

# CFISD COMPLIANCE COURSE (2020-21)



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## Module 3: FERPA ?

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Introduction ↕ ⚙ 🔍 ✕



### FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA)

Teachers and other school officials must be clear about the privacy requirements in FERPA. To learn exactly how CFISD interprets FERPA, as well as companion state laws, read on.

**All school personnel are legally required to protect the confidentiality of student educational records as outlined in federal law through FERPA, and to provide access in accordance with state law under *Texas Education Code §26.004*.**

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## What is FERPA?

The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) is a federal law that protects the privacy of educational records.

- The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education.



FERPA gives parents certain rights with respect to their children's education records. These rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level. Students to whom the rights have transferred are "eligible students."

Section 26.004 of the Texas Education Code also provides parents a right of access to the written records pertaining to their children including attendance records, grades, discipline records, counseling and psychological records, to name a few. FERPA allows parents to access their child's records upon request, and the school must make the records available no more than 45 days from the parent's request.



Click the icon to navigate to more detailed information on this topic.

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### Question 1

Think about it...

FERPA is an acronym for which of the following?



### Multichoice

**Answer 1:** Family Educational Rights & Privacy Act

**Response 1** That is correct!

FERPA is an acronym for Family Educational Rights & Privacy Act.

**Score** 1

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**Answer 2:** Friends of Educational Reform & Performance Assessment

**Response 2** That is incorrect!

FERPA is an acronym for Family Educational Rights & Privacy Act.

**Score** 0

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Question 1    

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**Answer 3:** Future Education Reference and Parental Act

**Response 3** That is incorrect!  
FERPA is an acronym for Family Educational Rights & Privacy Act.

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**Score** 0

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**Answer 4:** Family Enrichment Requirements and Performance Act

**Response 4** That is incorrect!  
FERPA is an acronym for Family Educational Rights & Privacy Act.

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**Score** 0

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**What are the protections under FERPA to parents and students?**    

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**Parents and adult students can:**

- Inspect and review the student's education records maintained by the school. Schools are not required to provide copies of records unless, for reasons such as great distance, it is impossible for parents or eligible students to review the records. Schools may charge a fee for copies of \$.10 per page. CFISD local policy FL provides that if the student qualifies for free or reduced-price lunches and the parents are unable to view the records during regular business hours, upon written request of a parent, one copy of the record shall be provided at no charge.
- Request that a school correct a record which they believe to be inaccurate or misleading. If the school decides not to amend the record, the parent or eligible student then has the right to a formal hearing. After the hearing, if the school still decides not to amend the record, the parent or eligible student has the right to place a statement with the record setting forth his or her view about the contested information. Every time the record is disclosed, the statement is disclosed also. For more information, review local policy FL.
- Expect non-disclosure of educational records to third parties absent consent or exception to FERPA. (See below for further information about exceptions.) A record held by a school that contains personally identifiable information about a student is considered an educational record. Personally identifiable information includes the student's name, address, date and place of birth, biometric information (such as the student's photograph or handwriting), the name or address of a student's parents or other family members, and grade and dates of attendance.
  - Personally identifiable information also includes 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, or information requested by a person who the school district reasonably believes knows the identity of the student to whom the educational record relates.
  - Personally identifiable information in education records may not be disclosed to other individuals without the parent's or eligible student's written consent. There are exceptions to this general rule, however.
  - Exception: FERPA allows schools to disclose personally identifiable information without consent in a limited number of situations. A few of the more common exceptions are: release of a student's directory information (see below for further discussion); release of records in response to a valid subpoena; and disclosure of information and records to school officials with a legitimate educational interest in the educational records. Please note that being a school official alone does not meet the exception requirement; a school official must have a legitimate educational reason to have the record. There are other less common exceptions; therefore, if a question arises regarding proper disclosure of an educational record, contact the building principal for further guidance prior to disclosure.



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**Question 4**    

Think about it...



True or False. Protections under FERPA limit a parent's right to inspect and review their child's school records to once per year.

**True/false**

**Answer 1:** True

**Response 1** That is incorrect!

Protections under FERPA allow parents to inspect and review their child's school records at any time upon request, and the school has up to 45 days to make the records available.

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**Answer 2:** False

**Response 2** That is correct!

Protections under FERPA allow parents to inspect and review their child's school records at any time upon request, and the school has up to 45 days to make the records available.

**Score** 1

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**More about Releasing Student Information**



Schools may disclose, without consent, "directory" information such as a student's name, address, student identification number, date and place of birth, honors and awards, dates of attendance, photograph, participation in officially-recognized activities and sports, and other information that would not generally be considered harmful or an invasion of privacy.

However, schools must annually notify parents and eligible students about the release of directory information and allow parents and eligible students to "opt out" of the disclosure of directory information.

- This is done annually through the Student Handbook and the school district's emergency information management and parent authorization (EIMPA) form completed or reviewed annually by parents and eligible students at enrollment/registration.



In our school district, we allow parents and eligible students to make two choices regarding disclosure: authorizing disclosure to school-related entities (such as PTOs and booster clubs) only, or authorizing disclosure to all third parties. If the parent or eligible student chooses not to have directory information disclosed to either group, the student's personally identifiable information should not be disclosed to any third parties, including a PTO or booster club, unless the parent or eligible student provides specific permission for a disclosure. For instance, a parent may select "no" to release of directory information to all third parties, but may give specific written permission for his/her child's photograph to be released to the campus PTO for inclusion in the yearbook.

This "election" is entered into eSchool and can be found in the student record under the Menu, then "Student District Defined," then "Authorization."

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## What does FERPA classify as an educational record?

According to FERPA, student records are those records directly related to a student that are maintained by an educational institution or a party acting for the institution. Therefore, everything in the cumulative file, for example, is a student record. However, please note that educational records are not limited to those records maintained in a cumulative file. It also includes records maintained in discipline, counseling, and nursing files, for instance. A record is directly related to a student if it contains personally-identifiable material in any form, including:

- Handwritten or typewritten information
- Biometric information
- Image (photo/video)
- Computer records
- Attendance records
- Test scores
- Psychological records
- Application for admission
- Health information
- Teacher & counselor evaluations



## Who may access student records?

As stated earlier, there are a limited number of circumstances that allow disclosure to third parties without consent. These exceptions apply to the following parties or under the following conditions (34 CFR § 99.31), and unauthorized re-disclosure is prohibited:

- School officials with legitimate educational interest.
- Specified state or federal officials for audit or evaluation purposes.
- Appropriate parties in connection with financial aid to a student.
- Authorized organizations conducting certain studies for or on behalf of the school.
- Accrediting organizations, such as the Texas Education Agency.
- To comply with a judicial order or lawfully-issued subpoena (school district must attempt to notify parent prior to release).
- Appropriate officials in cases of health and safety emergencies, including the Department of Family and Protective Services "CPS."
- State and local authorities, within a juvenile justice system, pursuant to specific State law, such as Section § 58.0051 of the Texas Family Code. This includes, for instance, juvenile probation officers, child protective services workers, and mental health authorities.

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Question 2 ❖ \* 🔍 ✕



Think about it...

Which of the following confidential educational records fall under FERPA?

Multichoice

Answer 1 : Nurse's Records

Response 1 That is incorrect!

Confidential educational records under FERPA include all of these examples -- computer records, nurse's records, and test scores.

Score 0

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Answer 2 : Test Scores

Response 2 That is incorrect!

Confidential educational records under FERPA include all of these examples -- computer records, nurse's records, and test scores.

Score 0

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Answer 3 : Computer Records

Response 3 That is incorrect!

Confidential educational records under FERPA include all of these examples -- computer records, nurse's records, and test scores.

Score 0

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Answer 4: All of these choices

Response 4 That is correct!

Confidential educational records under FERPA include all of these examples -- computer records, nurse's records, and test scores.

Score 1

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Question 5 ❖ \* 🔍 ✕



Think about it...

FERPA allows educational records to be disclosed if requested by a judicial order or lawfully-issued subpoena.

True/false

Answer 1: True

**Response 1** That is correct!

FERPA allows educational records to be disclosed if requested by a judicial order or lawfully-issued subpoena. However, the school district must attempt to notify the parent prior to releasing the records.

**Score** 1

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**Answer 2 :** False

**Response 2** That is incorrect!

FERPA allows educational records to be disclosed if requested by a judicial order or lawfully-issued subpoena. However, the school district must attempt to notify the parent prior to releasing the records.

**Score** 0

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**What court cases have defined FERPA?**    





## OWASSO ISD v. Falvo

### Facts of the case:

- Teacher used peer grading
- Student could call out their own score or walk to teacher's desk and give score in confidence, though the score was still known by the peer grader
- Teacher recorded score in grade book
- Parent asked school district to end the practice
- School district refused

### The issues:

- Does the grading system violate FERPA?
- Does calling out the grade violate FERPA?

### **Judgments**

Trial Court—granted judgment in favor of school district.

Rationale: Not a record “maintained by an educational agency” at the point graded or called out.

Appeals Court—ruled in favor of parent

Rationale:

- Papers are educational records and, thus, the grading and calling out scores violate FERPA
- Unreasonable to say not a record one minute, then once recorded, it is.

US Supreme Court—ruled in favor of school district

Rationale:

- Student papers are not “maintained” by the school district
- Student graders are not acting for the school district
- Beyond what Congress intended
- FERPA implies that educational records are institutional records kept by a single custodian, such as a registrar

### **Final Ruling**

- Peer grading is OK
- Students can grade each other's papers
- Grades can be called aloud
- Student papers are not educational records, can be disclosed
- The Department of Education incorporated the Owasso ISD decision into the revised regulations to FERPA released in December 2008

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Question 3 ⚙️ 🔍 ✖️

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Think about it...

In Owasso ISD v. Falvo, the Supreme Court ruled that peer grading and calling grades aloud are not acceptable in the classroom.

True/false

Answer 1: False

Response 1 That is correct!

The final ruling stated that:

Peer grading is OK  
Students can grade each others papers  
Grades can be called aloud  
Student papers are not educational records, can be disclosed  
The Department of Education incorporated the Owasso ISD decision into the revised regulations to FERPA released in December 2008

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Answer 2 : True

Response 2 That is incorrect!

The final ruling stated that:

Peer grading is OK  
Students can grade each others papers  
Grades can be called aloud  
Student papers are not educational records, can be disclosed  
The Department of Education incorporated the Owasso ISD decision into the revised regulations to FERPA released in December 2008

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Is the teacher's gradebook an educational record? ⚙️ 🔍 ✖️



In answering this question, consider the following:

- It is maintained by the school district.
- It contains information that is kept in a central file and accessible to other authorized school officials.
- It contains information directly related to students.



According to FERPA's definition of a student record, a teacher's gradebook is an educational record.

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School employees must not disclose student information from educational records to others.

School employees must refrain from disclosing student information known by virtue of their position.

For more information on district FERPA policy, visit the following websites on CFISD Board Policy



[Student Records FL \(Legal\)](#)



[Student Records FL \(Local\)](#)

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Have any questions about FERPA? Click the link to email your CFISD contact person

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