



**WEBINAR**

THURSDAY, JANUARY 21, 2021, 9:30 AM CST



# **FERPA** AND STUDENTS EXPERIENCING HOMELESSNESS



# Hello!

**I'm Patricia Julianelle.**

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# About SchoolHouse Connection

SchoolHouse Connection works to overcome homelessness through education. We provide strategic advocacy and practical assistance in partnership with schools, early childhood programs, institutions of higher education, service providers, families, and youth.

## Your SchoolHouse Connection Team



- Website
- [Facebook Group](#)
- Newsletter
- Federal and state policy advocacy
- Q&A from our inbox
- Webinars and implementation tools
- Youth leadership and scholarships

# Today's Agenda

#1

**FERPA Overview**

#2

**FERPA and  
homelessness scenarios**

SchoolHouse Connection  
Privacy, FERPA, and Student  
Homelessness 2-pager, FAQ,  
and brief:

<https://www.schoolhouseconnection.org/6-things-to-know-about-ferpa/>

# FERPA Overview

- Family Educational Rights and Privacy Act
- Ensures parents and students 18 or over access to, and protects privacy of, student education records.



# Who is a “Parent”?

- Both natural parents,
- Legal guardian, and/or
- Individual acting as a parent in the absence of a parent or a guardian

**34 CFR §§99.3; 99.4**

# Who Are “Students”?

- “Any individual who is or has been in attendance at an educational agency or institution and regarding whom the agency or institution maintains education records.”
  - Once students **turn 18 years old**, all FERPA rights transfer to them.
  - Schools may give FERPA rights to unaccompanied youth under age 18.
    - Cannot supersede the rights of their parents
    - Student must be **“responsible enough to exercise certain privileges.”**

# What are “Education Records”?

- Records directly related to a **student**, and
- Maintained by a covered institution. 34 CFR §99.3



# Directory Information (DI)

- Information in an education record that would not generally be considered harmful or an invasion of privacy if disclosed.
  - Name, address, telephone, email, date and place of birth, major field of study, dates of attendance, grade level, participation in extracurriculars, honors and awards.
- Directory information can be disclosed without consent (parents can opt out).  
34 CFR §§99.3; 99.37

## BUT:

- Information about a McKinney-Vento student's living situation is NOT directory information and CANNOT be released without consent.  
42 USC §11432(g)(3)(G)

# What is “Access”?

- Right to inspect and review,
  - Copies if on-site review is impossible, and
- Right to request that a school correct records which a parent believes to be inaccurate or misleading.

**34 CFR §99.10**

# What is “Privacy”?

- Generally, schools must have written permission to release any information from a student's education record.

**Does an interagency agreement or MOU with another agency enable a school to disclose education records without parental consent?**

No. Interagency agreements do not supersede the consent requirements under FERPA.

# You don't need permission to release records when:

1

Releasing to other school officials, including teachers, within the agency or institution whom the agency or institution has determined to have **legitimate educational interests**.

- The district or school must use reasonable methods to ensure that school officials obtain access **only** to those education records in which they have legitimate educational interests. 34 CFR §99.31(a)(1).

2

Releasing to officials of another school, school system, or institution of postsecondary education where the **student seeks or intends to enroll**.

- School must attempt to notify parent, or
- School must provide annual notice of policy.

34 CFR §99.34

# You don't need permission to release records when:

3

Releasing to USED, USDOJ, state or local education authorities for audits, evaluations, or enforcement.

34 CFR §99.35

4

Releasing records in connection with financial aid for which the student has applied.

34 CFR §99.31(a)(4)

5

Releasing to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals.

34 CFR §99.36

**But how does it really work?**

FERPA and Homelessness Scenarios

# FERPA Scenario

<https://www.schoolhouseconnection.org/6-things-to-know-about-ferpa/>

An administrator has changed our data system so that teachers automatically can see who the McKinney-Vento student are. In that past, I have shared this information on a case-by-case basis when homelessness was impacting a student's attendance or academics.

**Can the school/district share the McKinney-Vento list with all teachers?**

# FERPA Scenario

<http://bit.ly/FERPA1>

I am working with a 17-year old unaccompanied homeless youth. The student has been staying between the youth shelter and his sister's home for several months. The sister was previously listed as a guardian until this week when the parent asked that her name be removed and that she not be allowed to be involved in any way.

**Can the parent prevent the school from sharing education records with the student's sister/caretaker?**

**Can the school provide the youth with access to his own records?**



# FERPA Scenario

<http://bit.ly/FERPA9>  
<http://bit.ly/FERPA10>

In applying FERPA to our electronic records system, we are wondering if an unaccompanied youth can remove her parents from the contacts/demographics screen. This essentially would remove the parent from getting automated calls around attendance and things of that nature; however, it wouldn't prevent the parent from actually requesting transcripts, etc.

**Do unaccompanied youth have the right to do this?**

# FERPA Scenario

<https://bit.ly/FERPA8>

We have a student who has been verified as an unaccompanied youth. She is 18 years old and has requested that her parent does not have access to her education records.

**Can the student prevent the parent from accessing education records?**

# FERPA Scenario

<https://www.schoolhouseconnection.org/6-things-to-know-about-ferpa/>

My school district has a MOU with a local homeless services consortium, stating that we will provide them with a by-name list of all our McKinney-Vento students in January.

- **Do we need to get parental consent to provide that information?**
- **Can the by-name list be considered directory information?**

# FERPA Scenario

<https://bit.ly/FERPA8>

<http://bit.ly/FERPA20>

A student at my college has asked us not to share education records with his parent. His parent is insisting on seeing the records. The student also wants us to speak to his high school homeless liaison about his FAFSA.

**Can we refuse the parent access to the student's records?**

**Can we speak to the liaison without a parent's consent?**

# FERPA Scenario

<http://bit.ly/FERPA4>

I give students the FAFSA letter that states they are unaccompanied and homeless, or unaccompanied, self-supporting and at-risk for homelessness, for financial aid purposes; but what about for scholarship applications or college entrance applications?

**Can I provide the verification to those programs without parental consent?**

# FERPA Scenario

<http://bit.ly/FERPA6>

Some of our school nurses are hesitant to share health information for students transferring to a new school, for fear of losing their license for breaking privacy laws under HIPAA.

**Does HIPAA apply to health information that is part of a student's educational records?**

# FERPA Takeaways

FERPA always must be interpreted in light of the McKinney-Vento Act when considering privacy for preK-12 students experiencing homelessness.

- Schools must remove barriers to identification, enrollment, and retention of McKinney-Vento students.
- If students and families believe that information about their homelessness will be shared widely with school staff or outside agencies, they may avoid disclosing their homelessness. This would create a barrier to identification and enrollment.
- Therefore, the McKinney-Vento Act requires heightened protection of information about homelessness.

42 USC §11432(g)(1)(I)

# FERPA Takeaways

- Information about a McKinney-Vento student's living situation is fully protected as an education record under FERPA.

42 USC §11432(g)(3)(G)

- **Ask parents/students for their permission** prior to sharing homelessness information with teachers or other school staff.
- Train teachers, counselors, and other staff to employ trauma-informed strategies with all students.
- Give FERPA rights to **unaccompanied youth under age 18** (although this cannot supersede the rights of their parents).



# Resources

**SchoolHouse Connection Privacy, FERPA, and Student Homelessness 2-pager, FAQ, and brief**

<https://www.schoolhouseconnection.org/6-things-to-know-about-ferpa/>

**USED Webinar on FERPA and Virtual Learning  
March 30, 2020**

<https://studentprivacy.ed.gov/?src=fpc>

**FERPA regulations**

<https://studentprivacy.ed.gov/node/548/>

# Contact Information



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