



HAWAII STATE

Department of Education

Confidentiality Requirements

SEAC Presentation
Friday, Feb. 11, 2022





SECTION

01

FERPA: Quick Tour

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Family Educational Rights and Privacy Act (FERPA)

Overview

- FERPA is the Family Educational Rights and Privacy Act
- FERPA is the Federal law that protects the privacy of students' education records
- FERPA applied to educational agencies and institutions that receive funds under any program administered by the Secretary of Education 34 CFR §99.1
- The Hawaii State Department of Education is subject to FERPA





Family Educational Rights and Privacy Act (FERPA)

C4 CFR 99

FERPA gives parents and eligible students the right to:

- Access their children's education record
- Seek to have the records amended
- Consent to the disclosure of personally identifiable information from education records, unless a FERPA exception applies
- File a complaint for FERPA violations

Displaying title 34, up to date as of 2/07/2022. Title 34 was last amended 1/25/2022.

Title 34 - Education
Subtitle A - Office of the Secretary, Department of Education
Part 99 - Family Educational Rights and Privacy

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Subpart A - General

§ 99.1 To which educational agencies or institutions do these regulations apply?

(a) Except as otherwise noted in § 99.10, this part applies to an educational agency or institution to which funds have been made available under any program administered by the Secretary, if:

- (1) The educational institution provides educational services or instruction, or both, to students; or
- (2) The educational agency is authorized to direct and control public elementary or secondary or postsecondary educational institutions.

(b) This part does not apply to an educational agency or institution solely because students attending that agency or institution receive nonmonetary benefits under a program referred to in paragraph (a) of this section, if no funds under that program are made available to the agency or institution.

(c) The Secretary considers funds to be made available to an educational agency or institution of funds under one or more of the programs referenced in paragraph (a) of this section:

- (1) Are provided to the agency or institution by grant, cooperative agreement, contract, subgrant, or subcontract; or
- (2) Are provided to students attending the agency or institution and the funds may be paid to the agency or institution by those students for educational purposes, such as under the Pell Grant Program and the Government Student Loan Program (Titles IV-A-1 and IV-B, respectively, of the Higher Education Act of 1965, as amended).

(d) If an educational agency or institution receives funds under one or more of the programs covered by this section, the regulations in this part apply to the recipient as a whole, including each of its components (such as a department within a university).

(Authority: 20 U.S.C. 1232j)

[32 FR 11943, Apr. 11, 1988, as amended at 67 FR 35295, Nov. 21, 1996, 65 FR 41852, July 6, 2000]

§ 99.2 What is the purpose of these regulations?

The purpose of this part is to set out requirements for the protection of privacy of parents and students under section 444 of the General Education Provisions Act, as amended.

(Authority: 20 U.S.C. 1232j)

Note to § 99.2:



Family Educational Rights and Privacy Act (FERPA)

FERPA Exception: School Official

34 CFR §99.31(1)(i)(A) School Official with a legitimate educational interest may access student information without prior written consent

- School Official - Individuals HIDOE designates as school officials
- Legitimate Educational Interest - School official needs to review an education record to fulfill her professional responsibility

Note: Schools must use reasonable methods to ensure that school officials obtain access to only those education records which they have legitimate educational interests.

Displaying Title 34, up to date as of 2/07/2022. Title 34 was last amended 1/25/2022.

Title 34 - Education
Subtitle A - Office of the Secretary, Department of Education
Part 99 - Family Educational Rights and Privacy
Subpart B
- May an Educational Agency or Institution Disclose Personally Identifiable Information From Education Records?
§ 99.31 Under what conditions is prior consent not required to disclose information?

(a) An educational agency or institution may disclose personally identifiable information from an education record of a student without the consent required by § 99.30 if the disclosure meets one or more of the following conditions:

(1)

(2)

(3) The disclosure is to other school officials, including teachers, within the agency or institution whom the agency or institution has determined to have legitimate educational interests.

(3) A contractor, consultant, volunteer, or other party to whom an agency or institution has outsourced institutional services or functions may be considered a school official under the paragraph provided that the outside party:

(1) Performs an institutional service or function for which the agency or institution would otherwise use employees.

(2) Is under the direct control of the agency or institution with respect to the use and maintenance of education records, and

(3) Is subject to the requirements of § 99.30(a) governing the use and redisclosure of personally identifiable information from education records.

(4) An educational agency or institution must use reasonable methods to ensure that school officials obtain access to only those education records in which they have legitimate educational interests. An educational agency or institution that does not use physical or technological access controls must ensure that its administrative policy for controlling access to education records is effective and that it remains in compliance with the legitimate educational interest requirement in paragraph (a)(3)(C)(i) of this section.

(2) The disclosure is, subject to the requirements of § 99.34, to officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll, or where the student is already enrolled so long as the disclosure is for purposes related to the student's enrollment or transfer.

Note:
 Section 4155(b) of the No Child Left Behind Act of 2001, 20 U.S.C. 7193(b), requires each State to assure the Secretary of Education that it has a procedure in place to facilitate the transfer of disciplinary records with respect to a suspension or expulsion of a student by a local educational agency to any private or public elementary or secondary school in which the student is subsequently enrolled or seeks, intends, or is restricted to enroll.

(3) The disclosure is, subject to the requirements of § 99.35, to authorized representatives of:

(i) The Comptroller General of the United States.

(ii) The Attorney General of the United States.

(iii) The Secretary or

(iv) State and local educational authorities.

(4)

(3) The disclosure is in connection with financial aid for which the student has applied or which the student has received, if the information is necessary for such purposes as to:

(A) Determine eligibility for the aid.



What is an educational record?

34 CFR 99.3

- Directly related to a student; and
- Maintained by an educational agency or institution or by a party acting for the agency or institution

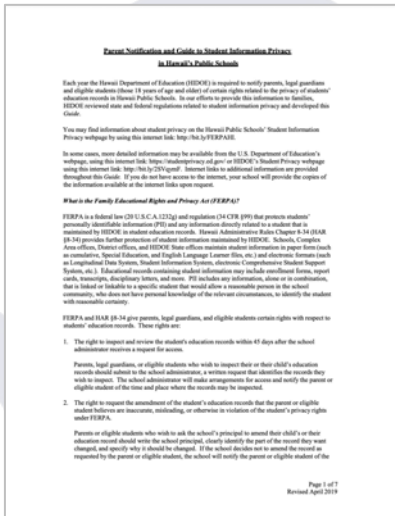
The list below are items that would generally not be an education record which includes but is not limited to:

- Sole possession records used as a personal memory aid
- Personal observations
- Peer-graded papers before they are collected and recorded by teacher

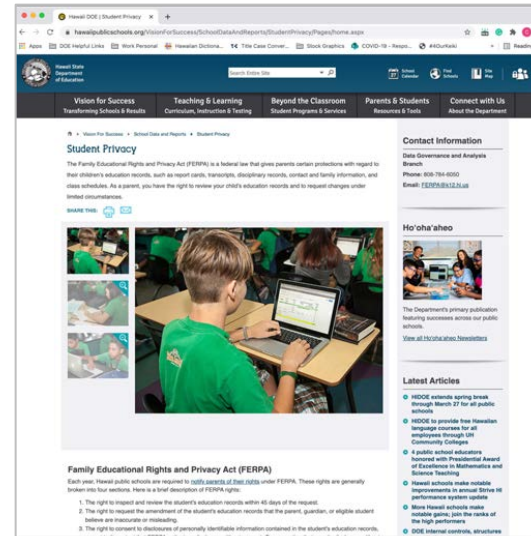


Parent Resources

Parent Notification Student Information Privacy booklet



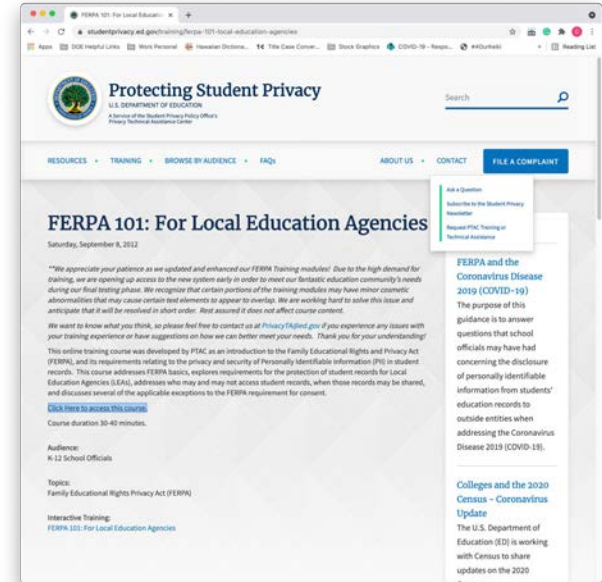
HIDOE's Student Privacy website: bit.ly/FERPAHI





Employee Resources

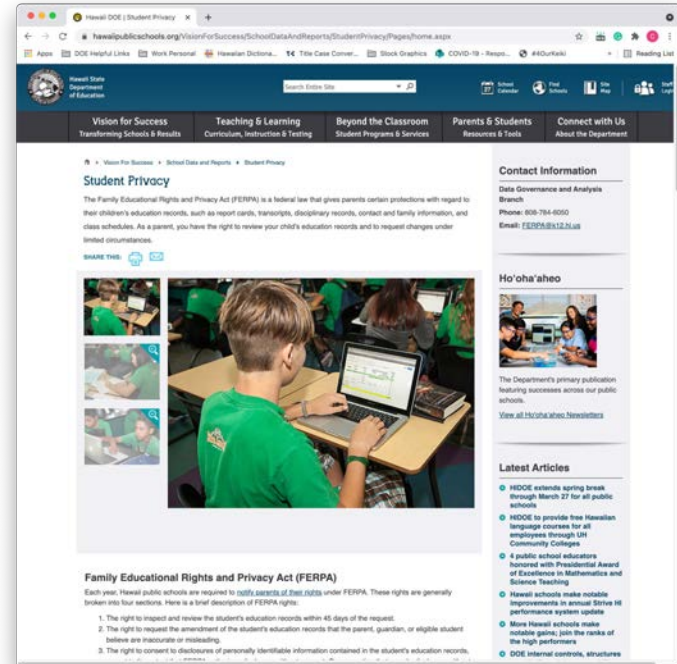
- FERPA 101 for Local Educational Agencies - US DOE's website
- BOE Policy #500-21 "Student Information & Confidential Records" - Acknowledgment of Understanding and Receipt
- BOE Policies - Code of Conduct and Technology Guidance for Employees
- Student Privacy Training





For More Information

HIDOE's Student Privacy website:
bit.ly/FERPAHI





SECTION

02

Communication Platform Security

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Communication Platform Security

Gmail Security

- Gmail encrypts all emails while in transit preventing anyone who intercepts the email from being able to read the email or attachment(s)



Google Drive Security

- All documents stored in Google Drive are encrypted at rest using 128-bit AES keys which is an approved encryption standard by the National Institute of Standards and Technology (NIST) and the National Security Agency (NSA)
- User drives only accessible to the owner, no administrator access to user Google drives





Communication Platform Security

Virtual Conferencing Platforms

- HIDOE uses Webex and Google Meet for virtual conferencing
- Both virtual conference platforms encrypt all meeting communications
- Both platforms include various meeting security tools (meeting passwords, lock meetings, participant removal, etc.)





Mahalo!

