

FERPA Policy Compliance Checklist for Local Education Agencies (LEA)

FERPA Reg.	Requirement	☑
§99.7 Annual Notification	Annually notify parents of students currently in attendance, or eligible students currently in attendance, of their rights under FERPA. ¹	
	Notice informs parents of their right to inspect and review the student’s educational records and includes procedure for exercising the right to inspect and review education records.	
	Notice informs parents of their right to seek amendment of the student’s education records that the parent or eligible student believes to be inaccurate, misleading or otherwise in violation of the student’s privacy rights and procedure for requesting an amendment of records.	
	Notice informs parents of their right to consent to disclosures of personally identifiable information contained in the student’s education records, except to the extent that FERPA and §99.31 authorize disclosure without consent.	
	Notice informs parents of their right to file with the U.S. Department of Education (USDE) a complaint concerning alleged failures by the education agency or institute to comply with the requirements of FERPA.	
	If LEA discloses information to school officials within the agency or contractors of the agency, notice includes criteria for determining who qualifies as a school official (including officials of a contractor) and what constitutes a legitimate educational interest for those officials to receive the education records.	
	Provide notice by a means that is reasonably likely to inform the parents or eligible students of their rights.	
	Effectively notify parents or eligible students who are disabled.	
	Effectively notify parents who have a primary or home language other than English.	

¹ As used in this document, “eligible student” refers to a student 18 years of age or above or a student enrolled in a postsecondary institution.

FERPA Reg.	Requirement	☑
§§99.10 and 99.12 Right of Inspection and Review §§99.10 and 99.12 Right of Inspection and Review	Comply with requests for access to records within a reasonable period of time, but not more than 45 days after it has received the request.	
	Respond to reasonable requests for explanations and interpretations of student records.	
	If circumstances effectively prevent parent or eligible student from exercising the right to inspect and review the student's education records, the LEA either (1) provides the parent or eligible student with a copy of the records requested, or (2) makes other arrangements for the parent or eligible student to inspect and review the requested records.	
	LEA ensures that, if the education records of a student contain information on more than one student, the parent or eligible student is permitted to inspect and review or be informed of only the specific information about that student. The FPCO currently has an informal policy that videos may need to be treated differently. Under the informal policy, if schools handle videos under the law enforcement records provision, then they have flexibility with how to treat videos. Otherwise, if a parent requests to see a video that includes his/her student and other students, it is permissible to allow that parent to view the video. If the parent requests to have a copy of the video, then schools need the consent of all of the parents of students in the video before it can provide a copy of the video.	
	LEA will not destroy any education records if there is an outstanding request to inspect and review the records under FERPA.	
§99.11 Fees	LEA does not charge a fee for a copy of education records of student if the imposition of a fee effectively prevents a parent or eligible student from exercising the right to inspect and review the student's education record.	
	LEA does not charge a fee to search for and to retrieve the education records of a student.	
§99.20 Right to Amend Records	LEA decides whether to amend an education record (as requested by a parent or eligible parent) within a reasonable time after the LEA receives a request.	
	If LEA decides not to amend the record as requested, it informs the parent or eligible student of its decision and of the parent or eligible student's right to a hearing.	

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§99.21 and 99.22 Right to Hearing	LEA gives the parent or eligible student, on request, an opportunity for a hearing to challenge the content of the student’s education records on the grounds that the information contained in the education records is inaccurate, misleading, or in violation of the privacy rights of the student. [Note: this is not an opportunity to challenge an academic or other substantive decision, such as a complaint that a student should have received a higher grade for a course.]		
	Hearing is held within a reasonable time after LEA has received request for hearing from parent or eligible student.		
	LEA gives parent or eligible student notice of date, time and place reasonably in advance of the hearing.		
	Hearing is conducted by an individual (which may be an official of the LEA) who does not have a direct interest in the outcome of the hearing.		
	§99.21 and 99.22 Right to Hearing	LEA gives the parent or eligible student a full and fair opportunity to present evidence relevant to whether the information contained in the education records is inaccurate, misleading, or in violation of the privacy rights of the student. (Parent or eligible student may, at his or her own expense, be assisted or represented by one or more individuals of his or her choice, including an attorney.)	
		LEA makes its decision in writing within a reasonable period of time after hearing.	
	LEA’s decision is based solely on the evidence presented at the hearing and includes a summary of the evidence and the reasons for the decision.		
	If, as a result of the hearing, LEA decides that the information is inaccurate, misleading or otherwise in violation of the privacy rights of the student, it shall (1) amend the record accordingly, and (2) inform the parent or eligible student of the amendment in writing.		
If, as a result of the hearing, the LEA decides that the information in the education record is not inaccurate, misleading or otherwise in violation of the privacy rights of the student, it shall inform the parent or eligible student of the right to place a statement in the record commenting on the contested information in the record or stating why he or she disagrees with the decision of the LEA.			

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	If LEA places statement in the education records of student, LEA maintains the statement with the contested part of the record for as long as the record is maintained and discloses the statement whenever it discloses the portion of the record to which the statement relates.	
§99.30 Prior Consent	LEA obtains signed consent before disclosing personally identifiable information from students records (except for types of disclosure specifically permitted under §99.31 or directory information, as discussed below).	
	Written consent is signed and dated, and specifies (1) the records that may be disclosed, (2) the purpose of disclosure, and (3) the party or class of parties to whom the disclosure is made.	
	When disclosure is made and if a parent or eligible student so requests, the LEA provides him or her with a copy of the records disclosed.	
§99.32 Recordkeeping	LEA maintains a record of each request for access to and each disclosure of personally identifiable information from the education records of a student. [Does not apply if request was from or disclosure was to (1) the parent or eligible student, (2) a school official whom LEA has determined to have a legitimate educational interest, (3) a party with written consent from the parent or eligible student, (4) a party seeking directory information or (5) a party seeking or receiving the records as directed by a Federal grand jury or other law enforcement subpoena or ex parte court order as described in §99.32(d)(5).]	
	LEA maintains the record with the education records of the student as long as the records are maintained.	
	Record includes (1) the parties who have requested or received the personally identifiable information, and (2) the legitimate interests of the parties in requesting or obtaining the information. [Note: If the request is denied, subpart (2) would not apply.]	

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	If the LEA discloses personally identifiable information with the understanding authorized under §99.33(b) (that the party receiving information may make further disclosures on behalf of LEA for permissible purposes), the record of disclosure includes (1) the names of additional parties to which the receiving party may disclose the information, and (2) the legitimate interests under §99.31 which each of the additional parties has in requesting or obtaining the information. A state or LEA may further disclose education records subsequent to the initial disclosure. If the LEA does not have a record of that further disclosure, the recipient state education authority or SEA that makes further disclosure must record the disclosure, and the LEA may request a copy of that recordation.	
§99.33 Redisclosure	If the LEA discloses personally identifiable information to another party, it must be on the condition that the other party will not further disclose the information without the prior consent of the parent or eligible student unless the redisclosure meets the requirements of §99.31 and the LEA (or the state or LEA making the further disclosure) has recorded the name of the additional party receiving the information and the legitimate interests that party has in requesting or receiving the information.	
	If the LEA discloses personally identifiable information to another party, the party that receives the information may use the information only for the purposes for which the disclosure was made.	
	LEA does not allow a third party to have access to personally identifiable information for at least 5 years if USDE has determined that third party improperly redisclosed personally identifiable information.	
§99.34 Disclosure to Other Educational Agencies or Institutions	If LEA discloses personally identifiable information to officials of another school, school system or institution of postsecondary education the student attends or in which the student seeks or intends to enroll, the LEA makes a reasonable attempt to notify the parent or eligible student at the last known address of the parent or eligible student unless the disclosure is (1) initiated by the parent or eligible student or (2) the LEA's annual notification includes a notice that the LEA forwards education records to other agencies or institutions that have requested the records and in which the student seeks or intends to enroll.	
	Upon making such disclosure, LEA gives parent or eligible student, upon request, a copy of the record that was disclosed and gives the parent or eligible student an opportunity for a hearing to challenge the content of the record.	
§99.37 Directory Information	If LEA discloses directory information, it has given public notice to parents of students in attendance and eligible students in attendance at the LEA.	

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	Public notice includes (1) the types of personally identifiable information that the LEA has designated as directory information, (2) a parent's or eligible student's right to refuse to let the LEA designate any or all of those types of information about the student as directory information, and (3) the period of time within which a parent or eligible student has to notify the LEA in writing that he or she opts out of having any or all of those types of information about the student designated as directory information and disclosed without written consent.	