



UNITED STATES DEPARTMENT OF EDUCATION

STUDENT PRIVACY POLICY OFFICE

April 22, 2020

Dear Chief State School Officers and Superintendents:

I write to you on behalf of the Student Privacy Policy Office (SPPO), formerly called the Family Policy Compliance Office, of the U.S. Department of Education (Department) to provide the notification required by Section 1061(c)(5)(C) of the No Child Left Behind Act (which amended Section 445 of the General Education Provisions Act (20 U.S.C. § 1232h(c)(5)(C))). This notification is required to inform State educational agencies (SEAs) and local educational agencies (LEAs), as recipients of funds under programs administered by the Department, of their obligations under the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) and the Protection of Pupil Rights Amendment (PPRA) (20 U.S.C. § 1232h; 34 CFR Part 98). FERPA protects the privacy interests and access rights of parents and students in education records maintained by educational agencies and institutions or by persons acting for such agencies or institutions. PPRA affords parents and students with rights concerning specified marketing activities, the administration or distribution of certain surveys to students, the administration of certain physical examinations or screenings to students, and parental access to certain instructional materials including ones used as part of a student's educational curriculum. This letter serves as the cover letter to the Department's annual notification, which has not substantively changed since it was last issued and may be accessed at <https://studentprivacy.ed.gov/annual-notices>.

I also write to share the following SPPO resources regarding FERPA during this time of social distancing due to the novel coronavirus disease 2019 (COVID-19) as educational agencies and institutions have transitioned to remote learning to educate their students:

- *FERPA and Virtual Learning During COVID-19* (<https://studentprivacy.ed.gov/resources/ferpa-and-virtual-learning-during-covid-19>), identifying requirements and best practices for 10 common scenarios under FERPA;
- *FERPA and Virtual Learning Related Resources* (<https://studentprivacy.ed.gov/resources/ferpa-and-virtual-learning>); and
- *FERPA and the Coronavirus Disease 2019 (COVID-19) FAQs* (<https://studentprivacy.ed.gov/resources/ferpa-and-coronavirus-disease-2019-covid-19>), primarily focusing on the health or safety emergency exception to the general written consent requirement under FERPA.

Finally, FERPA-covered educational agencies and institutions and PPRA-covered LEAs may wish to review and, if appropriate, revise their policies and procedures, and their notifications under FERPA and PPRA to provide parents and students with information about any revisions necessitated by changes to their operations during this period.

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The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access

Specifically, FERPA-covered educational agencies and institutions should review and, if appropriate, revise: (1) the criteria specified in their annual notification of FERPA rights (in accordance with 34 CFR § 99.7(a)(3)(iii)) as to who constitutes a school official and what constitutes a legitimate educational interest in order to permit the non-consensual disclosure of personally identifiable information from education records to school officials who have been determined to have legitimate educational interests under the school official exception (i.e., 34 CFR § 99.31(a)(1)); and, (2) their directory information policies under FERPA (i.e., 34 CFR §§ 99.31(a)(11) and 99.37(a)). Both the directory information and school official exceptions to the general requirement of consent under FERPA are particularly important during this time of remote learning. LEAs most commonly use the school official exception to permit disclosures under FERPA for the use of video or other technology applications and tools. Provided certain conditions are met, the directory information exception permits disclosure of information contained in a student's education records that would not generally be considered harmful or an invasion of privacy if disclosed, such as the student's name, address, phone number, photo image, and email address, including in connection with remote learning.

SPPO encourages LEAs to post on their websites their FERPA and PPRA notifications and policies to improve the transparency of information on student privacy. See, <https://studentprivacy.ed.gov/lea-website-privacy-review>. If your educational institutions are conducting remote learning for your students, we also encourage you to work with your attorneys and information security specialists to review prospective technology applications and tools against FERPA requirements.

We are available to assist you with your student privacy questions about FERPA and PPRA. You may contact us by submitting your questions to our student privacy help desk at FERPA@ed.gov.

Sincerely,



Kala Surprenant
Acting Director
Student Privacy Policy Office