health or Safety Emergency Exception.
- Disclosures Under the Juvenile Justice System Exception.

Each of these types of disclosures is discussed in the sections that follow.

Disclosures Under the Law Enforcement Unit Records Exception

Under FERPA, schools may disclose information from "law enforcement unit records" to anyone—Federal, State, or local law enforcement authorities, social service agencies, or even the media—without the consent of the parent or eligible student. FERPA specifically exempts from the definition of "education records"—and thereby from the restrictions of FERPA—records that a law enforcement unit of a school or school district creates and maintains for a law enforcement purpose. In some instances, State open records laws may require that schools provide public access to law enforcement unit records because FERPA does not protect these records. (Educators may wish to check with their State attorney general's office on this point.)

Examples of Valid Disclosures Under FERPA—Rodney, Jeff, and Mark (Part I)

A School Resource Officer (SRO) who is a member of the school's law enforcement unit receives a report from the local police department that Rodney, Jeff, and Mark are active members of the Five Crew gang. The SRO creates a file and places the report in it. The SRO also informs the principal, who makes appropriate notations in each student's education record. Several weeks later, a detective from a neighboring jurisdiction contacts the SRO. The detective is investigating a rideby shooting involving gangs at a basketball game between the two schools. FERPA does not restrict the SRO from sharing information about the Five Crew members from the law enforcement unit record with the investigator.

A "law enforcement unit" is an individual, office, department, division, or other component of a school or school district—such as a unit of commissioned police officers or noncommissioned security guards—that is officially authorized or designated by the school district to (1) enforce any Federal, State, or local law, or (2) maintain the physical security and safety of schools in the district. Educators may employ commissioned police officers who are responsible for enforcing laws or officially designate

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an individual in the school district to carry out the responsibilities of a law enforcement unit.

Additionally, some school districts make special arrangements with local law enforcement authorities for the purpose of maintaining safe and drug-free schools. Although the Departments of Justice and Education encourage schools without separate law enforcement units to develop working relationships with local police authorities, compliance with FERPA calls for certain precautions. School districts should use a contract or memorandum of understanding to officially designate a local police officer(s) as the district's law enforcement unit. Without this designation, FERPA would prohibit the school from disclosing information from a student's education records, unless one of the other exceptions to FERPA applies, such as the health or safety exception. Regardless of whether the school district has designated one individual or a group of commissioned officers as the law enforcement unit, the district should include this designation in the annual notification of rights to parents and students under the section concerning the disclosure of information to school officials with a legitimate educational interest in the records. This is so that schools may freely share information about students with their law enforcement units and so that parents and students will know that information from education records may be disclosed for the purpose of maintaining safe schools.

Because this FERPA exemption applies specifically to records that a law enforcement unit creates and maintains for a law enforcement purpose, FERPA would protect records that the law enforcement unit created for a purpose other than law enforcement—even when they are in the possession of the law enforcement unit. On the other hand, even if the law enforcement unit shares with another component of the school a copy of a record the unit created for a law enforcement purpose, FERPA would not restrict dissemination of the records maintained by the law enforcement unit.

Law enforcement unit records should not be confused with the records of a school's disciplinary actions or proceedings, which are education records. Although schools may disclose information from their law enforcement unit to other school officials (including educators in other schools), the *copy* that the law enforcement unit gives to a principal or other school official becomes an education record once that official receives and maintains it. As such, the information is subject to FERPA and the principal or other official cannot disclose it to a third party without prior parental consent, unless one of the other exceptions to FERPA applies. However, the original document that the law enforcement unit created and maintained, which relates to activity that formed the basis for subsequent disciplinary actions or proceedings, does not become an education record merely because the unit shared it with another component of the school or because a copy is placed in the student's education file. It is, therefore, disclosable like other law enforcement unit records.

Examples of Valid Disclosures Under FERPA—Donna and Linda

Donna, 13, and Linda, 14, get into an argument and begin shoving each other. A school resource officer (SRO), who is a member of the school's law enforcement unit, separates them and makes an incident report. Several days later, the SRO again breaks up a fight between the two girls and makes another incident report. Copies of the two incident reports are forwarded from the law enforcement unit to the Assistant Principal who is responsible for school discipline. Because this is the second time the girls have been involved in a fight, they are suspended for a day. The incident reports that provided the basis of the disciplinary hearing and the disposition are entered into each girl's education record. Several days later, Donna and Linda see each other at a neighborhood record store and begin fighting again. The police are called and take the girls into custody. An officer contacts the school SRO and learns that Donna and Linda have gotten into fights at school. While the record of the school discipline hearing is an education record that is subject to FERPA constraints, the incident reports created and maintained by the SRO are disclosable under the law enforcement unit record exception.

It should be noted that nothing in FERPA prevents a school official from disclosing to local law enforce-

ment authorities information that is based on that official's personal knowledge or observation and not from an education record. As long as the reporting of the information does not rely on information contained in education records, FERPA does not restrict the reporting of crime to local law enforcement.

For instance, if a teacher were to observe that a student is involved in a gang or in illegal activities, FERPA would not prevent that teacher from reporting the student to law enforcement authorities. Should the authorities decide to investigate the teacher's observations and need information from the student's education record, they should obtain a subpoena unless circumstances trigger one of the other exceptions under FERPA.

Disclosures Under the Directory Information Exception

A school can disclose "directory information" from the education record without prior parental consent after giving notice of its intention to do so. "Directory information" is information in a student's education records that is not generally considered harmful, and its release is not considered an invasion of the student's privacy. A critical distinction exists between directory information and all other information present in school files. School districts can choose how much directory information from education records they will disclose. Directory information includes, but is not limited to, the following data about the student:

- Name.
- Address and telephone.
- Date and place of birth.
- Major field of study.
- Official activities.
- Dates of attendance ("from and to" dates of enrollment).
- Height and weight for sports.
- Degrees and honors received.
- Most recent previous education institution.
- Photograph.

The Department of Education considers these items to be directory information. In most instances, disclosure is helpful to both the institution and the student. However, school districts must establish a policy and give notice as to the specific types of directory information they intend to disclose. Parents can, however, retain the right to consent to the disclosure of directory information. Parents who wish to retain this right must so advise the school. (See § 99.3 and 99.37 of the FERPA regulations.)

With the passage of the juvenile justice system exception, discussed on p. 8, education records, including directory information, may be shared with juvenile justice system agencies, prior to adjudication of the student, to the extent that State law allows.

Disclosures Under the Health or Safety Emergency Exception

The health or safety emergency provision is a commonsense acknowledgment that there may be situations when the *immediate* need for information to avert or diffuse certain unusual conditions or disruptions requires the release of information. Educators determine what constitutes an "emergency," but FERPA requires that they construe the term strictly. For example, on-campus disruptions that constitute criminal acts, particularly those involving weapons and drugs, fall within the scope of the term, as do crisis situations off campus that affect school campuses or the public health or safety. When a health or safety emergency exists, schools may share relevant information about students involved in the emergency with appropriate parties—that is, those whose knowledge of the information is necessary to protect the health or safety of the student or other individuals. (See discussion of recordation requirements on p. 11.)

Examples of Valid Disclosures Under FERPA—Rodney, Jeff, and Mark (Part II)

The principal receives information from a student that members of Five Crew are planning an assault at the other high school in retaliation for the previous shooting. Under the emergency exception, the principal can provide information from each student's education record to the appropriate school officials and law enforcement agencies.

Disclosures Under the State Law Juvenile Justice System Exception

FERPA allows schools to play a vital role in a community's efforts to identify children who are at risk of delinquency and provide services prior to a child's becoming involved in the juvenile justice system. The 1994 IASA amendments modified FERPA to permit educators to share information with juvenile justice system agency officials on children who are at risk of involvement or have become involved in the juvenile justice system, prior to adjudication, to the extent State statute allows. System officials to whom the information is disclosed must certify in writing that they will not disclose personally identifiable information to any third party except as provided by State law. Consequently, schools in States with such statutes may disclose information about students to other State and local agencies as part of an effort to serve the student whose records are being released, prior to adjudication. As more and more States establish information sharing programs to serve students through cooperation with the juvenile justice system, the emphasis on neighborhood school participation in interagency information sharing agreements will increase. FERPA need not be a barrier to this progress toward proactive information sharing networks.

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Examples of Valid Disclosures Under FERPA—Mary

Mary, 13, is arrested for shoplifting. This is her first offense, and the police department's juvenile division contacts the school for information about Mary's school attendance and academic performance. The school can release school attendance, academic performance, or other information from Mary's education record with the consent of one of her parents. If State law authorizes the disclosure to juvenile justice system agencies, the school can share information from Mary's education record without parental consent. Absent such a State law, the school should ask the police department to obtain a subpoena for the records.

The juvenile justice system exception to FERPA's prior written consent provision allows the disclosure of education records, or information from education records, without consent of the parent or eligible student, if four conditions (see § 99.38 of the FERPA regulations) are met:

(1) The disclosure or reporting of the records must be to a State or local juvenile justice system agency.

(2) The disclosure must be based on a State statute authorizing the disclosure.

(3) If the State law was passed after November 19, 1974 (the date FERPA was enacted), the disclosure must relate to the juvenile system's ability to serve, prior to adjudication, the student whose records are being released.

(4) The State or local officials must certify, in writing, that the institution or individual receiving the personally identifiable information has agreed not to disclose it to a third party, other than another juvenile justice system agency.

Adjudication is the process of determining whether a juvenile has committed an act which, if committed by an adult, would be considered criminal conduct. The process is triggered by a "petition" alleging an act of delinquency. The petition may result in a finding or determination that the juvenile committed

the alleged act of delinquency. For the purposes of FERPA, once this finding or determination is made and the court has made a disposition of the case, the juvenile would be considered an "adjudicated delinquent." The disposition of a delinquency case is the equivalent of a "sentence" in a criminal case.

The fact that a juvenile has been adjudicated delinquent is not, in and of itself, determinative of whether the State law juvenile justice system exception for the release of information that concerns the "juvenile justice system's ability to effectively serve a student prior to adjudication" is applicable.

If the juvenile justice system seeks the disclosure of information on a student in order to identify and intervene with a juvenile at risk of delinquency, rather than to obtain information solely related to supervision of an adjudicated delinquent, the juvenile could be classified as a preadjudicated delinquent for purposes of this exception. The Secretary of Education believes that each school, working in conjunction with State and local authorities, can best determine whether a release of personally identifiable information from an education record "concerns the juvenile justice system's ability to effectively serve a student prior to adjudication." Thus, FERPA gives schools flexibility in determining whether an education record of a juvenile may be released without the prior written consent of the parent.

Florida provides an example of a State law that allows State and local officials to make use of this IASA amendment to FERPA. The State enacted legislation requiring Florida's Department of Juvenile Justice (DJJ) to establish an early delinquency intervention program with the cooperation of local law enforcement agencies, the judiciary, district school board personnel, the office of the State's Attorney, the office of the Public Defender, and community service agencies that work with children.

The Florida law specifies the type of information the cooperating agencies are to share with DJJ and directs specified agencies and persons to develop information sharing agreements within each county. The law states, "Within each county, the sheriff, the chiefs of police, the district school superintendent shall enter into an interagency agreement for the purpose of sharing information about juvenile offenders. . . .The agreement must specify the condi-

Examples of Valid Disclosures Under FERPA—Johnny (Part I)

Johnny, 11, is having problems in school. He is inattentive, does not complete homework assignments, falls asleep in class, and is hostile to some of the other children. When the school counselor interviews him, Johnny is sullen and unresponsive. The school counselor makes several unsuccessful attempts to reach the parents. In this situation, the teacher or the counselor can share personal observations with a family services agency but cannot rely on an education record as the source of this personal knowledge of Johnny's situation. If, however, State law authorizes the disclosure and the receiving entity is a juvenile justice system agency, the teacher or the counselor can, to the extent authorized by State statute, then also use information contained in Johnny's education record in making the referral. Thus, FERPA gives schools flexibility in determining whether an education record of a juvenile may be released without the prior written consent of the parent.

Examples of Valid Disclosures Under FERPA—Johnny (Part II)

Before the counselor can refer Johnny to an appropriate agency, the police department picks him up on the street at 2 a.m. on a school night. No one is home when the police attempt to contact the parents. Johnny spends the night in a temporary foster home, and the police refer his case to family services the next day. During the assessment process, the agency contacts the school and asks for information about Johnny's attitude and school performance. The school can provide information from Johnny's education record if at least one of these conditions is met:

(1) A parent consents, or
(2) There is a court order or lawfully issued subpoena directing the release of information, or
(3) A State law authorizes information sharing between educators and juvenile justice agencies.

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tions under which summary criminal history information is to be made available to appropriate school personnel, and the conditions under which development records are to be made available to appropriate department personnel." In addition, the law requires the school district to be notified when a youth is arrested for a felony or a crime of violence. FERPA further requires that juvenile justice system agencies certify in writing that they will not redisclose education records to any third party except as provided by State law.

Recordkeeping Requirements Under the Family Educational Rights and Privacy Act

A school district must follow certain FERPA recordkeeping requirements. Section 99.32 of the FERPA regulations requires that schools maintain with each student's education records a record of all individuals, agencies, or organizations that requested or obtained access to the student's education records, specifying the legitimate interest that each party had in obtaining the information. Accordingly, educators should document all disclosures of information from a student's education records unless the request is from and the disclosure is to one of the following:

- The parent or eligible student.
- A school official within the school system.
- A party with written consent from the parent or eligible student.
- A party seeking directory information.
- A party requesting or receiving the records as directed by a Federal grand jury or other law enforcement subpoena when the issuing court or agency has ordered that no one disclose the existence or the contents of the subpoena or the information furnished in response to the subpoena.

Examples of Valid Disclosures Under FERPA—Ryan (Part II)

Ryan, now 14, is adjudicated delinquent for breaking into several vehicles on a parking lot. This is his second offense. As a condition of his probation, the court orders Ryan to attend school regularly and to achieve passing grades in his classes. FERPA does not prevent a school from receiving information about Ryan's status as an adjudicated delinquent. The school, in turn, can assist juvenile probation by providing information from Ryan's education record concerning Ryan's attitude and performance in school. However, because of the fact that Ryan has been adjudicated and the information being sought is solely related to Ryan's status as an adjudicated delinquent, his school can only provide this information if one of the following conditions is met:

(1) A parent consents, or
(2) There is a court order or lawfully issued subpoena directing the release of the information.

Administration of the Family Educational Rights and Privacy Act

The U.S. Department of Education's Family Policy Compliance Office

The Family Policy Compliance Office in the U.S. Department of Education administers FERPA. The Office provides technical assistance on FERPA to education agencies and institutions, State and local officials, and parents. The Office also investigates alleged violations of the law.

Family Educational Rights and Privacy Act Regulations

Another responsibility of the Family Policy Compliance Office is to develop and issue regulations to aid in effective administration of FERPA. On November 21, 1996, the Department of Education published regulations to implement the IASA amendments to FERPA. At the same time, in an effort to reduce the burden on schools and to streamline the complaint procedures, the Department of Education also revised the FERPA regulations to do the following:

- Give schools greater flexibility by removing the requirement for adoption of a formal written student records policy.
- Require schools to include additional information in the mandatory annual notification of rights so that parents and students will receive more effective notification of their rights and procedures to pursue them. (A sample notification is included in appendix B.)
- Clarify FERPA requirements for State education agencies (SEA's) to afford parents access to any education records that SEA's maintain on their children.
- Clarify what constitutes legal standing to file FERPA complaints with the Department of Education. The complainant must be a parent or an eligible student affected by an alleged violation.
- Clarify the requirement that a school district make a reasonable effort to notify in advance the parent or student of its intent to disclose information from education records to a court in cases where a school district is initiating legal action against a parent or student.

The Family Educational Rights and Privacy Act and State Laws

If a school wishes to continue to receive Federal funds, the recipient must comply with FERPA's provisions on the disclosure of education records. (A school district is considered a "recipient" if it receives any funds directly from a program administered by the Secretary of Education or is under the auspices of a State education agency that receives such funds.) Compliance with portions of a State law that conflict with FERPA may jeopardize continued eligibility to receive Federal education funds. If educators believe that a State law conflicts with FERPA, they should bring this to the attention of appropriate State officials.