Policy No.  8330

Policy Title:  Student Records

Justification:

The proposed revisions to this policy reflect the current state of the law with regard to access to student records and should be amended to have complete and statutorily accurate policies.

Summary of Proposed Policy:

The revisions proposed to this policy elaborate on the federal and state provisions related to student records as outlined in the attached information from NEOLA.

Specific Authority:  

Law Implemented, Interpreted or Made Specific:  

Estimate of Economic Impact of Rule:  0
The Family Educational Rights and Privacy Act of 1974, otherwise known as “FERPA”, was signed into law by President Ford on August 21, 1974, and became effective on November 19, 1974. Early on it was commonly called the "Buckley Amendment" recognizing that its principle sponsor was Senator James Buckley of New York, brother of William F. Buckley Jr.

FERPA is administered by the Family Policy Compliance Office (“FPCO”) in the U.S. Department of Education. The FPCO’s web site includes updated regulations as well as sample forms and suggested content for annual notices required by FERPA.

Through the years, FERPA has evolved to address managing confidential information in electronic form. Tasks such as keeping track of who has had access to a student's personally identifiable information (“PII”) and the changes to that data they made can now be recorded automatically through audit trails supported by the recordkeeping software. As more PII is recorded, more complicated issues such as access to school bus and building security videos that picture groups of students come up. Many of these have been addressed in policy letters. Just over the horizon are issues such as the release of security videos of a fight or a bus accident to third persons such as local television news reporters, and the use classroom video and audio records as a part of Indiana’s more rigorous “high stakes” teacher evaluation.

The Updated FERPA Regulations

The most recent changes to the FERPA regulations became effective January 3, 2012. For the most useful version of the updated regulations, see the Government Printing Office site at:

http://ecfr.gpoaccess.gov/cgi/t/text/textidx?c=ecfr&rgn=div5&view=text&node=34:1.1.1.1.34&idno=34#34:1.1.1.1.34.1.138.3

The changes of note to the FERPA regulations that were effective January 3, 2012 include the following:

Data Collection & Sharing in Program Evaluation

Improvements in software have resulted in a growing interest in data that tracks individual students for program and staff evaluation purposes. The amended FERPA regulations recognize this trend and establish standards for sharing data with state & federal educational agencies and contractors retained to evaluate the effectiveness of programs and instructional strategies. By collecting data down to the individual student level, it can be analyzed to assess what works best for students with specific characteristics and needs. However, breaking the data down to the individual student level has the potential to result in release PII if the data recipients are not jointly responsible for FERPA compliance.

Written Data Management Agreements for the Protection of PII
NEOLA clients should not assume that because a state or federal agency or grantee is the data recipient, they would handle & dispose of data about students in compliance with FERPA. The updated FERPA regulations require that school districts require that data recipients sign written agreements about how student PII will be stored, protected, used, and disposed of.

To help school districts put these agreements in place, the FPCO has published, “The Family Educational Rights and Privacy Act: Guidance for Reasonable Methods and Written Agreements” available at:


This guidance is also included as Appendix A to the final FERPA regulations and sets out specific requirements a school district must require researchers to agree to meet under both the audit and evaluation exception and the studies exception. It also provides best practices for other provisions that could be included in agreements, such as enforceable sanctions permitted under contract law.

Directory Information

LEAs are not required by FERPA or its implementing regulations to designate “directory information”. However, in their overview of the updated FERPA regulations, the FPCO says, “The Department encourages LEAs and schools to properly designate directory information, as these designations make it easier to engage in mundane activities such as publishing yearbooks or creating graduation programs.”

We wouldn’t describe these activities as “mundane”, but it is a plus that the enforcers of FERPA recognize that without the “directory information” exception, many worthwhile traditional activities that hold a school community together and support its traditions would be prohibited.

NEOLA encourages clients who have not previously taken advantage of the provision in FERPA whereby “directory information” is not designated, to continue to follow the recommendation of the FPCO and designate “directory information” and provide the annual notice to parents and eligible students that is required to implement FERPA’s directory information exception if the parent or eligible student so requests.

Greater Latitude in a Directory Information Policy

The revised regulations permit school boards to adopt limited directory information policies that allow the disclosure of directory information to specific parties, for specific purposes, or both. It should be noted, however, that federal requirements in the No Child Left Behind Act and the National Defense Authorization Act require access to directory information about high school students by military recruiters unless a parent/guardian opts out.
NEOLA has concluded that the implementation of a limited directory information policies that would require the release of directory information to specific parties, for specific purposes, or both, would simply add to the complexity of managing the release of directory information.

Consequently, NEOLA does not recommend that clients incorporate this latitude into their Student Records policy.

Student ID Badges & Cards

The new FERPA regulations clarify that parents & eligible students cannot use their right to object to the release of “directory information” about the student to prevent a school or school district from requiring the student to carry, display, or present a student ID card or badge while at school, or to be admitted to school activities.

The Protection of Pupil Rights Amendment

The FPCO also enforces the Protection of Pupil Rights Amendment (“PPRA”) (20 U.S.C. § 1232h; 34 CFR Part 98). The PPRA gives an eligible student or the parent/guardian of a minor student the right to opt out of federally funded surveys that ask students questions of a personal or family nature.

See the FPCO web site for information on the PPRA at:


This right is addressed in NEOLA Policy 2416 – Student Privacy and Parental Access to Information.