



December 31, 2014

Dear Chief State School Officer:

The Department of Education (Department) is required to notify annually each State educational agency (SEA) and each local educational agency (LEA) of their obligations, as recipients of Department funds, under the Family Educational Rights and Privacy Act (FERPA) and the Protection of Pupil Rights Amendment (PPRA). FERPA protects the privacy interest of parents and students in education records maintained by educational agencies and institutions. PPRA affords parents and students with certain rights concerning marketing, surveys, as well as parental access to information and the administration of certain physical examinations to their children. These privacy interests in both FERPA and PPRA should not be viewed as barriers or challenges to be minimized and overcome, but important public safeguards with which schools and districts should comply. This letter provides you with that annual notification, which you may access at <http://www2.ed.gov/policy/gen/guid/fpc/pdf/csso-notice.pdf>.

In addition to notifying you of your legal obligations, I want to share with you some additional important resources that we have released during this past year. Secretary Duncan said, “We must provide our schools, teachers, and students cutting-edge learning tools. And we must protect our children’s privacy. We can and must accomplish both goals – but we will have to get smarter to do it.” To that end, I want to make you aware of new guidance from my office, the Family Policy Compliance Office (FPCO), and our Privacy Technical Assistance Center (PTAC) that may assist you and your schools in addressing these concerns.

Online Educational Services

Student privacy has been a hot topic in the news this past year and school districts like yours are on the front lines of protecting student information, while at the same time making meaningful use of student data and pursuing the best education possible through the use of appropriate educational technology. To assist your district in meeting these challenges, PTAC issued guidance in February 2014, recommending best practices to protect student information while using online educational services. Regardless of whether FERPA or PPRA applies to a school’s or district’s proposed use of online educational services, we recommend that schools and districts follow privacy, security, and transparency best practices, such as:

- Maintain awareness of other relevant federal, state, tribal, or local laws.
- Be aware of which online educational services are currently being used in your district.
- Have policies and procedures to evaluate and approve proposed online educational services.
- When possible, use a written contract or legal agreement.
- Use extra steps when accepting Click-Wrap licenses for consumer apps.

You may access this guidance at

<http://ptac.ed.gov/sites/default/files/Student%20Privacy%20and%20Online%20Educational%20Services%20%28February%202014%29.pdf>.

Sharing Information for Children in Foster Care

In May 2014, FPCO and the Office of Special Education and Rehabilitative Services (OSERS) issued joint guidance to provide schools, educational agencies, child welfare agencies, tribal organizations, early intervention service programs and providers with information to implement the amendments to FERPA made by the “Uninterrupted Scholars Act” (USA), signed into law in January 2013. The USA added an exception to the general requirement of consent in FERPA to permit LEAs and schools to disclose education records of students, without the consent of the parent or eligible student, to an agency caseworker or other representative of a State or local child welfare agency (CWA), or tribal organization authorized to access a student’s case plan when such agency or organization is legally responsible for the care and protection of the student in foster care placement. We encourage schools to collaborate with child welfare agencies to develop policies and procedures that permit the appropriate disclosure of the education records of students in foster care placement. You may access this guidance at

<http://www2.ed.gov/policy/gen/guid/fpc/ferpa/uninterrupted-scholars-act-guidance.pdf>.

Individuals with Disabilities Education Act (IDEA) and FERPA Confidentiality Provisions

While FERPA is recognized as the primary Federal law protecting the privacy of students’ education records, schools should remember that Part B and Part C of the IDEA also include privacy provisions that schools must follow, where applicable. The privacy provisions in IDEA generally follow FERPA; however, there are some distinct differences. To assist schools and districts in differentiating the privacy provisions in these statutes, we released in June a side-by-side comparison of the legal provisions and definitions in IDEA Part B, IDEA Part C, and FERPA. You may access this document at <http://www2.ed.gov/policy/gen/guid/ptac/pdf/idea-ferpa.pdf>.

Transparency Best Practices

Student privacy is best handled when we have open lines of communication between parents and schools. In July 2014, PTAC released a best practices guidance that provides a number of recommendations for keeping parents and students informed about schools’ and districts’ collection and use of student data. Some of the recommendations include:

- making information about your student data policies and practices easy to find on your public webpage;
- publishing a data inventory that details what information you collect about your students, and what you use it for;
- explaining to parents what, if any, personal information is shared with third parties and for what purpose(s); and
- using multi-layered communication strategies that tailor the complexity of the information to the audience, and telling parents where they can get more detailed information if they want it.

You may access this guidance at <http://ptac.ed.gov/document/Transparency-Guidance>.

FPCO Website

I am especially pleased to announce FPCO's new website, which went live in August. This website provides parents, eligible students, and school officials at the elementary, secondary, and postsecondary levels with a variety of resources and information regarding FERPA and PPRA, including links to the regulations, guidance documents, policy letters, topic briefs, webinars, videos, and a robust list of frequently asked questions (FAQs). This is an evolving website and will be updated as new resources and information become available. I encourage you to visit our new website at <http://familypolicy.ed.gov/>.

I trust this information is helpful as you continue to meet your important obligation to protect the privacy of your district's students. Should you have questions regarding FERPA, PPRA, student privacy, or your legal obligations, you may submit your questions through our new website, email us at FERPA@ed.gov, or call us at 202-260-3887. You also may write the Family Policy Compliance Office at 400 Maryland Avenue SW, Washington, DC 20202.

Sincerely,

Dale King
Director
Family Policy Compliance Office