

DEPARTMENT OF EDUCATION
OFFICE OF THE SECRETARY
200 Administration and Operations

251 Family Educational Rights and Privacy Act (FERPA)

1.0 Authority and Incorporation of Federal Regulations

The Department of Education ("Department") is authorized by 14 Del.C. §4111, to adopt rules and regulations regarding the educational records of students in public and private schools in Delaware. This regulation is intended to govern access to, the confidentiality of, and the amendment of educational records in a manner consistent with the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. 1232g, and its implementing regulations at 34 CFR part 99, and the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq. and its implementing regulations.

23 DE Reg. 645 (02/01/20)

2.0 Use and Adoption of FERPA by School Districts, Charter Schools, and Private Schools

- 2.1 Each school district, charter school, and private school shall develop, adopt, and maintain a written policy regarding the educational records of its students. This policy shall address access to such records, the confidentiality of such records, and the method by which the records may be amended. The policy shall comply with FERPA and its implementing regulations.
- 2.2 Each school district, charter school, and private school shall periodically review and revise its policy on educational records to ensure continued compliance with FERPA.
- 2.3 Nothing in this regulation shall preclude a school district, charter school, or private school from adopting additional policies regarding educational records so long as those regulations are consistent with FERPA. Nothing in this regulation shall alter a school district's or a charter school's duties regarding educational records of children with disabilities pursuant to the Individuals with Disabilities Education Act.

23 DE Reg. 645 (02/01/20)

3.0 State Adoption of FERPA

- 3.1 Except as otherwise provided, the Department of Education adopts the federal regulation implementing FERPA (34 CFR part 99), including any subsequent amendment or revision to that regulation, to the extent the Department maintains educational records on students in attendance in Delaware schools.
- 3.2 Notwithstanding subsection 3.1, and except as noted herein, the Department shall not be required to annually notify parents or eligible students of their rights under FERPA or this regulation. School districts, charter schools, and private schools shall continue to be responsible for such notification. The Department may also disclose directory information from the educational records it maintains without prior public notification.
 - 3.2.1 The Department shall annually notify parents or eligible students of their rights under FERPA or this regulation where said student is in the Delaware Department of Correction system and receiving educational services through the Department's Prison Education Program.
- 3.3 Notwithstanding subsection 3.1, and except as noted herein, the Department shall not be required to provide a hearing to a parent or eligible student seeking to amend their educational records as provided in Subpart C of the FERPA regulation.
 - 3.3.1 The Department shall provide a hearing to a parent or eligible student seeking to amend their educational records as provided in Subpart C of the FERPA regulation where said student is in the Delaware Department of Correction system and receiving educational services through the Department's Prison Education Program.

14 DE Reg. 27 (07/01/10)

23 DE Reg. 645 (02/01/20)

4.0 Federal Complaints and Investigations

The U.S. Department of Education's Office of the Chief Privacy Officer ("OCPO") provides leadership, oversight, and coordination to ensure Departmental compliance with government initiatives regarding the

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acquisition, release and maintenance of information. OCPO oversees the administration of FERPA. The Student Privacy Policy Office ("SPPO") leads U.S. Department of Education efforts to protect student privacy by providing leadership, oversight, and coordination to ensure Department and field compliance with several Federal privacy laws and regulations, most notably FERPA. Parents and students who need assistance may contact the SPPO through the website below or via mail or phone:

Student Privacy Policy Office
U.S. Department of Education
400 Maryland Avenue, S.W.,
Washington, D.C. 20202-5920
<https://studentprivacy.ed.gov>
Phone: 1-800-USA-LEARN

Families of students attending schools to which federal education funding has not been made available may also find SPPO's interpretations and policy letters useful in understanding their rights under the policies required by this regulation.

Nonregulatory note: 14 **DE Admin. Code** 927 Children with Disabilities Subpart F, Monitoring, Enforcement and Confidentiality of Information addresses this subject for students with disabilities further.

8 DE Reg. 1112 (02/01/05)

14 DE Reg. 27 (07/01/10)

23 DE Reg. 645 (02/01/20)