

Access to Student Records

Schools collect a lot of student information

Schools collect a lot of information about students. School records often contain detailed information about a student's health and physical condition, aptitude scores, achievement and psychological tests, comments by school counselors and teachers, notes on interviews with parents and students, reports by social workers, delinquency reports, samples of students' work, and autobiographies. Some records may indicate a student's race, religion, and national origin or include completed questionnaires for research projects.

Federal Family Educational Rights and Privacy Act protects the privacy of students' education records

The Federal Family Educational Rights and Privacy Act (FERPA) generally provides that education data in students' records are private, and parents largely control access to the data. Parents' rights regarding their children's records often transfer to the student at age 18. However, a school may disclose information from an eligible student's record to the parent of the student if the student remains a dependent for tax purposes. Schools must notify parents and students of their rights under the law. FERPA allows schools to disclose education data without parents' consent under some circumstances. It sets minimum data practices standards that states may make more stringent if there is no conflict with federal law. FERPA applies to all public and private K-12 schools and postsecondary institutions that receive applicable federal education funds, and schools that violate FERPA can lose their funds. Individuals cannot sue under the act.

Parents must consent to disclosing students' records

FERPA generally prohibits schools from disclosing education records or other personally identifiable information about a minor student without the parent's written consent. An effective written consent requires the parent to state that the student's education record may be disclosed, the purpose of disclosing the record, and the person(s) to whom the disclosure may be made. A parent may consent to release the education records of a minor student to anyone the parent indicates.

Parents may inspect and review students' records

FERPA gives parents the right to inspect and review their students' education records. School districts annually must publish and distribute or post the procedures by which parents may access a student's records. Schools need not provide copies of materials in education records unless a parent cannot inspect the records personally. Schools may charge a fee for providing copies of records.

Parents may ask a school to correct inaccurate records

FERPA allows parents to ask a school to correct education records they believe are inaccurate or misleading. If the school refuses to change the records, parents have the right to a formal hearing. If the school refuses to correct the records after the hearing, a parent may place written comments about the contested information in the records.

Schools may disclose records without consent if a statutory exception applies

FERPA allows schools to disclose education records without parents' consent to:

- school officials in the student's school district who have a legitimate educational interest in the information
- another school to which a student is transferring
- parents when a student over 18 is still a dependent
- certain government officials in order to carry out lawful functions
- appropriate parties in connection with financial aid to a student
- organizations doing certain studies for the school
- accrediting organizations
- individuals who have obtained court orders
- persons who need to know in cases of health or safety emergencies
- juvenile justice system

Schools may disclose directory information to anyone

Examples of directory information include a student's name, address, and telephone number. Schools may disclose directory information to anyone without a parent's consent. Schools decide what information to designate as directory information. Schools must tell parents that they can refuse to let the school designate information about their student as directory information. A school may not charge for access to directory information but may charge for a copy of the information.

The Government Data Practices Act regulates data practices in Minnesota

FERPA sets only minimum data practices standards and allows states to enact more stringent laws that do not conflict with FERPA. The Minnesota Government Data Practices Act under [Minnesota Statutes, chapter 13](#), also regulates government practices involving data. Minnesota law adopts FERPA provisions and includes some additional restrictions and requirements on the sharing of educational data. Under the data practices law, "educational data" is "private data on individuals" and is available only to its subject, the student. Schools cannot disclose education records or other personally identifiable information unless a sufficiently mature student or the student's parent gives written consent or a federal or state exception applies.

There are several differences between federal and state law

The Minnesota Government Data Practices Act differs from FERPA in several ways, by:

- requiring a school to give its students a warning, often called the Tennessee warning, any time it collects private or confidential data about the student
- allowing a minor student to give informed consent to disclose educational data in some circumstances
- allowing a minor student to request that a school deny the student's parents access to educational data about the student
- releasing education records subject to a court order but not a subpoena
- prohibiting parents from inspecting teachers' desk notes but allowing parents to inspect the desk notes of other school personnel
- allowing parents to designate an additional person to participate in school conferences about a minor student

For more information: Contact legislative analyst Lisa Larson at 651-296-8036. Also see the House Research publication *Federal and State Laws Governing Access to Student Records*, November 2000.

The Research Department of the Minnesota House of Representatives is a nonpartisan office providing legislative, legal, and information services to the entire House.