FERPA

FERPA - - Family Educational Rights and Privacy Act – **protects the privacy of student education records**
Federal Agency with Oversight – U.S. Department of Education
District Oversight / Responsibility: Everyone with access to education records

A FERPA violation occurs if a student's education records are released to unauthorized persons, and may result in the loss of funding from the U.S. D.O.E.

FERPA requires education institutions and agencies to **obtain written permission from the parent or eligible student in order to release any information from a student's education record**. Educational institutions and agencies are also required to notify parents and students over age 18 of their rights under FERPA on an annual basis, and provide them adequate time to request that the student's records not be shared. It also provides parents or students over the age of 18 with the following rights

- Inspect or review the student's education records maintained by the school within 45 days of request
- Seek to amend education records believed to be inaccurate
- Consent to the disclosure of personally identifiable information from education records, except as specified by law. Consent may be signed electronically, as long as (1) the mechanism by which the electronic signature is received identifies and authenticates a particular person as the source of the consent; and (2) the record of the consent indicates the person's approval of the information in the consent.

Key Terms:

Education Records – materials that are "maintained by an educational agency or institution or by a person acting for such an agency or institution" and contain information directly related to a student.

Term **does not includ**e the following:

- Records kept by the person who made them that are used only as a "personal memory aid" and not shared with anyone besides a temporary substitute
- Records maintained by the local education agency's law enforcement unit
- Employee records made in the normal course of business and that pertain only to that individual's employment
- Records of a student over age 18 or who is attending post-secondary education made by professionals such as a physician or psychiatrist for treatment of the student; this info can only be disclosed to those who provide the treatment
- Records that the LEA made or received after the student stopped attending the institution; these records cannot directly relate to the student's attendance
- Grades on peer-reviewed papers **before** they are collected and recorded by a teacher

Disclosure – to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record

Record – any information recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche

Personally Identifiable Information (PII)– the term includes, but is not limited to,

- Student's name
- Name of the student's parent or family members
- Address of the student or student's family

- Personal identifier, such as the student's social security number, student number, or biometric record
- Other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name
- Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty,
- Information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates

Directory Information – This information can be released without consent, and **does not include social security numbers or student ID numbers.**

- Student's name
- Address
- Telephone number
- Date and place of birth
- Honors and awards
- Sports and activities
- Dates of attendance

Schools may disclose **de-identified data** without prior parental consent. De-identification requires

- Removal of all personally identifiable information and
- A reasonable determination that a student's identity is not personally identifiable

De-identified education records may be disclosed for education research purposes, provided the school attaches a code to the de-identified data to allow the recipient of the data to match information received from the same source. The code must not be based on the student's social security number or other personal information, nor should it contain any information that would allow the recipient to identify a student based on the code.

FERPA allows schools to disclose records without consent to the following parties or under the following conditions:

- 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 subpoena
- Appropriate officials in cases of health and safety emergencies
- State and local authorities within a juvenile justice system, pursuant to specific State law

Resources:

- Electronic Code of Federal Regulations Family Educational Rights and Privacy Act -- http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=11975031b82001bed902b3e73f33e604&rgn=div5&view=text&node=34:1.1.1.1.33&idno=34
- U.S. Dept. of Education - Family Educational Rights and Privacy Act -- http://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html

Additional information on COPPA and FERPA was gathered from:

Ritvo, Dalia Topelson and Bavitz, Christopher and Gupta, Ritu and Oberman, Irina, Privacy and Children's Data – An Overview of the Children's Online Privacy Protection Act and the Family Educational Rights and Privacy Act (November 14, 2013). Berkman Center Research Publication No. 23. Available at http://dx.doi.org/10.2139/ssrn.2354339