

Richard Woods, Georgia's School Superintendent
"Educating Georgia's Future"

Student Data Privacy and Security

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Georgia Department of Education



Data Collections

- Privacy Laws
- Personally Identifiable Information
- Using Online Educational Services
- Standard Operating Procedures
- Acceptable Use policy
- Training Resources

FERPA – Family Education Rights and Privacy

- FERPA is a Federal law that is administered by the Family Policy Compliance Office (Office) in the U.S. Department of Education (Department).
- FERPA applies to all educational agencies and institutions (e.g., schools) that receive funding under any program administered by the Department.
- Once a student reaches 18 years of age or attends a postsecondary institution, he or she becomes an "eligible student," and all rights formerly given to parents under FERPA transfer to the student.

FERPA
Family Educational
Rights and Privacy Act



FERPA– The Law

Rights of Parents and Eligible Students

- **The right to inspect and review** the student's education records maintained by the school;
- **The right to request** that a school amend the student's education records;
- **The right to consent** in writing to the disclosure of personally identifiable information from the student's education record, except under certain permitted situation; and
- **The right to file** a complaint with the Family Policy Compliance Office (FPCO) regarding an alleged violation under FERPA.

- **The right to file** a complaint with the local education authority regarding an alleged violation under FERPA, Student Data Privacy, Accessibility and Transparency Act, or under any other state student data privacy or security laws.



What is Personally Identifiable Information (PII)

Identifiable information that is maintained in the student's education record and includes direct identifiers and indirect identifiers. Indirect identifiers are identifiers that, **alone or in combination with other data**, is linkable to a specific student that would allow a reasonable person in the school community to identify the student with reasonable certainty.

Direct Identifiers

- Name,
- Social security number,
- User names



Indirect Identifiers

- Address of student or family,
- Telephone number,
- Email address,
- Parent or family members' names,
- Birth date,
- Race
- Gender
- Grade Level

Parent Consent NOT needed when releasing to the following entities

- School officials with legitimate educational interest;
- Other schools to which a student is transferring;
- Specified officials for audit or evaluation purposes;
- Appropriate parties in connection with financial aid to a student;
- Organizations conducting certain studies for or on behalf of the school
- Accrediting organizations;
- To comply with a judicial order or lawfully issued subpoena;
- Appropriate officials in cases of health and safety emergencies; and
- State and local authorities, within a juvenile justice system, pursuant to specific State law



FERPA Exceptions and Recordation Requirements



Privacy Technical Assistance Center

FERPA Exceptions—Summary

This Privacy Technical Assistance Center (PTAC) document is designed to assist State and local educational agencies (SEAs and LEAs) and educational institutions with determining under what conditions the Family Educational Rights and Privacy Act (FERPA) permits the disclosure of personally identifiable information (PII) from education records to third parties, such as researchers, contractors, volunteers, and journalists.

Generally, FERPA requires written consent from parents or “eligible students” (students who are at least 18 years of age or attending a postsecondary institution) in order to release PII from education records. In the absence of the written consent, FERPA permits an educational agency or institution to disclose PII from an education record of a student if the disclosure meets one or more of the conditions outlined in 20 U.S.C. § 1232g(b) and (h) – (j) and 34 CFR § 99.31. Below is a high-level overview of the four most commonly used exceptions to the FERPA written consent requirement, including applicable recordation requirements. For a more detailed explanation of these and other FERPA exceptions, please visit <http://ptac.ed.gov>.

Directory Information*	School Official (Schools and LEAs only)	Studies	Audit or Evaluation
Conditions that must be met			
<p>1. A school and/or LEA must properly designate “directory information”:</p> <p>a. Directory information may only include PII that is generally not considered harmful or an invasion of privacy if disclosed.</p> <p>b. The policy must clearly detail the types of PII that have been designated as directory information, the parent’s or eligible student’s right to refuse to let any or all of these types of PII be designated as directory information, and the period of time that the parent or eligible student has to opt out of such a disclosure of directory information.</p>	<p>1. A school and/or LEA must</p> <p>a. Establish criteria in the annual notification of FERPA rights about who is a “school official” and what constitutes a “legitimate educational interest”;</p> <p>b. Determine that the disclosure is to a school official who has a legitimate educational interest in the education records; and</p> <p>c. Use reasonable methods to ensure that school officials obtain access to only those education records in which they have a legitimate educational interest.</p>	<p>1. The disclosure of PII from student education records must be for, or on behalf of, an educational agency or institution, in order to</p> <p>a. Develop, validate, or administer predictive tests;</p> <p>b. Administer student aid programs; or</p> <p>c. Improve instruction.</p> <p>2. An educational agency or institution may disclose PII from education records, and a “FERPA-permitted entity” may redisclose PII only if</p> <p>a. The disclosing educational entity enters into a written agreement with the organization;</p>	<p>1. The disclosure of PII from education records must be to</p> <p>a. Audit or evaluate a Federal- or State-supported education program; or</p> <p>b. Enforce or comply with Federal legal requirements related to the program.</p> <p>2. The receiving entity must be a State or local educational authority or other FERPA-permitted entity or must be an authorized representative of a State or local educational authority or other FERPA-permitted entity.</p> <p>3. The party disclosing the PII from education records</p> <p>a. Must enter into a written agreement to designate anyone other than its employee as its authorized representative (each new audit, evaluation, or enforcement effort requires an agreement); and</p> <p>b. Is responsible for using reasonable methods to ensure to the greatest extent practicable that the authorized representative</p> <p>i. Uses the PII only for the authorized purpose;</p> <p>ii. Protects the PII from further unauthorized disclosures or other uses; and</p>

* While FERPA does not require that schools implement a directory information policy, if they do so, certain conditions must be met.



FERPA Exceptions and Recordation Requirements *continued*

Directory Information	School Official (Schools and LEAs only)	Studies	Audit or Evaluation
<p>2. A school and/or LEA must give a public notice to parents of students in attendance and eligible students in attendance prior to disclosing directory information.</p> <p>3. Subject to a few exceptions, parents or eligible students must not have opted out of the disclosure of directory information.</p>	<p>2. If outsourcing institutional services or functions to a third party, outside parties may be considered “school officials” if the outside party</p> <p>a. Performs an institutional service or function for which the school would otherwise use employees;</p> <p>b. Is under the direct control of the school with respect to the use and maintenance of education records; and</p> <p>c. Complies with the PII from education records use and redisclosure requirements.</p>	<p>b. The study does not permit identification of individual parents and students by anyone other than representatives of the organization with legitimate interests in the information; and</p> <p>c. The information is destroyed when no longer needed for the study purposes.</p>	<p>iii. Destroys the PII when no longer needed for the authorized purpose and in accordance with any specified time period set forth in a written agreement.</p> <p>4. State and local educational authorities and other FERPA-permitted entities may redisclose the PII on behalf of the educational agency or institution. In particular,</p> <p>a. The disclosure must meet the requirements of an exception to consent in § 99.31 and either the educational agency or institution or other FERPA-permitted entity has complied with the recordkeeping requirements.</p> <p>5. Authorized representatives of the FERPA-permitted entities may only redisclose the PII when expressly authorized in the parties’ written agreement (assuming that the redisclosure by the authorized representative on behalf of the FERPA-permitted entity would be permissible under FERPA).</p>
Legal references			
34 CFR §§ 99.3, 99.31(a)(11), and 99.37.	34 CFR §§ 99.31(a)(1) and 99.7(a)(3)(iii).	34 CFR § 99.31(a)(6).	34 CFR §§ 99.31(a)(3) and 99.35.
Other notes			
<u>Recordation:</u> FERPA does not require educational agencies and institutions to record disclosures of appropriately designated directory information (§ 99.32(d)(4)).	<u>Recordation:</u> FERPA (§ 99.32(d)(2)) does not require educational agencies and institutions to record disclosures of PII from education records to school officials under § 99.31(a)(1).	<u>Recordation:</u> FERPA requires educational agencies and institutions to record all disclosures of PII from education records to organizations made under the studies exception (§ 99.32).	<u>Recordation:</u> FERPA requires educational agencies and institutions to record all disclosures of PII from education records made under the audit or evaluation exception (§ 99.32). ➤ State and local educational authorities (and other FERPA-permitted entities listed in § 99.31(a)(3)) redisclosing PII on behalf of the educational agency or institution must record disclosures according to the requirements in § 99.32(b)(2).

See PTAC website for Additional Resources and Glossary: <http://ptac.ed.gov>



STUDIES EXCEPTION

Responding to external requestors for personally-identifiable data.

- The disclosure of PII from student education records must be for, or on behalf of, an educational agency or institution, in order to:
 - a. Develop, validate, or administer predictive tests;
 - b. Administer student aid programs; or
 - c. Improve instruction.

WRITTEN AGREEMENT NEEDED

AUDIT OR EVALUATION EXCEPTION

Responding to External Requestors for student-level data:

- An educational agency or institution may disclose PII from education records, in order to :
 - Audit or evaluate a Federal or State-supported education program or
 - Enforce or comply with Federal legal requirements related to the program.

WRITTEN AGREEMENT NEEDED

In the News – April 2017

1.3 million students located in districts using the Schoolzilla software, had their data published on the internet due to a file configuration error.

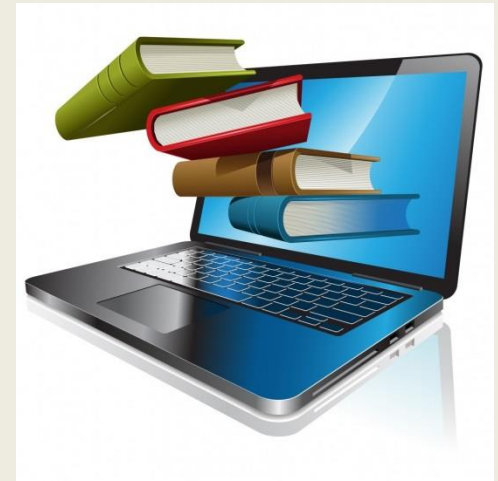
The data included:

- Social Security numbers
- Birth dates
- Test scores
- Parent names

**Data
Breach**



Using Online Educational Services



Protecting Student Privacy

General Rule: *A school or district **cannot** disclose PII from education records to a provider (online vendor) unless the school or district has first obtained written consent from the parents or eligible students.*

Note: *“Written Consent” is usually accomplished under the “directory information” exception.*

In the News – June 2017

- Two former Miami-Dade school students claim the Miami-Dade County School Board was reckless and negligent for publishing students' private information on the Miami-Dade County Public Schools (MDCPS) website.
- The students said a simple internet search of their names brings up all sorts of private info.
- Information such as social security number, developmental scale score, whether they passed or failed the FCAT, achievement levels and other test scores.
- Their attorneys claim information from 522 other student from **American Senior High School** had been public since 2013 and there may be more.



Best Practices

- **Using Online Educational Services**
 - Be aware of which online education 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
- **Using /Accepting Click-Wrap licenses**
 - Check amendment provisions
 - Print or Save the TOS
 - Limit Authority to Accept the TOS



Family Policy Compliance Office

Notices to LEAs and SEAs Regarding Responsibilities under FERPA & PPRA

- – Cover letter to the Department’s annual notices to SEAs and LEAs
- Notice to Chief State School Officers)
- – Notice to Superintendents

<https://www2.ed.gov/policy/gen/guid/fpco/index.html>

Armed Forces Recruiter Access to Students and Student Recruiting Information

Through the amendments, Congress included the following:

- (1) removing the provision that allowed a secondary school student, who has not reached 18 years of age, to opt out of disclosure to the military (only parents or students who have reached 18 years of age may now opt out);
- (2) clarifying that LEAs must notify parents and students who have attained 18 years of age of the option to opt out; and
- (3) clarifying that LEAs cannot use an “opt-in” process or any other process other than the opt-out process described in the law as a means to withhold access to a student’s name, address, and telephone listing from a military recruiter or an institution of higher education.



Frequently Asked Question



Question:

Has something changed with FERPA that allows us to disclose student information to a case worker without parental consent? My homeless liaison said with ESSA this has changed.

Answer:

In reference to your question, I have confirmed with a DFACs official that the only time a case worker can have access to a student's record without parental consent is when the case worker has produced a court order stating the child is now in DFACs custody. Otherwise, there must be parental consent before they can access the record.

Frequently Asked Question



Question:

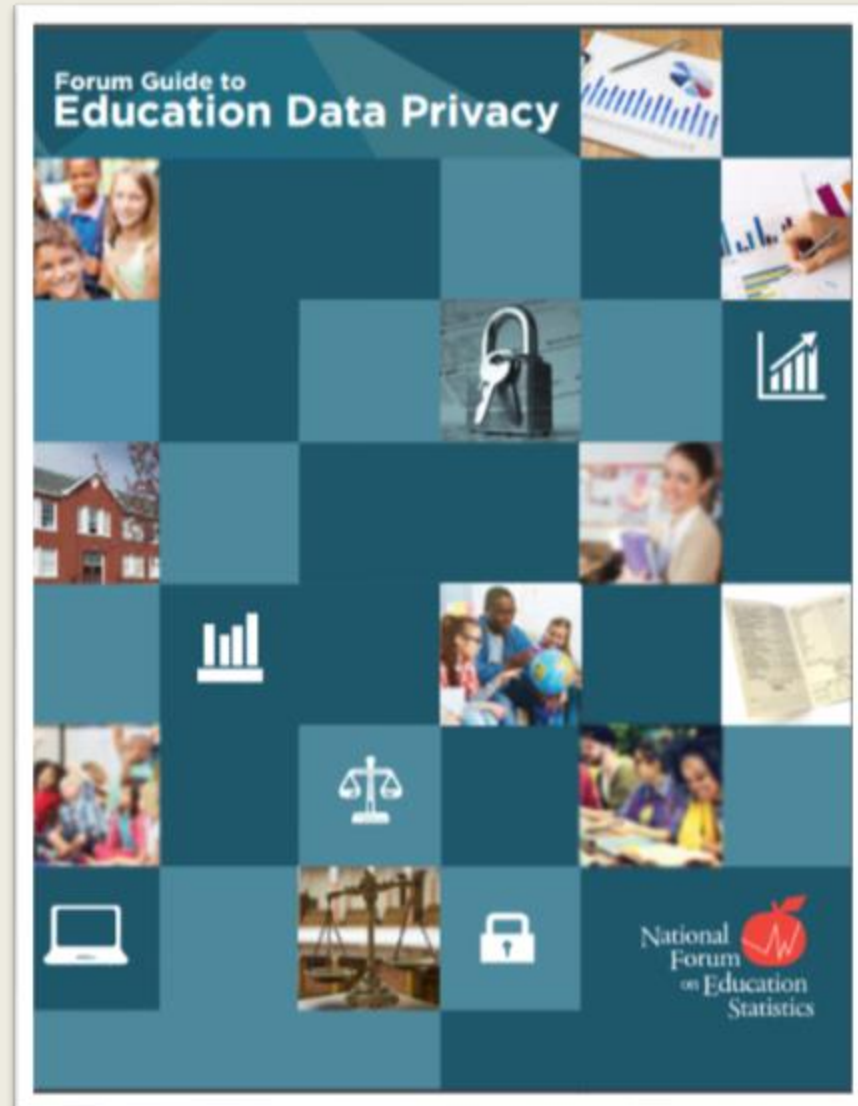
My system has an approved Charter System contract. Reading the contract and O.C.G.A. §20-2-265, it appears to me that the Student Data Privacy, Accessibility, and Transparency Act is waived thereunder, and the district is not required to comply with it. Is this correct?

Answer:

The language in O.C.G.A. §20-2-667 aligns with the FERPA law and cannot be waived by charter systems.

New Resource Now Available

[Forum Guide to Education Data Privacy](#)



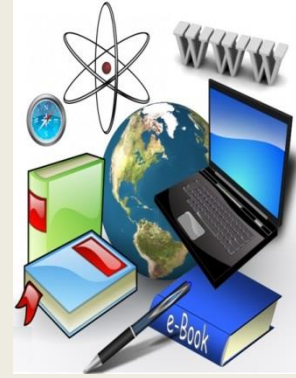
Georgia Department of Education

Forum Guide to Education Data Privacy

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Available Resources



GaDOE Resources

- Certificate of Non-Disclosure
- Sample Memorandum of Understanding
- Acceptable Use Policy
- Standard Operating Procedures

USDOE Resources

- [Protecting Student Privacy \(USDOE\)](#)
- Forum Guide to Education Data Privacy
- New brochure for School Volunteers
- IDEA and FERPA Provisions

Vendor-Owned Resources

- ExcelinEd
- COSN's - Trusted Learning Environment (TLE) seal





STANDARD OPERATING PROCEDURES

Sample Standard Operating Procedures

Storing PII

1. Store electronic data in a secure location only accessible by the authorized entity's approved individuals.
2. Do not store PII on a network drive available to all users.
3. Paper documents containing PII must be kept in a secure location with limited access.
4. PII stored on portable devices must be secured by encryption with password.
5. Protect physical data (including hard copies of reports, storage media, notes, and backups) from unauthorized persons and secure when not in use.

Sample Standard Operating Procedures **Exchanging PII**

1. Do not email PII using the GaDOE official email system.
2. Use the MyGaDOE portal email system when emailing information containing PII to another user.
3. Use Secure File Transfer Protocol (SFTP) when sharing approved PII data with outside individuals or organizations.
4. Do not use personal email accounts to send PII.
5. Do not send PII data in Instant Messaging system.
6. Do not send PII data through social media.

Sample Standard Operating Procedures

Reports containing PII

1. With the exclusion of standard public school enrollment reports, all public-facing reports or reports provided to non-authorized individuals that combine demographic and program participation information must adhere to the following rules:
 - a) If report is at district or school level, all cells' sizes less than 15 must be suppressed.
 - b) If report is of percentages, any percentage <5% or >95 % must be suppressed.
 - c) Totals for any column that has a suppressed value must also be suppressed.
 - d) Totals for any row that has a suppressed value must also be suppressed.
2. Protect visibility of reports and computer monitors when displaying and working with confidential information.
3. If reports containing any individual student information are used in meetings or presentations, student names and date of birth must be masked.

Records Retention

The screenshot shows the Georgia Archives website with the following content:

- Retention Schedules**
 - State Agencies**
 - [State Government Records Retention Schedules](#) [searchable]
 - [State Government Records Retention Schedules](#) (2011 edition)
 - [Changes in the State Government Schedule](#) (Oct 2010)
 - [State Agency Specific Schedules](#) (records not covered in the General Schedule)
 - [Appoint a New Agency Records Management Officer](#) (state agency heads only)
 - [University System of Georgia Retention Schedules](#)
 - Local Government Schedules**
 - [Local Government Records Retention Schedules](#) [searchable]
 - [Local Government Records Retention Schedules](#) (2011 edition)
 - [Judicial Branch Retention Schedules](#) [searchable]
 - [Judicial Branch Retention Schedules](#) (Oct 2010)
 - Retention FAQs**
- CONTACT INFORMATION**
 - Address:** 5800 Jonesboro Road, Morrow, GA 30260
 - Phone:** 678-364-3710
 - Hours:** Tuesday - Saturday, 8:30 AM - 5:00 PM
 - Social:** Find us on Facebook
- FEATURED CONTENT**
 - Virtual Vault
 - Finding Aids

Two red arrows point to the links for "Local Government Records Retention Schedules (2011 edition)" and "Local Government Records Retention Schedules [searchable]" under the Local Government Schedules section.

http://www.georgiaarchives.org/records/local_government/

Records Retention

Student Records, District Created

- **Description:** Official record of the individual student for his/her period of enrollment at a school; includes attendance reports, transcripts, standardized test scores.
- **Retention Period:** Permanent

Sample Acceptable Use Policy

Personally Identifiable Student Records

- Covered Persons who have access to personally-identifiable student records shall adhere to all standards included in the Family Educational Rights and Privacy Act (FERPA), Section 1002.22 F.S., and Section 1008.39 F.S., and other applicable laws and regulations, as they relate to the release of student information.
- Covered Persons must follow GaDOE Reporting, Exchanging & Storing Personally Identifiable Information Standard Operating Procedure.
- Covered Persons shall not use access to student records information for personal gain. In no case shall personally-identifiable information be released publicly.
- Covered Persons must refrain from viewing or printing personally-identifiable information except to perform their assigned duties.
- Covered Persons authorized to access personally-identifiable information shall execute a separate acknowledgment indicating they are aware of additional provisions of applicable laws and regulations. The form shall be provided by and kept on file by the business unit that owns or oversees the information.

Contact Information

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