



Confidentiality of Student Records

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Access to student records is governed by both state and federal law, which generally require schools keep student records confidential, meaning a school may not release student records or information from student records unless such release is authorized by law. Additionally, both state and federal law generally require schools ensure parental access to student records.

DEFINITION OF STUDENT RECORDS

The Federal Educational Rights and Privacy Act (FERPA) applies to all public and private entities that receive funds from programs administered by the U.S. Department of Education (“educational agencies”).¹ FERPA requires educational agencies to keep confidential all records, files, documents, and other materials that: (1) contain information directly related to a student; and (2) are maintained by an educational agency or by a person acting for such an agency or institution.²

The Wisconsin pupil records law is a state law that applies only to public K-12 schools. Like FERPA, state law requires schools to keep student records confidential and defines student records as all records maintained by a school that relate to individual students.³ Under state law, all student records fall into one or more of the following categories:

- **Progress records:** A student’s grades, attendance record, immunization records, lead screening records, a statement of the courses the student has taken, and records of the student’s extracurricular activities.
- **Behavioral records:** Any student records that are not progress records, including psychological tests, personality evaluations, records of conversations, any written statement relating specifically to an individual student’s behavior, tests relating specifically to achievement or measurement of ability, certain law enforcement records obtained by a school district, and a student’s physical health records (except for immunization records and the results of required lead screenings).
- **Physical health records:** Student records that include a student’s basic health information, including the student’s immunization records, an emergency medical card, a log of first aid and medicine administered to the student, an athletic permit card, a record concerning the student’s ability to participate in an education program, any required lead screening records, the results of any routine screening test (e.g., for hearing, vision, or scoliosis) as well as any follow-up, and any other basic health information.⁴

PARENTAL ACCESS TO STUDENT RECORDS

Generally, FERPA requires educational agencies ensure parental access to student records while maintaining the confidentiality of those records and any personally identifiable information (PII) they contain. Specifically, under FERPA, no educational agency may have a policy that denies or effectively prevents a student’s parents from inspecting and reviewing the education records of their child. To that end, each educational agency must establish procedures for granting parental requests for access to education records within a reasonable time, but no more than 45 days after a request is made.⁵

State law aligns with FERPA by requiring public schools to provide parents access to their children’s progress and behavioral records. Under state law, when a parent requests his or her child’s progress or behavioral records, the school must show the parent the requested records and provide the parent with a copy. Additionally, if the requested records are behavioral records, the school must show the parent the requested records in the presence of a person qualified to explain and interpret the records.⁶

EXCEPTIONS TO CONFIDENTIALITY

Both state and federal law provide exceptions to the requirement that schools keep student records confidential. These include exceptions for judicial processes, law enforcement, and operations of state and federal agencies. The following are examples of exceptions most relevant to the general public.

Disclosure of Directory Information

FERPA permits educational agencies to release “directory information,” subject to procedures that permit a student’s parent to require the agency to obtain consent prior to releasing that information. Under FERPA and state law, an educational agency determines what information may be released as directory information by designating any or all of the following as directory information: a student’s name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency attended by the student. Each educational agency must notify parents what information the agency may release as directory information. A parent may then prohibit the agency from releasing any or all directory information about his or her child without first obtaining the parent’s consent by informing the agency of the need for consent within 14 days after receiving this notice.⁷

Disclosure After Written Permission

An educational agency may disclose student records to any person if a student’s parent authorizes such disclosure in writing.⁸

Disclosure in an Emergency

An educational agency may disclose information from student records to appropriate parties, in an emergency, if knowledge of the information is necessary to protect the health or safety of any individual.⁹

Disclosure to Parents of Adult Students

A school board may disclose PII from the records of an adult student to that student’s parents if the student is a dependent of his or her parents for federal tax purposes, unless the student informs the school in writing that such information may not be disclosed to the student’s parents.¹⁰

¹ FERPA applies to institutions of higher education as well as to K-12 schools. However, because Wisconsin’s pupil records law only applies to public K-12 schools, this issue brief only focuses on FERPA’s application in K-12 schools.

² The following are not records to which FERPA’s requirements apply: (a) notes and records prepared by school personnel that are not shared with anyone else; (b) certain law enforcement records; (c) certain records related to school employees; and (d) records of an adult student made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional in connection to providing treatment to a student. [[20 U.S.C. s. 1232g\(a\)\(4\)\(B\)](#).]

³ Mirroring FERPA, the following are not student records under Wisconsin’s pupil records law: (a) notes or records maintained for personal use by a teacher or other licensed educator, if such records and notes are not available to others; (b) law enforcement records; and (c) records necessary for, and available only to individuals involved in, the psychological treatment of a student. [[s. 118.125\(1\)\(d\)](#), Stats.]

⁴ [s. 118.125\(1\)\(a\)](#), [\(c\)](#), and [\(cm\)](#), Stats.

⁵ [20 U.S.C. s. 1232g\(a\)\(1\)](#) and [34 C.F.R. s. 99.10](#). Parents only have a right to access the student records of their own children. When a record contains information about more than one student, the educational agency must ensure that a parent accessing that record only accesses information about his or her own child. Under FERPA, “parent” includes a student’s natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian. [[34 C.F.R. s. 99.3](#).]

⁶ [s. 118.125\(2\)\(a\)](#) and [\(b\)](#), Stats. Under state law, “parent” means a student’s parent or guardian, but does not necessarily include a parent who has been denied periods of physical placement with a child. [[s. 118.125\(2\)\(m\)](#), Stats.]

⁷ [20 U.S.C. s. 1232g\(a\)\(5\)](#) and [s. 118.125\(2\)\(j\)](#), Stats. For example, if a school district were to designate each student’s name and address as directory information, a parent would be permitted to notify the district within the 14-day window that the school district may not release one or more of these pieces of information with respect to their student without prior consent. If a member of the public were to request the school district’s directory information, the school district would only be permitted to release this information about that student if it then specifically obtained the parents’ consent.

⁸ [20 U.S.C. s. 1232g\(b\)\(1\)](#) and [s. 118.125\(2\)\(e\)](#), Stats.

⁹ [20 U.S.C. s. 1232g\(b\)\(1\)\(I\)](#) and [s. 118.125\(2\)\(p\)](#), Stats.

¹⁰ [s. 118.125\(2\)\(k\)](#), Stats.