



Questions and Answers Regarding Directory Information

This document was prepared on June 10, 2025 by the New York State Education Department's Privacy Office. If you have questions regarding this guidance, please contact privacy@nysed.gov.

Q1: What is directory information?

A1: Generally, under the Family Educational Rights Privacy Act ("FERPA") information from students' education records cannot be shared without parent/guardian or eligible student (age 18 or older) consent. One exception to that rule is directory information.

FERPA defines directory information as "information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed." Directory information includes, but is not limited to, the student's name; address; telephone listing; email address; photograph; date of birth; major field of study; grade level; enrollment status (e.g., undergraduate or graduate, full-time or part-time); dates of attendance; participation in officially recognized activities and sports; weight and height of members of athletic teams; degrees, honors, and awards received; and the most recent educational agency or institution attended (34 CFR §99.3).¹ Educational agencies² may decide what is directory information for their purposes.

Educational agencies are not required to disclose directory information, although most do for purposes such as honor rolls, student athlete information, playbills, yearbooks, concert programs, etc. When disclosing directory information, FERPA requires educational agencies to comply with certain requirements such as providing public notice to parents/guardians and eligible students of its directory information list and policy and their right to opt out of having this information shared.

Education Law § 2-d adds additional requirements before educational agencies can release information under their directory information policy, such as ensuring that the information is not being used for commercial or marketing purposes.

¹ Although FERPA regulations include place of birth as an item that may be considered directory information, the release of such information may be harmful or an invasion of privacy if disclosed. Accordingly, educational agencies should not deem place of birth to be directory information (*see* A2).

² Educational agencies are school districts, board of cooperative educational services (BOCES), schools, which include charter schools and the New York State Education Department (Education Law § 2-d and 8 NYCRR § 121.1[g]).

Q2: Are there limits as to what information an educational agency can use as directory?

A2: Yes, as stated above, FERPA defines directory information to be information contained in an education record of a student that would “generally not be considered harmful or an invasion of privacy if disclosed” (34 CFR § 99.3). Directory information should not include items such as whether the student receives free or reduced-price meals, immigration status,³ homelessness, English language learner status, disability, country of origin, place of birth, gender,⁴ ethnicity, or race.⁵ Although FERPA regulations list place of birth as directory information, under current standards it would be considered harmful and an invasion of privacy to release such information. Accordingly, educational agencies should not deem place of birth to be directory information.

Additionally, social security numbers must never be used as directory information and student identification numbers or other personal identification numbers may only be used in very limited circumstances (*see* 34 CFR § 99.3, “directory information”).

Q3: What is a limited directory information policy?

A3: Under a limited directory information policy, an educational agency may specify that disclosure of directory information will be limited to specific parties, for specific purposes, or both (34 CFR § 99.37[d]). When an educational agency or institution specifies that disclosure of directory information will be limited to specific parties, for specific purposes, or both, the educational agency or institution **must limit** its directory information disclosures to those specified in its public notice only. A limited directory information policy is a best practice because it offers greater transparency and encourages less disclosure.

³ New York State Guidance on Safeguarding the Rights of Immigrant Students (Jan. 2025), available at <https://www.nysed.gov/sites/default/files/oag-go-sed-immigration-students.pdf>

⁴ U.S. Dept. of Educ., Student Privacy Policy Office (formerly the Family Policy Compliance Office), Letter to Black (May 17, 1995), available at https://studentprivacy.ed.gov/sites/default/files/resource_document/file/LettertoBlackDIGenderMay1995.pdf

⁵ U.S. Dept. of Educ., Office of Planning, Evaluation and Policy Development, Letter to Institutions of Higher Education (Jan. 29, 2020), https://studentprivacy.ed.gov/sites/default/files/resource_document/file/ED_SPPO%20Letter%20to%20IHEs%20re%202020%20Census_v_01292020.pdf (“The [U.S. Department of Education], through letters, guidance, and compliance training, since at least 1991, has consistently advised that the disclosure of a student’s sex, ethnicity, or race as directory information would not comply with the regulatory definition, which provides that directory information is information that would not generally be considered harmful or an invasion of privacy if disclosed.”)

Additionally, it is important to remember that the regulations regarding directory information are permissive, meaning that an educational agency may release directory information in compliance with its policy, if it wants to **but it is not required** to release directory information.

Q4: Are there any conditions that apply to disclosing directory information?

A4: Yes, under FERPA there are several requirements that must be complied with to implement a directory information policy (34 CFR § 99.37). Educational agencies **must** notify parents/guardians and eligible students of:

- The types of personally identifiable information (“PII”) the educational agency designated as directory information (i.e., name, grade level, etc.);
- The right of parents/guardians or eligible students to refuse to let the educational agency designate any or all those types of information about their child (student) or themselves, respectively, as directory information; and
- The period of time a parent/guardian or eligible student can notify the educational agency in writing that they do not want any or all those types of information about the student designated as directory information.⁶

Q5: What are acceptable methods of notifying parents/guardians and eligible students of the educational agency’s directory information policy?

A5: Educational agencies often include information about their directory information policy with their annual FERPA notice (34 CFR § 99.7). Best practice is for educational agencies to also post their annual FERPA notice and directory information policy on their website on a page dedicated to student privacy.⁷ Providing a link to the policy on the opt-out or opt-in forms will also assist parents/guardians and eligible students to easily locate the educational agency’s policy. Additionally, the U.S. Department of Education’s Student Privacy Policy Office (SPPO) provides a model FERPA directory information notice.⁸

Q6: Is directory information PII?

A6: Yes, many of the categories of information that are PII are also listed as potential directory information in the FERPA regulations. Directory information is an *exception* to FERPA’s requirement that parent/guardian consent must first be

⁶ Educational agencies are highly encouraged to accept an opt-out any time during the school year and not just for a limited time in the beginning of the school year.

⁷ New York State Educ. Dept., Chief Privacy Officer Monitoring Memo (July 19, 2023), available at <https://www.nysed.gov/sites/default/files/programs/data-privacy-security/nysed-privacy-office-website-monitoring-memo-7.19.23.pdf>

⁸ U.S. Dept. of Educ., Student Privacy Policy Office, Model Notice for Directory Information (Mar. 2011), available at <https://studentprivacy.ed.gov/resources/model-notice-directory-information>

obtained before releasing PII derived from an education record. The directory information exception allows the release of certain student information in circumstances that “would not generally be considered harmful or an invasion of privacy if disclosed” (34 CFR § 99.3).

Q7: What’s an opt-out?

A7: As stated in A4, parents/guardians and eligible students can decide that they do not want any or all the types of information about the student to be designated as directory information. An opt-out form should be on an educational agency’s website, ideally on the webpage devoted to data privacy and security and underneath or attached to the educational agency’s directory information policy. Opt-out forms should not ask parents/guardians or eligible students why they are opting out, should allow parents/guardians and eligible students to submit the form *at any time* during the school year, and should allow parents/guardians and eligible students to opt out of some categories of information but not all of them if they do not want to. An example opt-out form for sharing directory information is attached to this guidance for your assistance.

Q8: Am I required to have an opt-out form?

A8: Educational agencies are not required to have an opt-out form, but it is a best practice and highly recommended to help ensure compliance with FERPA.

Q9: Does the New York State Education Department (NYSED) have a directory information policy?

A9: No, this FERPA exception does not apply to state education agencies (SEAs) such as NYSED.

Q10: So, if directory information is an exception under FERPA, do I have to consider Education Law § 2-d?

A10: Yes. FERPA is the floor regarding protecting student education records. New York, like most states, has passed additional laws and regulations to further protect student data. Therefore, an educational agency must comply with FERPA as well as Education Law § 2-d and 8 NYCRR Part 121, its implementing regulations. To comply with Education Law § 2-d, when implementing a directory information policy, educational agencies must ensure that:

- the release of any information, including directory information, will benefit students and the educational agency (Education Law § 2-d [5][b]; 8 NYCRR § 121.5 [c][1]); and
- a student’s PII is not being sold or released for any commercial or marketing purpose, defined as the sale, use, or disclosure of student data

for purposes of receiving remuneration, whether directly or indirectly, for advertising purposes, or to develop, improve, or market products or services to students (8 NYCRR §§ 121.2 [a], 121.1[c]).

Q11: A private company would like to offer our senior class graduation items for purchase. The company asked for a list of parent/guardian names and email addresses. Both parent/guardian names and email address are listed on our directory information policy - can we share this information with the private company?

A11: No, although an educational agency may have designated parent names and email addresses as directory information, the proposed disclosure would be for a commercial or marketing purpose in violation of Education Law § 2-d and Part 121 of the Commissioner's regulations. It would therefore be a better practice to provide the company's website link to parents/guardians and eligible students and/or send a flier home with students about the products offered. This way, the decision to share personal information with the company is in the hands of parents/guardians and eligible students rather than the educational agency.

Q12: How will our educational agency get school pictures for our families and our yearbook without sharing information with a company that markets pictures to parents/guardians and eligible students?

A12: The annual school picture is a rite of passage for students and their families. It has also been held that "student photographs may be taken on school premises by commercial photographers only when there is a school purpose for the photographs, such as yearbook[s], class pictures, student records, or identifications cards" (*Appeal of Tarolli*, 38 Ed Dept Rep 60, Decision No. 13,982). The limited commercial nature of photography studios selling photograph packages to families should not deter educational agencies from having annual student photographs taken or from publishing a yearbook. Educational agencies should consider one of the following options:

- Provide information to parents/guardians about picture day and have them pay and sign up directly with the photography studio, or
- Enter into a service agreement and data protection agreement (DPA) with the photography studio and ensure that, among other DPA requirements, the studio, other than selling student pictures to families, will not use the pictures or other student PII for any commercial or marketing purpose.

Q13: My educational agency had a data incident but only student names and emails were compromised/released/accessed/shared incorrectly. Do I have to report this since the data was directory information?

A13: Yes. Directory information is still PII and this incident constitutes a breach under 8 NYCRR § 121.1 (a). Directory information can only be shared when it "would

not generally be considered harmful or an invasion of privacy if disclosed” (34 CFR § 99.3). A breach of directory information is both harmful and an invasion of privacy. Please report this incident to the New York State Education Department’s Privacy Office. The incident reporting forms can be found here: <https://www.nysed.gov/data-privacy-security/educational-agencies-report-data-privacysecurity-incident>

Q14: Our students have been working diligently on the school musical. The performance is in a month, and we would like to hand out programs listing the students and their roles to everyone who attends the production. Can we share this information?

A14: Yes, if you have a directory information policy that was properly implemented in accordance with A4, you may share directory information in a program. However, you may *not* include any information for students whose parents/guardians opted out of sharing directory information or eligible students who opted out.

Q15. What if people from the community attend a school event like a music performance or an art exhibit who do not have children attending our educational agency?

A15: You may still share the performance program as described in A14.

Q16: Can I share a list of our graduating seniors and their addresses with our local legislator who sends each senior a letter of congratulations?

A16: Yes, if you have a directory information policy that was properly implemented in accordance with A4. However, you may *not* include any information for students whose parents/guardians opted out of sharing directory information or eligible students who opted out.

Q17: Can I publicly share student grades?

Q17: Schools cannot publish student grades in a personally identifiable manner.⁹ However, “a school may disclose, under FERPA’s ‘directory information’ exception to the general prior consent requirement, for example, the top 10% or a similar range or ranking (such as “Principal’s List”) on students whose parents (or they if they are eligible students) have not opted out of directory information.”¹⁰ This would be considered an “honor or an award” as long as specific grade point averages (GPAs) are not disclosed.

⁹ U.S. Dept. of Educ., Student Privacy Policy Office, Letter to Hunter College (Jan., 2001), available at <https://studentprivacy.ed.gov/resources/letter-hunter-college-re-posting-grades-last-four-digits-social-security-number>

¹⁰ U.S. Dept. of Educ., Student Privacy Policy Office, Letter to Veit (June 22, 2021), 121 LRP 32093.

Q18: My educational agency has a board policy encouraging students who are eligible to vote to register to vote. Do we need a data protection agreement with the local board of elections?

A18: Encouraging students to vote and register with their local board of elections should not require educational agencies to share any PII. Therefore, an agreement with the local board of elections is not necessary.

Q19: Can my educational agency share directory information with the PTA?

A19: Yes, if you have a directory information policy that was properly implemented in accordance with A4. However, you may ***not*** include any information for students whose parents/guardians opted out of sharing directory information or eligible students who opted out. Additionally, redisclosure is generally not authorized under FERPA, thus once shared, the PTA should seek consent or approval from parents/guardians to provide additional information.

Q20: Our educational agency hosts an annual alumni event and we would like to use our former students' contact information on file to invite them to attend. Can we do this?

A20: Maybe. First, the educational agency must have a directory information policy that was properly implemented in accordance with A4. However, upon graduation, the educational agency may ***not*** include any information for eligible students/students whose parents/guardians opted out of sharing directory information during their last year of school.¹¹ Additionally, as discussed in A10, the educational agency must ensure that former student information is not being released for any commercial or marketing purpose. The best practice would be to obtain student consent to contact them as alumni before they graduate.

Q21: The military asked for a list of all our students who are juniors and seniors. Do we have to provide that information?

A21: Yes, unless the parents/guardians or eligible students opted out of providing the requested information. For more information, please see NYSED's guidance on student information requests from military recruiters, institutions of higher education, and prospective employers in this [memorandum](#).

Q22: My educational agency posts student pictures on its webpage and social media sites and includes student pictures in informational fliers it sends to the community. Can sharing these pictures be part of our directory information policy?

¹¹ U.S. Dept. of Educ., Student Privacy Policy Office, <https://studentprivacy.ed.gov/fag/eligible-student-opted-out-directory-information-has-left-school-now-student-no-longer>

A22: Maybe, but it is not a best practice. FERPA regulations identify photographs as potential directory information (34 CFR § 99.3 and see A1). However, not all photographs are necessarily education records; i.e., (1) directly related to a student and (2) maintained by an educational agency.¹² Nevertheless, parents and guardians should be given the right to control the release of their child’s photographs and videos.

Best practice is to have a separate opt-in or opt-out form for photographs and videos rather than classifying photographs as directory information.¹³ Maintaining a separate policy provides parents/guardians, eligible students, and educators an understanding of the educational agency’s policy on all photos and videos, whether or not they are education records.¹⁴

An opt-in form requires eligible student or parent/guardian approval before an educational agency may release a photo or video depicting a student. The educational agency must articulate how photos and videos will be used, such as social media platforms, school newsletters, teacher training, etc. An opt-in form is best practice.

An opt-out form presumes consent unless an eligible student or parent/guardian has indicated their intention to opt-out.

Ideally, parents/guardians and eligible students may submit the form at any time throughout the school year. The form should include examples so that individuals understand what they are agreeing to. Additionally, a separate check box should be added to opt-out of sharing photographs in the yearbook. Many eligible students and parents/guardians do not want their/their child’s photograph on social media but are not opposed to participation in the yearbook. An assigned administrator, such as the data protection officer, should be available to answer questions about photographs.

Finally, educational agencies are highly encouraged to have a policy on the use of photos and videos by their staff.¹⁵ This policy should be publicly available and address the posting of student photos/videos on staff members’ personal social media accounts.

¹² U.S. Dept. of Educ., Student Privacy Policy Office, FAQs on Photos and Videos under FERPA, available at <https://studentprivacy.ed.gov/faq/faqs-photos-and-videos-under-ferpa>

¹³ Sample forms are provided with this guidance.

¹⁴ An additional best practice is to identify the social media accounts maintained by the educational agency and share this information with parents/guardians.

¹⁵ Matter of Marcellus CSD (Apr. 4, 2025), NYSED CPO Determination, available at <https://www.nysed.gov/sites/default/files/programs/data-privacy-security/marcellus-determination-4-4-25.pdf>