

So You Think You Know FERPA? AKA FERPA 201

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Should you be here?

- Do you have access to personally identifiable student data?
- Do you worry about what your district staff are doing with that data?
- Do you like presentations with memes?

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Introduction

- FERPA is Hard
- Most audiences score 40% on our FERPA 101 pretest
- Many FERPA violations stem from a lack of understanding, or worse, a partial understanding of FERPA
- This is meant to be an interactive session, if you have scenarios you want to discuss, please bring them up



Icebreaker

- What kind of training does your staff get in:
  - IT Security
  - FERPA Training
  - Other laws (State Law, IDEA, etc.)
- How often are you training them?
- How are you training your volunteers, your substitutes, your student teachers?



Scenario 1 – Divorced Parents

Jack and Diane, two young people from a small town in Iowa, fall in love and get married. After 10 years, and two kids, they grow apart and get divorced. Jack moves to California and Diane stays in her small town, gets remarried and has sole custody of the kids.

Concerned about how his children are doing, Jack asks for access to his children's education records. Knowing that he doesn't live with his children the school denies the request. Did the school do the right thing?



Scenario 1 – Divorced Parents

This is one of the most common parent issues received on the PTAC helpdesk

- Divorce/Custody Issues are hard
  - Schools are caught in between
- FERPA affords rights to both the custodial and non-custodial parent
- Important to differentiate between "Access to Records (FERPA)" and "Right to Make an Educational Decision or check the kid out of school (Not FERPA)



Scenario 2 – Providing Access to Parents of Eligible Students

Monica enrolls in college and begins attending class. She signs a consent form permitting her parents to have access to her educational records. Later, her parents reach out to the registrar's office and requests access to her transcripts. The registrar's office successfully authenticates her parent's identity but still refuses to provide the information to the parents. Is this ok? What does the school have to do? What does it not have to do?



Scenario 2 – The Difference between "May" and "Must"

- When a child turns 18 or enters a postsecondary institution at any age the rights under FERPA transfer to the eligible student.
- If a student is claimed as a dependent by either parent for tax purposes, then a parent is permitted to have access. The disclosure is not compelled.
- This permutation of FERPA causes some parents some consternation



Scenario 3 – School Employee

Mary is a Database administrator for the school district. Part of her job requires doing system updates for the Student Information system, as such she has full administrative access to the SIS. Her sister Beth's children all go to the school district. Recently, her nephew gets into a fight and winds up getting suspended. Her nephew refuses to talk about the incident and won't tell his parents who he got into a fight with. Frustrated, Beth calls Mary and asks her to look up in the system to see if she can find out who the fight was with. Mary goes into the SIS and finds the discipline incident report for the fight and lets Beth know the name of the child her nephew had fought with. Beth then calls that child's parents up to discuss the incident. Is what Mary did ok?



Scenario 4 – Dual Enrollment

Janet is a 17 year old high school student at your school and is enrolled in the career and technical education Culinary Arts Program of Study. The Culinary Arts Program has an articulation agreement with local community college. As such, Janet also is dually-enrolled at the community college where she is taking the Artisan Breads and Pastries class. Janet's parents have requested access to and a copy of Janet's education records maintained at both your school and the community college.



Scenario 4 Continued

1. Must you and the community college honor the parent's request to access Janet's records and to receive a copy of her records?
2. How does FERPA apply in this scenario?



Scenario 5 – Deceased Students

The local newspaper is conducting research for a feature article on the increase in student suicides in the local community. The reporter approaches you with a list of student suicides over the past 5 years and requests academic and mental health records of the students.



Scenario 5 - Continued

1. May you disclose the requested information to the reporter as the students are deceased?
2. Would you need to obtain consent from the parents of the students?
3. Would the age of the student at the time of death make a difference in whether you may share the information with the reporter?



Scenario 6 – Cyber School

Your district provides parents the option of enrolling their child in an online cyber public charter school. The district uses a third party to run the online school. The third party also has arrangements with other subcontractors to assist in running the school. In order for a parent to enroll their child in the cyber school, the parent must agree to the third party's Terms of Service which permits the third party to use, reproduce, or distribute for any purpose the information it maintains on its students.



Scenario 6 Continued

1. Can the district require a parent to agree to the terms of service of the cyber school in order to enroll their child in the school?
2. Does the fact that the cyber school is an option for parents and their children make a difference in whether they must agree to the terms of service before enrolling
3. Are cyber schools subject to FERPA?



Scenario 7 – Community Based Organization

A community-based organization that has programs for children with special needs approaches you regarding their programs and asks for the name, address, and telephone number of parents with students in your school who have a disability in order to contact parents regarding their programs. You like the programs offered by the organization and believe the programs may be of benefit to the students with disabilities in your school and their parents.

Can the names and contact information for these students be disclosed to the organization?



Scenario 8 – Parent Volunteer

Mr. Spencer is a parent volunteer in your resource classroom for students with learning disabilities. He also has a child with a disability enrolled in the school, but not in your class. Mr. Spencer's assignment is to work with a small group of students on math skills. You provide him with the math achievement scores, classroom test reports and other math related information from the special education records of each individual student he is assisting.

Is it permissible for you to share the individual math test scores and other related information with Mr. Spencer without the consent or knowledge of the parents of the students?



Scenario 9 – Official Transcript

Sam is a recent graduate of your high school. After his graduation he comes to the main office and requests a copy of his official transcript. You notice that he owes several hundred dollars in unpaid fees and refuse him access. He states that refusal to honor his request is a FERPA violation. What do you do?



Scenario 10 – Teaching Assistant

John is a teaching assistant for Dr. Harsh's history 410 class. After midterms, Dr. Harsh is called away to deal with a family emergency. The midterms are already graded but have yet to be entered into the student information system. Eager to get this off his plate, Dr. Harsh gives John his username and password for the student information system.

Over the weekend, John logs into the Student Information System and enters in the grades from the class's midterms. Is this acceptable? What is required under FERPA? Can TA's have access to education records?



Scenario 11 – Campus Surveillance Video

Bob, Tommy and Joe are ecstatic that their favorite NFL team, the Philadelphia Eagles have won the Superbowl. They go to the local bar to celebrate and wind up celebrating too much. Inebriated, they return to campus and stumble around drunkenly trying to find their dorm rooms.

While they are doing nothing violent, their behavior violates the school's alcohol policy and several students complain about the incident. Campus administration reviews the surveillance video and clearly can see the three fans and their celebrations. The administration confirms that they have violated the school's alcohol policy and put the three students on probation. Tommy is a basketball player and this probation is preventing him from competing in this weekend's big game.



Scenario 11, Continued

1. The student newspaper, doing a story on discipline incidents for student athletes and submits a public records request for the video. Must you comply with the public records request?
2. Joe comes from an affluent family that donates a lot of money to the university. They ask for the university to destroy the video so it doesn't damage Joe's future political career. How would you handle the request from the parents to destroy the video?
3. Bob has no recollection of the evening and requests to come in and view the video so he can be sure that it was him. Do you have to comply with the request?



When are Videos and Photos Education Records

When they are directly related to a student. Which means they are:

- Used for disciplinary action or other official purposes
- Depictions of activities that:
  1. Resulted in disciplinary action
  2. Shows a violation of the law
  3. Shows an occurrence of student injury, attack, illness or health emergency
- Intent to make a specific student the subject
- Audio or visual record contains content that includes PII from a student's education record.



When Videos and Photos are NOT Education Records

- Students in the background
- Photos or videos without a focus on a specific student
- Records maintained by a law enforcement unit of an educational agency or institution for a law enforcement purpose
  - however, if unit provides a copy to the school, that copy may become an education record



Videos and Photos that are Records of Multiple Students

- A video can be the education record of multiple student (e.g. fights)
- In such an instance, educational agencies and institutions are required to allow a parent or eligible student, upon request, the opportunity to inspect and review the record without the consent of the other parent/ eligible student.
  a) Prior to providing access institutions are required to redact or segregate when reasonable if it does not destroy the meaning of the video
  b) Schools cannot charge for the redaction or segregation
  c) Copies are allowed but not required



Scenario 12 – After School Program

A number of your students belong to the local Boys and Girls club operated out of a local rec center. After school the students take a private bus there where they play games and get tutoring and homework help until their parents get off of work.

The Boys and Girls club come to you and ask for student achievement data on the students that are in their program. They say this data is needed to help them judge whether this tutoring is making a difference. Can you share the data with them?



Considerations for the Enterprise

- How are you tracking directory opt-outs?
- Have you seen your directory policy?
- Have you verified that the only records you are releasing under the directory exception are a part of your directory policy?



Considerations for the Enterprise

- What is in your annual notice?
  - Does it cover what you are doing under this exception?
- How do you manage access control in your organization?
  - Just because someone may have access to the SIS does not mean they have legitimate educational interest.

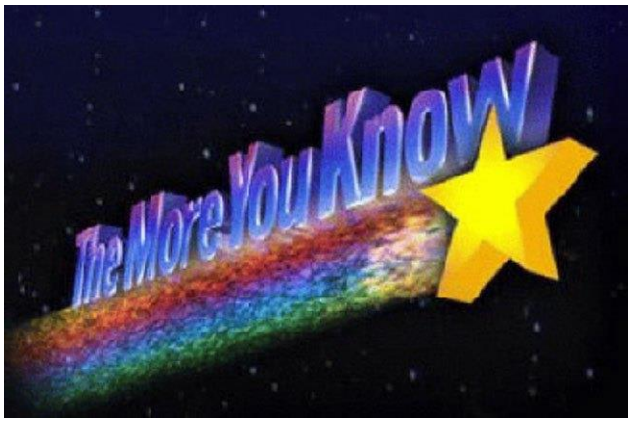


Next Steps

- What are you going to do differently at your district?
- What are some things that the U.S. Department of Education can do that would help you in this area?



Questions?



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Contact information

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