

CONFIDENTIALITY & SECURITY

DATA Analysis Website

Everyone who has access to student data must adhere to the guidelines and legal requirements set forth in local Board policy and procedure, state rules, and federal law. A breach of confidentiality is a violation of the Code of Ethics for certified personnel. This document explains, in detail, confidentiality of student data and parents' rights to student records. For your use of the Data Analysis website, the following points are most critical:

- **Any information which is personally identifiable to any student is held confidential under state and federal statutes, board policy, and local law.**
- **A school or system may disclose personally identifiable information about a student without parental consent if the disclosure is to other school officials, including teachers within the school, whom the school district has determined to have legitimate educational interests.**

Family Education Rights and Privacy Act - FERPA

The federal law, The Family Education Rights and Privacy Act of 1974 (FERPA), also commonly known as the Buckley Amendment, governs requests regarding specific information about individual students. The provisions of FERPA apply to any institution that receives federal education funds.

FERPA specifically guarantees that parents have the right to inspect and review the education records of their children.¹ Parents also have the right to inspect and review records of the State Department of Education. This right belongs to either parent, even if that parent no longer has legal custody of his or her children. It also is guaranteed to a parent who might be incarcerated or in another state or country. The only time any parent would not have access to records is if a court order specifically revoked the right of the parent to review educational records. Note it is the right to review educational records, not the right of custody which must be revoked.

Parents may also give written consent that another person, such as a step-parent, has the same FERPA rights as they have. "Parent" also includes a guardian or an individual acting as a parent in the absence of a parent or guardian. This right to inspect and review records transfers to the student at age 18.

Parents have the right to inspect and review the education records of their children. These would include any information recorded in any way including video and audiotape, as well as

¹ O.C.G.A. §20-2-720 contains a very similar provision to FERPA, guaranteeing a parent's right to inspect and review his or her child's education record.

written material. Any information maintained by the educational institution that is directly related to the student is covered.

One important exception is commonly referred to as the teacher's note exception. Records of instructional, supervisory and administrative personnel, which are kept in the sole possession of the person making the notes and are not revealed to anyone else (other than temporary substitutes) are not considered to be educational records to which parents have guaranteed access. It is important to note here that counselor and psychologist records are considered part of an educational record. Thus, they are not exempt from FERPA's requirement. For the "teacher's notes" exemption to apply to counselor's records, the notes taken by the counselor must be kept apart from all other student records and the information may not be shared with other persons. Testing protocols are copyrighted materials and cannot be copied and distributed. Parents could be allowed to review testing protocols with a qualified examiner, who can answer questions and provide appropriate test interpretations, without being provided a copy of the protocols.

Once parent requests to inspect and review his or her child's education records, the school system must comply within 45 days. If the parent cannot actually come to review the records, the school system must provide a copy or make other arrangements. The system cannot destroy records if there is a request outstanding. The system can charge a fee to copy the records, but may not charge a fee to retrieve the records. If the cost effectively prevents a parent from inspecting the records, the system may not charge.

Under FERPA, a parent not only has the right to inspect or review records, he or she also has the right to request that the records be amended if the parent believes they contain information that is inaccurate, misleading, or in violation of the student's right of privacy. If the school does not agree to amend the records, the school must notify the parent of his or her right to a hearing. If the parent decides to request a hearing, the school must hold the hearing within a reasonable time. The hearing may be conducted by anyone who does not have a direct interest in the outcome of the hearing. The parent must be given a full and fair opportunity to present evidence. The educational agency must make its decision in writing, based solely on the evidence presented at the hearing. The decision must include a summary of the evidence and the reason(s) for the decision.

The right to challenge an educational record, however, does not grant to a parent the right to contest the grade a teacher assigns to a student. FERPA gives parents the right to challenge a record in which a grade had been improperly recorded, but parents cannot contest whether the teacher should have assigned a higher grade.

In addition to guaranteeing a parent's right to his or her child's record, FERPA offers one other important protection to the student and his or her parent. FERPA provides that a school system may not disclose personally identifiable information about the student without a parent's signed written consent.

Personally identifiable information about a student includes, but is not limited to:

1. The student's name
2. The name of the student's parent or other family members
3. The address of the student or the student's family
4. A personal identifier, such as the student social security number or student number
5. A list of personal characteristics that would make the student's identity easily traceable or apparent.
6. Other information that would make the student's identity easily traceable.

Parental consent must be obtained before information may be released to anyone other than the student's parent. There are some exceptions to this rule and it is important that school officials be aware of the few circumstances where information about a student can be released to a third party without the parent's consent. A school may disclose personally identifiable information about a student without parental consent under the following conditions:

1. **The disclosure is to other school officials, including teachers within the school, whom the school district has determined to have legitimate educational interests.** State Board of Education Regulation 160-1-3-. 03 (I) states that a local system shall not disclose medical information about a student or employee with an HIV infection or other communicable diseases without the consent of the employee or the student or his or her parent or guardian.
2. The disclosure is the officials of another school or school system where the student seeks or intends to enroll.
3. **The disclosure is the authorized representatives of state and local educational authorities or federal educational officials.**
4. The disclosure is in connection with financial aid if the information is necessary for the receipt of the aid.
5. The disclosure is to State and local officials if state statutes allow reporting or disclosure concerning the juvenile justice system. It is important to note here that in Georgia, The Department of Juvenile Justice (DJJ) is considered to be a school system. Thus, records can be transferred to and from DJJ without parental consent under exception number 2.
6. The disclosure is to organizations conducting studies for, or on behalf of educational agencies or institutions to develop, validate or administer tests, administers student aid programs or to improve instruction. The term "organizations" includes, but is not limited to include federal, state and local agencies and independent organizations. Such studies must be conducted in a manner that does not permit personal identification of parents and students by individuals other than representatives of the organization. In addition, the information must be destroyed when no longer needed.
7. The disclosure is to accrediting agencies.
8. The disclosure is to parents of a dependent student, as defined in section 152 of the Internal Revenue Code. This would allow student information of students who are 18 and over to be released to their parents, if their parents are claiming them as dependents for tax purposes.
9. The disclosure is to comply with a judicial order or subpoena as long as the school system makes reasonable attempts to notify the parent of the subpoena in advance of compliance. If the school system initiates legal action against a parent or student and has attempted to notify the parent, it may disclose student information without a court order or subpoena.
10. The disclosure is in connection with a health or safety emergency. This exception should be strictly construed and is intended to apply to those situations where it is necessary to protect the health and safety of a student or other individuals.
11. The disclosure is designated as "directory information." This will be discussed later.

These exceptions identify the specific conditions under which a school system may disclose personally identifiable information without parental consent. However, the school system is not required to disclose information under these circumstances and may use its discretion if it feels disclosure is not warranted, or if it wants to notify the parent that the information is being disclosed.

As mentioned, one exception to the parental consent requirement deals with the release of directory information. Directory information is information which would not be generally be considered harmful or an invasion of privacy if disclosed. This could include such

information as name, address, telephone listing, date and place of birth, major field of study, participation in extracurricular activities, weight and height of members of athletic teams, dates of attendance, degrees or awards received. In order to disclose information of this type, a school system must have a policy defining the types of personally identifiable information that the school wants to designate as directory information. Parents must be given notice of this policy and be given the right to refuse to allow directory information about their children to be released without their prior written consent. The policy must also contain a period of time parents have to notify the district that they do not want directory information to be released.

School systems are not required to publish any type of directory information, but any system which contemplates routinely releasing information about student, such as student accomplishments or student athlete ages and measurements should have a directory information policy.

Questions are often raised about disclosing personally identifiable information to case workers of the Department of family and Children's Services (DFCS) and others involved in the child welfare system. As you can see from the exceptions above that there are no exceptions for DFACS. Thus, schools have to get parental permission before releasing information to DFACS.

Local school systems are required to annually notify parents of their rights under FERPA. The notice needs to specify the procedure by which parents can exercise their rights to inspect and review education records. The notice must contain the procedure for requesting amendment of the records and must contain the procedure designating who in the system has legitimate educational interests to review student information. This notice must be effectively provided to parents with disabilities and to parents who speak a language other than English.

Special education records follow the same procedures and are afforded the same protections as FERPA gives to other records. One additional procedure which must be in place for special education records requires schools to inform parents when personally identifiable information collected, maintained, or used is no longer needed to provide educational services to the child. The information must be destroyed at the request of the parents. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed and year completed may be sustained without time limitation.

FERPA is designed to address perceived abuses by school districts regarding either (a) withholding from parents information from their student's school records, and/or (b) disclosing student information to third parties about students. The Family Policy Compliance Office is charged with the responsibility of enforcing FERPA. Ultimately, federal funds can be withheld from any system which violates FERPA's provisions.²

² Information on FERPA was provided by Melanie Davis Stockwell, Director of Legal Services, Georgia Department of Education

Fulton County Board of Education Procedure JR – Student Records (Effective 6-11-98)

Notification of Rights - Students and parents must be notified annually of their rights under the Student Records Policy. A letter explaining those rights must be distributed to parents or students each school year.

Inspection and Review of Student Records by Parents, Legal Guardians or Eligible Students - Parents, legal guardians and students (18 years of age and older) wishing to inspect a student record should make a written request which should be filed with the student's record.

- If parents wish to challenge the contents of the record as being inaccurate, misleading, or violating one's right to privacy, the principal should schedule a time for the parent to attend an informal hearing for such a challenge. The hearing should be conducted by the principal and at least one other school representative (teacher, counselor, assistant principal or school psychologist).
- If the parent is not satisfied with the results of the informal hearing at the school level, the parent should be advised of the right to file his/her views in writing within 10 days with the Executive Director of Student Services. The Executive Director of Student Services or designee will schedule a hearing involving the parent and/or local school staff. If the issue is not resolved at this hearing, the parent will be advised of the right to place a statement into the record commenting on contested information and stating the disagreement regarding the information.

Release of Information With Written Consent - Authorization to release a student record to a third party must be given in writing and signed by the parent, legal guardian, or student (18 years of age or older) and filed with the student's record. Student records may be released by the Student Records Center or local schools upon receipt of signed letter of request or signed records release form. All written requests for a record should be maintained as part of the student's record.

Release of Directory Information Without Written Consent - Directory information may be released without prior consent unless written notice to the contrary is received annually by the Student Records Center. Directory information may include name, address, telephone listing, date and place of birth, dates of attendance, major field of study, participation in officially recognized activities and sports, weight and height if a member of an athletic team, degrees or awards received, the most recent previous educational agency or institution attended and other similar information.

Parents, legal guardians or students (18 years of age or older) who do not wish for directory information to be released must annually notify the Student Records Center in writing. The Student Records Center will then notify the school. It is the school's responsibility to notify appropriate personnel that directory information is not to be released.

Release of Information Without Written Consent- Records may be released without prior written consent if the disclosure meets one or more of the following conditions.

- **To other school officials within the school system, including teachers, who have a legitimate educational interest.**
- To officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll.

- Pursuant to any judicially imposed procedure, including request for production of documents, court order, or subpoena; however, records should not be released until a reasonable effort has been made to notify the parent, legal guardian or student (18 years of age or older) that the record has been requested. Unless time restraints require otherwise, the parent, legal guardian, or student will be offered the opportunity to receive a copy of the record desired. The Student Records Center staff will be available to assist local schools with decisions.
- To federal, state, or local officials in connection with an audit or evaluation of federal or state supported education programs, or for the enforcement of or compliance with federal legal requirements which relate to those programs. Information collected for this reason must be protected in a manner that does not permit personal identification of individuals by anyone other than the aforementioned officials and must be destroyed when no longer needed for the purposes listed herein. The safeguards previously listed do not apply if the parent or eligible student has given written consent for the disclosure or if the information is specifically authorized by federal law.
- In connection with financial aid for which the student has applied for or received if it is conditioned upon school attendance. Information may be used to determine eligibility, amount of aid, conditions of aid or to enforce the terms and condition of aid.
- To state and local officials or authorities if a state statute adopted before November 19, 1974 specifically requires disclosure; however, this does not prevent a state from further limiting the number or type of state or local officials to whom disclosure may be made.
- To organizations including, but not limited to, federal, state, and local agencies or independent organizations conducting studies for or on behalf of educational agencies or institutions to develop, validate or administer predictive tests, improve instruction or to administer student aid programs. The study must be conducted in a manner that does not permit personal identification of parents and students to anyone other than the aforementioned, and the information must be destroyed when no longer needed for the purposes for which the study was conducted.
- To accrediting organizations as needed to carry out their functions.
- To parents of a dependent student as defined in the Internal Revenue Service code.
- In connection with a health or safety emergency if that knowledge is necessary to protect the health and safety of others.
- To the parent of a student who is not 18 years of age or older or to the student if 18 years of age or older.
- Or as otherwise permitted under law.

Except for the parent, guardian, eligible student or school official, the identity of persons requesting access to the student's record should be recorded and maintained with the student's record.

Legal Reference: P.L. 93-380; O.C.G.A., 20-2-320

Confidentiality Procedures

1. **Non-school employees such as students or volunteers should not be involved in any process that includes access to confidential records or data. They should only be assigned responsibilities that do not violate the Family Education Rights and Privacy Act.**
2. Require written requests for student information from non-custodial parents. The request must be in writing, dated, and signed. Obtain identification indicating parenthood, and attach a copy of the identification to the request. If a legal guardian is requesting information, require the guardianship papers and attach a copy to the request. The student's home address and telephone number are the only information supplied of the student is currently enrolled; you can furnish the school name where records were mailed if student is withdrawn. Information is released only by the U.S. mail, and a notification (blind copy) is sent to the custodial parent immediately.
3. Never furnish any student information by telephone. Be on guard for co-workers and friends seeking information for "friends".
4. Directory information can be released to public agencies without a subpoena or signed release unless the parent has specified otherwise. (Examples of public agencies are the police, district attorney, Department of Family and Children's Services, juvenile court, and probation officer.)
5. Directory information cannot be released to the general public or private agencies without a signed release from the parent or student of legal age. (Examples of the general public and private agencies are an attorney, private detective, and citizen.)
6. Report any breaches of confidentiality to your Principal and to the Director of Student Information.

Computer Security

1. Do not leave your computer unattended without "exiting" out of the Data Analysis Website. If you leave your computer screen anywhere other than the logon screen, anyone can use your computer to access, change, delete or corrupt data.
2. Use passwords that cannot be easily guessed. Nonsense groups of alphabet letters provide more security than words or meaningful number combinations. Avoid using anything connected to you as a password; for example, do not use your social security number, your phone number, your address, or your spouse's name.
3. Never write down your passwords and leave them on a desktop, in a desk drawer, or other accessible place. If you feel that you have to write them down to remember them, be sure you store them in a place where absolutely no one else can find them.
4. Never tell your passwords to anyone. Innocent telling of passwords to trusted people is the most frequent way in which security is breached. It is easy for someone to eavesdrop on your conversation, and it is too easy for the person with whom you shared your password to innocently share it with still another person. As you can see, this can easily lead to a pyramid of people who know your passwords. If you inadvertently expose your password, change it immediately!

REMEMBER: YOUR PASSWORD IS FOR YOUR INDIVIDUAL USAGE ONLY. EACH USER WILL BE HELD RESPONSIBLE FOR ANY COMPUTER ACTIVITY PERFORMED DURING THE TIME THEIR USER ID AND PASSWORD ARE LOGGED ONTO THE SYSTEM.