

# FLORIDA DEPARTMENT OF EDUCATION



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**K12:** 2005-176

## MEMORANDUM

**To:** District School Superintendents

**From:** Cheri Pierson Yecke, Ph.D.

**Date:** January 3, 2006

**Subject:** **FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA) AND PROTECTION OF PUPIL RIGHTS AMENDMENT (PPRA)**

The United States Department of Education (USDOE) is required to annually notify each state educational agency and each local school district regarding their obligations under Protection of Pupil Rights Amendment (PPRA) and Family Educational Rights and Privacy Act (FERPA). Please find the following 2005 guidance documents developed by the USDOE:

- Requirements for school districts related to FERPA and PPRA
- Model notification of parents' rights under FERPA for elementary and secondary schools
- Model notification of parents' rights under PPRA
- PPRA model notice and consent/opt-out for specific activities

CHERI PIERSON YECKE, PH.D.  
CHANCELLOR, K-12 PUBLIC SCHOOLS

District School Superintendents  
January 3, 2006  
Page Two

Please note that the National Defense Authorization Act requires school districts to provide the same access to secondary school students to military recruiters as is provided to postsecondary institutions or prospective employers. In addition, the school district must provide students' names, addresses, and telephone listings to military recruiters as requested, unless a parent chooses to opt out of providing such information. Parents must be notified and have an opportunity to request that the information not be disclosed to military recruiters without their consent similar to the "directory information" provisions under FERPA.

We ask you to review your policies to ensure that you are in compliance with FERPA and PPRA. Enclosed is a copy of the guidance developed by the U.S. Department of Education. It is also available on the Family Policy Compliance Office web site at <http://www.ed.gov/policy/gen/guid/fpco/hottopics/ht10-09-02.html>. The guidance provides additional technical assistance regarding access to high school students and information on students by military recruiters.

We hope this information will be helpful in ensuring that your district policies comply with federal and state laws related to student records. If you have questions or need additional assistance, please contact Mary Jo Butler or Samantha Love.

CY:slo

Attachments

cc: Assistant Superintendents of Curriculum and Instruction  
Student Services Directors  
Guidance Supervisors  
Data Base Contacts



# UNITED STATES DEPARTMENT OF EDUCATION

WASHINGTON, D.C. 20202

September 2005

Dear Chief State School Officer:

The No Child Left Behind Act of 2001 (NCLB) amended the Protection of Pupil Rights Amendment (PPRA) to require that the Department of Education (Department) notify annually each State educational agency (SEA) and each local educational agency (LEA) of their obligations under PPRA and under the Family Educational Rights and Privacy Act (FERPA). This letter serves to provide that notification to the SEA. The requirements placed on the SEA by each law are discussed separately below.

## Family Educational Rights and Privacy Act (FERPA)

Statute: 20 U.S.C. § 1232g. Regulations: 34 CFR Part 99.

FERPA applies to an “educational agency or institution” that receives funds under a program administered by the U.S. Department of Education. While an SEA may receive funds from the Department, as a practical matter, FERPA generally would not apply to the records of an SEA. This is because FERPA defines “education records” as information directly related to a “student,” which itself is defined as excluding a person who has not been in attendance at the educational agency or institution. 20 U.S.C. § 1232g(a)(4) and (a)(6). Since students generally are not in attendance at an SEA, it follows that FERPA does not generally apply to the SEA. However, FERPA does provide parents with the right to inspect and review education records maintained by the SEA within 45 days of receipt of a request. 20 U.S.C. § 1232g(a)(1)(B); 34 CFR § 99.10(a)(2). **This includes, for example, State assessments administered by LEAs and maintained by the SEA.** The SEA may make the education records available to the parent either directly, by sending them to the LEA for inspection and review, or making other appropriate arrangements. For more information on this provision, see 20 U.S.C. § 1232g(a)(1)(A); 34 CFR § 99.10.

FERPA permits educational agencies and institutions, such as LEAs and their constituent schools, to disclose education records to SEAs and other State educational authorities without a parent’s prior consent under certain conditions. For a review of the exceptions to the general prior consent rule in FERPA, see 34 CFR § 99.31. The most common exception that relates to disclosure to a State educational authority is found in 34 CFR § 99.31(a)(3) and § 99.35.

- The disclosure must be in connection with:
  - ◆ Audit or evaluation of Federal or State supported education programs; or
  - ◆ Enforcement of or compliance with Federal legal requirements relating to such programs.
- Information collected under this provision must be:
  - ◆ Protected so that information is not disclosed to anyone other than the authorized

representatives of the State educational authority (34 CFR § 99.35(b)(1)); and

- ◆ Destroyed when no longer needed for the purposes listed above (34 CFR § 99.35(b)(2)).

### ***New NCLB Requirement for SEAs***

Section 4155 of the Elementary and Secondary Education Act of 1965 (ESEA), 20 U.S.C. § 7165, as amended by the NCLB, requires a State that receives funds under the ESEA to assure the Secretary that no later than January 8, 2004, it “has a procedure in place to facilitate the transfer of disciplinary records, with respect to a suspension or expulsion, by local educational agencies to any private or public elementary school or secondary school for any student who is enrolled or seeks, intends, or is instructed to enroll, on a full- or part-time basis, in the school.” FERPA provides specifically that an educational agency or institution may disclose education records, without parental consent, to a school in which the student seeks or intends to enroll, subject to conditions set forth in 34 CFR § 99.34. FERPA also allows disclosure of appropriate information regarding specified disciplinary actions to teachers and school officials, including those in other schools, who have legitimate educational interests in the behavior of the student. See 34 CFR § 99.36(b).

### Protection of Pupil Rights Amendment (PPRA)

Statute: 20 U.S.C. § 1232h. Regulations: 34 CFR Part 98.

PPRA applies to the programs and activities of an SEA, LEA, or other recipient of funds under any program funded by the U.S. Department of Education. It governs the administration to students of a survey, analysis, or evaluation that concerns one or more of the following eight protected areas:

1. political affiliations or beliefs of the student or the student’s parent;
2. mental or psychological problems of the student or the student’s family;
3. sex behavior or attitudes;
4. illegal, anti-social, self-incriminating, or demeaning behavior;
5. critical appraisals of other individuals with whom respondents have close family relationships;
6. legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers;
7. religious practices, affiliations, or beliefs of the student or student’s parent; or
8. income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program).

PPRA also concerns marketing surveys and other areas of student privacy, parental access to information, and the administration of certain physical examinations to minors.

The rights under PPRA transfer from the parents to a student who is 18 years old or an emancipated minor under State law.

LEAs must provide parents and eligible students effective notice of their rights under PPRA. The notice must explain that an LEA is required to obtain prior written consent from parents before students are required to submit to a survey that concerns one or more of the eight protected areas listed above, if the survey is funded in whole or in part by Department funds. For surveys that contain questions from one or more of the eight protected areas that are not funded in whole or in part with Department funds, LEAs must notify a parent at least annually, at the beginning of the school year, of the specific or approximate date(s) of the survey and an opportunity to opt his or her child out of participating. LEAs must also notify parents that they have the right to review, upon

request, any instructional materials used in connection with any survey that concerns one or more of the eight protected areas and those used as part of the educational curriculum.

PPRA requires LEAs to work with parents to develop and adopt policies on the following items unless the LEA or SEA had established comparable policies on or before the date of enactment of NCLB on January 8, 2002:

- The right of parents to inspect, upon request, a survey created by a third party before the survey is administered or distributed by a school to students and the procedure for granting a request by a parent for such access.
- Arrangements to protect student privacy that are provided by the LEA in the event of the administration of a survey to students containing one or more of the eight protected items of information noted above (including the right of parents to inspect, upon request, a survey that concerns one or more of the eight protected items of information).
- The right of parents to inspect, upon request, any instructional material used as part of the educational curriculum for students, and the procedure for granting a request by a parent for such access.
- Administration of physical exams or screenings of students;
- The collection, disclosure, or use of personal information (including items such as a student's or parent's first and last name, address, telephone number or social security number) collected from students for marketing purposes, or to sell or otherwise provide the information to others for marketing purposes, including the LEA's arrangements for protecting student privacy in the event of collection, disclosure, or use of information for these purposes.
- The right of parents to inspect, upon request, any instrument used in the collection of personal information for marketing or sales purposes before the instrument is administered or distributed to a student and the LEA's procedure for granting a parent's request for such access.

LEAs must notify parents of their rights under PPRA and of these policies at least annually and at the beginning of the school year. LEAs must also notify parents within a reasonable period of time if any substantive change is made to the policies.

In addition, an LEA must "directly" notify, such as through U.S. Mail or email, parents of students who are scheduled to participate in the specific activities or surveys listed below and provide an opportunity for parents to opt their child out of participation in the specific survey or activity. An LEA may make this notification to parents at the beginning of the school year if the LEA has identified the specific or approximate dates of the activities or surveys at that time. Thereafter, parents should be provided reasonable notification of the planned activities and surveys and be provided an opportunity to opt their child out, as well as an opportunity to review any pertinent surveys. A model specific notification for use by LEAs is attached and may also be obtained on the Web site noted at the end of this guidance. LEAs must offer an opportunity for parents to opt their child out of participating in the following activities:

- The administration of any survey concerning one or more of the eight protected areas listed above if it is not funded in whole or in part with Department funds. (LEAs must obtain active consent, and may not use an opt-out procedure, if the survey is funded in whole or in part with Department funds.)
- Activities involving the collection, disclosure, or use of personal information collected from students for marketing purposes, or to sell or otherwise provide the information to others for marketing purposes.

- Any non-emergency, invasive physical examination or screening that is 1) required as a condition of attendance; 2) administered by the school and scheduled by the school in advance; and 3) not necessary to protect the immediate health and safety of the student, or of other students. This law does not apply to any physical examination or screening that is permitted or required by State law, including physical examinations or screenings permitted without parental notification.

NCLB does not preempt applicable provisions of State law that require parental notification. Also, requirements concerning activities involving the collection and disclosure of personal information from students for marketing purposes do not apply to the collection, disclosure, or use of personal information collected from students for the exclusive purpose of developing, evaluating, or providing educational products or services for or to students or educational institutions, such as the following:

- 1) College or other postsecondary education recruitment, or military recruitment.
- 2) Book clubs, magazines, and programs providing access to low-cost literary products.
- 3) Curriculum and instructional materials used by elementary schools and secondary schools.
- 4) Tests and assessments used by elementary schools and secondary schools to provide cognitive, evaluative, diagnostic, clinical, aptitude, or achievement information about students.
- 5) The sale by students of products or services to raise funds for school-related or education-related activities.
- 6) Student recognition programs.

An SEA or LEA may use funds provided under part A of title V of the ESEA to enhance parental involvement in areas affecting the in-school privacy of students, such as reimbursement for costs associated with this direct notification.

The Department will issue regulations to reflect the changes in FERPA and PPRA. The Family Policy Compliance Office (FPCO) in the Department of Education administers both FERPA and PPRA. The address and telephone number are:

Family Policy Compliance Office  
U.S. Department of Education  
400 Maryland Avenue, S.W.  
Washington, D.C. 20202-5920  
(202) 260-3887

Informal inquiries may be sent to FPCO via the following email addresses: [FERPA@ED.Gov](mailto:FERPA@ED.Gov) and [PPRA@ED.Gov](mailto:PPRA@ED.Gov). The FPCO Web site address is: [www.ed.gov/policy/gen/guid/fpc](http://www.ed.gov/policy/gen/guid/fpc).

Sincerely,

/s/

LeRoy S. Rooker  
Director  
Family Policy Compliance Office



## UNITED STATES DEPARTMENT OF EDUCATION

WASHINGTON, D.C. 20202

September 2005

Dear Superintendent:

The No Child Left Behind Act of 2001 (NCLB) amended the Protection of Pupil Rights Amendment (PPRA) to require that the Department of Education (Department) notify annually each State educational agency (SEA) and each local educational agency (LEA) of their obligations under PPRA and under the Family Educational Rights and Privacy Act (FERPA). This letter serves to provide that notification to the LEA. The general requirements placed on the LEA by each law are discussed separately below.

### The Family Educational Rights and Privacy Act (FERPA)

Statute: 20 U.S.C. § 1232g. Regulations: 34 CFR Part 99.

FERPA provides that an LEA that receives Department funds may not have a policy or practice of denying parents the right to:

- Inspect and review education records (34 CFR § 99.10).
- Seek to amend education records (34 CFR §§ 99.20, 99.21, and 99.22).
- Consent to the disclosure of personally identifiable information from education records except as specified by law (34 CFR §§ 99.30 and 99.31).

These rights transfer to the student when he or she turns 18 years of age or enters a postsecondary educational institution at any age (“eligible student”).

LEAs must annually notify parents and eligible students of their rights under FERPA. 34 CFR § 99.7. The annual notification must also include:

- The procedure to inspect and review education records;
- The procedure to request amendment of education records;
- A specification of criteria for determining who constitutes a school official and what constitutes a legitimate educational interest if the agency or institution discloses or intends to disclose personally identifiable information to school officials without consent; and
- The right of parents to file a complaint with the Family Policy Compliance Office (FPCO) in the Department. (A model FERPA notification for LEAs is enclosed and is also available on FPCO’s Web site – [www.ed.gov/policy/gen/guid/fpcoc](http://www.ed.gov/policy/gen/guid/fpcoc).)

If the LEA or educational institution under the LEA discloses directory information from education records without consent, it is required by 34 CFR § 99.37 to notify parents and eligible students of:

- The types of information the LEA (or institution) has designated as directory information (see 34 CFR § 99.3 “Directory information” for definition);
- The right to opt out of disclosure of directory information. (A model “directory information” notice is enclosed and is also available on FPCO’s Web site – [www.ed.gov/policy/gen/guid/fpco](http://www.ed.gov/policy/gen/guid/fpco).)

LEAs must also comply with FERPA’s redisclosure and recordation provisions, set forth in 34 CFR §§ 99.32 and 99.33, except for disclosures that are specifically exempted.

Outlined below are changes in the NCLB that do not amend FERPA, but relate to the disclosure of personally identifiable information from students’ education records.

Suspension and expulsion disciplinary records:

- Section 4155 of the Elementary and Secondary Education Act of 1965 (ESEA), 20 U.S.C. § 7165, as amended by the NCLB, requires that each State have “a procedure in place to facilitate the transfer of disciplinary records, with respect to a suspension or expulsion, by local educational agencies to any private or public elementary school or secondary school for any student who is enrolled or seeks, intends, or is instructed to enroll, on a full- or part-time basis, in the school” no later than January 8, 2004. LEAs should include a notice in their annual notification of rights under FERPA that they forward education records to other schools that have requested the records and in which the student seeks or intends to enroll (34 CFR §§ 99.7 and 99.34(a)(ii)). (See enclosed model notification of rights.)
- Section 9528 of the ESEA, 20 U.S.C. § 7908, as amended by the NCLB, and 10 U.S.C. 503, as amended by § 544 of the *National Defense Authorization Act for Fiscal Year 2002* (Pub.L. No. 107-107), require LEAs to:
  - give military recruiters the same access to secondary school students as provided to postsecondary institutions or to prospective employers; and
  - provide students’ names, addresses, and telephone listings to military recruiters, when requested, unless a parent has opted out of providing such information. (Military Recruiter Guidance is on FPCO Web site.)

## Protection of Pupil Rights Amendment (PPRA)

Statute: 20 U.S.C. § 1232h. Regulations: 34 CFR Part 98.

PPRA governs the administration to students of a survey, analysis, or evaluation that concerns one or more of the following eight protected areas:

1. political affiliations or beliefs of the student or the student's parent;
2. mental or psychological problems of the student or the student's family;
3. sex behavior or attitudes;
4. illegal, anti-social, self-incriminating, or demeaning behavior;
5. critical appraisals of other individuals with whom respondents have close family relationships;
6. legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers;
7. religious practices, affiliations, or beliefs of the student or student's parent; or
8. income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program).

PPRA also concerns marketing surveys and other areas of student privacy, parental access to information, and the administration of certain physical examinations to minors.

The rights under PPRA transfer from the parents to a student who is 18 years old or an emancipated minor under State law.

**GENERAL NOTIFICATION** – LEAs must provide parents and students effective notice of their rights under PPRA. In addition, the NCLB amendments to PPRA require that LEAs provide for reasonable notice of the adoption or continued use of the policies described on page four. The LEA must provide such notice at least annually, at the beginning of the school year, and after any substantive change in such policies. This new notification requirement may be included in the PPRA general notification.

The general notification must indicate that PPRA applies to surveys that contain questions about one or more of the eight protected areas listed above. The notification must explain that for surveys that contain questions about one or more of the eight protected areas and that are funded in whole or in part by Department funds, the LEA must obtain prior written consent from parents before students are required to submit to the survey.

The general notification must also indicate that, for surveys that contain questions from one or more of the eight protected areas but are not funded in whole or part by Department funds, the LEA will notify the parent, at least annually at the beginning of the school year, of the specific or approximate dates during the school year when it will administer the survey(s) and provide an opportunity for the parent to opt his or her child out of participating.

In addition, LEAs must notify parents that they have the right to review, upon request, any survey that concerns one or more of the eight protected areas, any instructional materials used in connection with any survey that concerns one or more of the eight protected areas, and any instructional material used as part of the educational curriculum for the student. (A model PPRA general notification for use by LEAs is attached and may also be obtained on FPCO's Web site.)

Section 1061 of NCLB amended PPRA to give parents more rights with regard to the surveying of minor students, the collection of information from students for marketing purposes, and certain non-emergency medical examinations. Here are some of the changes made to PPRA by NCLB:

- An eighth category of protected information was added to PPRA. See No. 7 above, "religious practices, affiliations, or beliefs of the student or student's parent."

- The following new provisions apply to educational agencies and institutions that receive funds from any Department program.

A. LEAs are required to develop and adopt policies – in consultation with parents – regarding the following:

- 1) The right of parents to inspect, upon request, a survey created by a third party before the survey is administered or distributed by a school to students.
- 2) Arrangements to protect student privacy that are provided by the LEA in the event of the administration of a survey to students containing one or more of the eight protected items of information noted above (including the right of parents to inspect, upon request, a survey that concerns one or more of the eight protected items of information).
- 3) The right of parents to inspect, upon request, any instructional material used as part of the educational curriculum for students, and the procedure for granting a request by a parent for such access.
- 4) The administration of physical examinations or screenings that the school may administer to students.
- 5) The collection, disclosure, or use of personal information (including items such as a student's or parent's first and last name, address, telephone number or social security number) collected from students for the purpose of marketing or selling, or otherwise providing the information to others for that purpose, including the LEA's arrangements for protecting student privacy in the event of collection, disclosure, or use.
- 6) The right of parents to inspect, upon request, any instrument used in the collection of personal information, as described above in paragraph 5, before the instrument is administered or distributed to a student and the LEA's procedure for granting a parent's request.

B. **SPECIFIC NOTIFICATION** – An LEA must “directly” notify, such as through U.S. Mail or email, parents of students who are scheduled to participate in the specific activities or surveys noted below and must provide an opportunity for the parent to opt his or her child out of participation in the specific event or survey. An LEA may make this notification to parents at the beginning of the school year if the LEA has identified the specific or approximate dates of the activities or surveys at that time. Thereafter, parents should be provided reasonable notification of the planned activities and surveys and be provided an opportunity to opt their child out, as well as an opportunity to review any pertinent surveys. A model specific notification for use by LEAs is attached and may also be obtained on the Web site noted at the end of this guidance. **LEAs must offer an opportunity for parents to opt their child out of participating in the following activities:**

- Activities involving the collection, disclosure, or use of personal information collected from students for the purpose of marketing or for selling that information, or otherwise providing that information to others for that purpose.
  - Any non-emergency, invasive physical examination or screening that is:
    - 1) required as a condition of attendance;
    - 2) administered by the school and scheduled by the school in advance; and
    - 3) not necessary to protect the immediate health and safety of the student, or of other students.
  - The administration of any survey containing one or more of the eight protected areas of information listed above and that is not funded in whole or in part by Department funds. (LEAs must obtain active consent, and may not use an opt-out procedure, if the survey is funded in whole or in part with Department funds.)
- C. An LEA is not required to develop and adopt new policies if the SEA or LEA has in place, on the date of enactment (January 8, 2002) of the NCLB, policies covering the requirements set forth in this law; however, the LEA must still provide annual notice of these policies to parents.
- D. The requirements concerning activities involving the collection and disclosure of personal information from students for marketing purposes do not apply to the collection, disclosure, or use of personal information collected from students for the exclusive purpose of developing, evaluating, or providing educational products or services for or to students or educational institutions, such as the following:
- 7) College or other postsecondary education recruitment, or military recruitment.
  - 8) Book clubs, magazines, and programs providing access to low-cost literary products.
  - 9) Curriculum and instructional materials used by elementary schools and secondary schools.
  - 10) Tests and assessments used by elementary schools and secondary schools to provide cognitive, evaluative, diagnostic, clinical, aptitude, or achievement information about students.
  - 11) The sale by students of products or services to raise funds for school-related or education-related activities.
  - 12) Student recognition programs.
- E. This law does not preempt applicable provisions of State law that require parental notification.
- F. This law does not apply to any physical examination or screening that is permitted or required by State law, including physical examinations or screenings permitted without parental notification.

- G. An SEA or LEA may use funds provided under part A of title V of the ESEA to enhance parental involvement in areas affecting the in-school privacy of students, such as reimbursement for costs associated with this direct notification.

**DEFINITION OF SOME TERMS USED IN PPRA:**

“Instructional Material” – instructional material that is provided to a student, regardless of format, including printed or representational materials, audio-visual materials, and materials in electronic or digital formats (such as materials accessible through the Internet). The term does not include academic tests or academic assessments.

“Invasive Physical Examination” – any medical examination that involves the exposure of private body parts, or any act during such examination that includes incision, insertion, or injection into the body, but does not include a hearing, vision, or scoliosis screening.

“Personal Information” – individually identifiable information including –

- (1) a student’s or parent’s first and last name;
- (2) a home or other physical address (including a street name and the name of a city or town);
- (3) a telephone number; or
- (4) a social security number.

The Department will issue regulations to reflect the changes in FERPA and PPRA. The Family Policy Compliance Office (FPCO) in the Department administers both FERPA and PPRA.

Family Policy Compliance Office  
U.S. Department of Education  
400 Maryland Avenue, S.W.  
Washington, D.C. 20202-5920  
(202) 260-3887

Informal inquiries may be sent to FPCO via the following email addresses: [FERPA@ED.Gov](mailto:FERPA@ED.Gov) and [PPRA@ED.Gov](mailto:PPRA@ED.Gov).

The FPCO Web site address is: [www.ed.gov/policy/gen/guid/fpc](http://www.ed.gov/policy/gen/guid/fpc).

Sincerely,

/s/

LeRoy S. Rooker  
Director  
Family Policy Compliance Office

**Model Notification of Rights under FERPA  
for Elementary and Secondary Schools**

The Family Educational Rights and Privacy Act (FERPA) affords parents and students over 18 years of age ("eligible students") certain rights with respect to the student's education records. These rights are:

(1) The right to inspect and review the student's education records within 45 days of the day the School receives a request for access.

Parents or eligible students should submit to the School principal [or appropriate school official] a written request that identifies the record(s) they wish to inspect. The School official will make arrangements for access and notify the parent or eligible student of the time and place where the records may be inspected.

(2) The right to request the amendment of the student's education records that the parent or eligible student believes are inaccurate, misleading, or otherwise in violation of the student's privacy rights under FERPA.

Parents or eligible students who wish to ask the School to amend a record should write the School principal [or appropriate school official], clearly identify the part of the record they want changed, and specify why it should be changed. If the School decides not to amend the record as requested by the parent or eligible student, the School will notify the parent or eligible student of the decision and advise them of their right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the parent or eligible student when notified of the right to a hearing.

(3) The right to consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that FERPA authorizes disclosure without consent.

One exception, which permits disclosure without consent, is disclosure to school officials with legitimate educational interests. A school official is a person employed by the School as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel); a person serving on the School Board; a person or company with whom the School has contracted as its agent to provide a service instead of using its own employees or officials (such as an attorney, auditor, medical consultant, or therapist); or a parent or student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks.

A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.

[Optional] Upon request, the School discloses education records without consent to officials of another school district in which a student seeks or intends to enroll. [NOTE: FERPA requires a school district to make a reasonable attempt to notify the parent or student of the records request unless it states in its annual notification that it intends to forward records on request.]

(4) The right to file a complaint with the U.S. Department of Education concerning alleged failures by the *School District* to comply with the requirements of FERPA. The name and address of the Office that administers FERPA are:

Family Policy Compliance Office  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202-5920

[NOTE: In addition, a school may want to include its directory information public notice, as required by § 99.37 of the regulations, with its annual notification of rights under FERPA.]

**PPRA Model Notice and Consent/Opt-Out for Specific Activities**  
**[LEAs should adopt the following model form as appropriate]**

The Protection of Pupil Rights Amendment (PPRA), 20 U.S.C. § 1232h, requires **[School District]** to notify you and obtain consent or allow you to opt your child out of participating in certain school activities. These activities include a student survey, analysis, or evaluation that concerns one or more of the following eight areas (“protected information surveys”):

1. Political affiliations or beliefs of the student or student’s parent;
2. Mental or psychological problems of the student or student’s family;
3. Sex behavior or attitudes;
4. Illegal, anti-social, self-incriminating, or demeaning behavior;
5. Critical appraisals of others with whom respondents have close family relationships;
6. Legally recognized privileged relationships, such as with lawyers, doctors, or ministers;
7. Religious practices, affiliations, or beliefs of the student or parents; or
8. Income, other than as required by law to determine program eligibility.

This requirement also applies to the collection, disclosure or use of student information for marketing purposes (“marketing surveys”), and certain physical exams and screenings.

Following is a schedule of activities requiring parental notice and consent or opt-out for the upcoming school year. This list is not exhaustive and, for surveys and activities scheduled after the school year starts, the **[School District]** will provide parents, within a reasonable period of time prior to the administration of the surveys and activities, notification of the surveys and activities and be provided an opportunity to opt their child out, as well as an opportunity to review the surveys. (Please note that this notice and consent/opt-out transfers from parents to any student who is 18 years old or an emancipated minor under State law.)

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*Date:* On or about October 15, 2003

*Grades:* Five and Six

*Activity:* ABC Survey of At-Risk Behaviors.

*Summary:* This is an anonymous survey that asks students questions about behaviors such as drug and alcohol use, sexual conduct, violence, and other at-risk behaviors. The survey also asks questions of a demographic nature concerning family make-up, the relationship between parents and children, and use of alcohol and drugs at home.

**Consent [for ED funded, protected information surveys only]:** A parent must sign and return the attached consent form no later than [insert return date] so that your child may participate in this survey.

**Opt-out [for any non-ED funded protected information survey]:** Contact [school official] at [telephone number, email, address, etc.] no later than [date] if you do not want your child to participate in this activity.

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*Date:* November 22 - 24, 2003

*Grades:* One through Six

*Activity:* Flu Shots

*Summary:* The County Department of Public Health Services will administer flu shots for influenza types A and B.

*Opt-out:* Contact [school official] at [telephone number, email, address, etc.] no later than [date] if you do not want your child to participate in this activity.

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**Below are two examples dealing with the collection, use and distribution of personal information for student-based commercial services. Administrators should *particularly* note the difference in the type of consent required for each activity depending on what personal information is being collected, used or distributed.**

*[Survey A: Limited to personal information designated as “directory information”]*

*Date:* 2003-2004 School Year

*Grades:* Nine through Twelve

*Activity:* Student-Based Commercial Services

*Summary:* **[School]** collects, or allows businesses to collect, use, and disclose personal information on students, including names, addresses, and telephone listings. These businesses provide student-based products and services, such as computer equipment, sports clothing, school jewelry, and entertainment products.

*Opt-out:* Contact **[school official]** at **[telephone number, email, address, etc.]** no later than **[date]** if you do not want your child to participate in this activity.

**[Note to schools: This information – names, addresses, and telephone listings – may be designated and disclosed as “directory information” under the Family Educational Rights and Privacy Act (FERPA). Instead of using this Model Notice format, schools *may* meet PPRA notice requirements for specific marketing activities that involve only designated “directory information” by allowing parents to opt of “directory information” at the start of each school year, which would include all marketing activities.]**

*[Survey B: Collects personal information beyond designated directory information]*

*Date:* 2003-2004 School Year

*Grades:* Nine through Twelve

*Activity:* Student-Based Commercial Services

*Summary:* **[School]** collects, or allows businesses to collect, use, and disclose personal information on students, including names, addresses, telephone listings and social security numbers. These businesses provide student-based products and services, such as computer equipment, sports clothing, school jewelry, and entertainment products.

*Consent:* A parent must sign and return the attached consent form no later than **[insert return date]** so that your child may participate in this activity.

**[Note to schools: While some of the information – names, addresses, and telephone listings – may be designated and disclosed as “directory information” under the Family Educational Rights and Privacy Act (FERPA), schools that permit marketing activities that involve the collection, use, and disclosure of students’ social security numbers may not use an opt-out procedure and must obtain prior written consent in accordance with § 99.30 of the FERPA regulations.]**

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If you wish to review any survey instrument or instructional material used in connection with any protected information or marketing survey, please submit a request to **[school official, address]**. **[School official]** will notify you of the time and place where you may review these materials. You have the right to review a survey and/or instructional materials before the survey is administered to a student.

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I [parent's name] give my consent for [child's name] to take the ABC Survey of At-Risk Behaviors on or about October 15, 2003.

\_\_\_\_\_  
Parent's signature

Please return this form no later than [insert date] to the following school official: [Provide name and mailing address.]

## Model Notification of Rights Under the Protection of Pupil Rights Amendment (PPRA)

PPRA affords parents certain rights regarding our conduct of surveys, collection and use of information for marketing purposes, and certain physical exams. These include the right to:

- *Consent* before students are required to submit to a survey that concerns one or more of the following protected areas (“protected information survey”) if the survey is funded in whole or in part by a program of the U.S. Department of Education (ED)–
  1. Political affiliations or beliefs of the student or student’s parent;
  2. Mental or psychological problems of the student or student’s family;
  3. Sex behavior or attitudes;
  4. Illegal, anti-social, self-incriminating, or demeaning behavior;
  5. Critical appraisals of others with whom respondents have close family relationships;
  6. Legally recognized privileged relationships, such as with lawyers, doctors, or ministers;
  7. Religious practices, affiliations, or beliefs of the student or parents; or
  8. Income, other than as required by law to determine program eligibility.
- *Receive notice and an opportunity to opt a student out of*–
  1. Any other protected information survey, regardless of funding;
  2. Any non-emergency, invasive physical exam or screening required as a condition of attendance, administered by the school or its agent, and not necessary to protect the immediate health and safety of a student, except for hearing, vision, or scoliosis screenings, or any physical exam or screening permitted or required under State law; and
  3. Activities involving collection, disclosure, or use of personal information obtained from students for marketing or to sell or otherwise distribute the information to others.
- *Inspect*, upon request and before administration or use –
  1. Protected information surveys of students;
  2. Instruments used to collect personal information from students for any of the above marketing, sales, or other distribution purposes; and
  3. Instructional material used as part of the educational curriculum.

These rights transfer to from the parents to a student who is 18 years old or an emancipated minor under State law.

**[School District will/has develop[ed] and adopt[ed]]** policies, in consultation with parents, regarding these rights, as well as arrangements to protect student privacy in the administration of protected information surveys and the collection, disclosure, or use of personal information for marketing, sales, or other distribution purposes. **[School District]** will directly notify parents of these policies at least annually at the start of each school year and after any substantive changes. **[School District]** will also directly notify, such as through U.S. Mail or email, parents of students who are scheduled to participate in the specific activities or surveys noted below and will provide an opportunity for the parent to opt his or her child out of participation of the specific activity or survey. **[School District]** will make this notification to parents at the beginning of the school year if the District has identified the specific or approximate dates of the activities or surveys at that time. For surveys and activities scheduled after the school year starts, parents will be provided reasonable notification of the planned activities and surveys listed below and be provided an opportunity to opt their child out of such activities and surveys. Parents will also be provided an opportunity to review any pertinent surveys. Following is a list of the specific activities and surveys covered under this requirement:

- Collection, disclosure, or use of personal information for marketing, sales or other distribution.
- Administration of any protected information survey not funded in whole or in part by ED.
- Any non-emergency, invasive physical examination or screening as described above.

*Parents who believe their rights have been violated may file a complaint with:*

Family Policy Compliance Office  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202-5920