



Parent Notification and Guide to Student Information Privacy in Hawaii Public Schools

Each year the Hawaii Department of Education (HIDOE) is required to notify parents, guardians and eligible students (those 18 and older) of certain rights related to privacy of students' education records in Hawaii Public Schools. In our efforts to provide this information to families, HIDOE reviewed state and federal regulations related to student information privacy and developed this *Guide*.

You may find information about student privacy on the Hawaii Public Schools' Student Privacy page online at <http://bit.ly/FERPAHI>.

In some cases, more detailed documentation may be available from the U.S. Department of Education or HIDOE's Student Privacy website. Internet links to those documents are cited throughout this *Guide* however, should you not have access to the Internet, your school will provide the copies of those documents.

What is the Family Educational Rights and Privacy Act (FERPA)?

FERPA is a Federal law that protects students' personally identifiable information (PII) and any information directly related to a student that is maintained in student education records. Chapter 8-34, Hawaii Administrative Rule (HAR 34), provides further protection of student information maintained by Hawaii Department of Education (HIDOE). Schools, Complex Area offices, District offices, and HIDOE State offices maintain student information in paper form (cumulative, Special Education, and English as a Second Language files) and electronic formats (Longitudinal Data System, SIS, eCSSS, and email). These records may contain contact information, enrollment forms, report cards, transcripts, disciplinary letters, and more. PII includes any information which can be linked to a specific student, and which would allow a reasonable person in the community to identify the student.

FERPA and HAR 34 give parents, legal guardians, and eligible students certain rights with respect to students' education records. Parents, guardians, and eligible students may:

- Inspect and review student's education records by submitting a written request to the school Principal that identifies the record(s) they wish to inspect;
- Request the amendment of the student's education record to correct inaccurate or misleading information, or correct a violation of the student's privacy rights under FERPA;
- Provide written consent before the school releases information contained in the student's education record (see "When is consent not required?" in this brochure); and
- File a complaint with HIDOE and/or the U.S. Department of Education concerning alleged failures by the school to comply with the requirements of FERPA.

Parents, guardians, or eligible students may make their written requests directly to the school when requesting to inspect, review or amend records or to provide consent to release records. Should you wish to file a complaint with HIDOE (the Data Governance and Analysis Branch) or the U.S. Department of education, you may find the contact information at the end of this *Guide*.

A parent cannot deny the FERPA rights of a stepparent. Stepparents may be granted the same rights as parents, if the stepparent is present on a day-to-day basis with the natural parent and the child, and the other parents is absent from that home.

A parent and/or legal guardian may grant privileges to others to view their child's educational records by submitting to the child's school a written consent thereby granting permission to that person. Examples of this include a father who grants permission for his girlfriend or the student's grandparent to have access to the child's educational records. If an individual the student is living with submits to the school a Caregiver Consent Affidavit, pursuant to section 302A-482, Hawaii Revised Statutes, that individual has the right to view the child's educational records as the child's caregiver. Stepparents and Caregiver Consent adults are not able to make educational decisions for the student relating to Special Education and/or Section 504 matters. Should you have any questions or concerns about non-parent or legal guardian rights, please contact your school Principal.

The "Notification of Rights Under FERPA for Elementary and Secondary Schools" may be found at <http://bit.ly/FERPARights> and HAR 34 may be found at <http://bit.ly/HAR8-34>.

Where is student information maintained?

HIDOE maintains student information in physical files, such as the cumulative and special education files, and electronic databases including the student information system and the longitudinal database.

How does HIDOE use student data to improve?

HIDOE shares student information across schools in the state in order to evaluate and improve instruction in order to provide better educational opportunities and outcomes for students. This sharing takes several forms, with the most common below:

- A student's past history is shared "forward" with the school officials in the school and Complex Area that the student is now enrolled in or intends to enroll in. This ensures that the student's needs are met to support their transition. Additionally, this process helps schools plan for incoming students.
- Data on current students are shared "back" to the school officials in the school and Complex Area that a student was enrolled in during the previous year to enable school officials to reflect on the policies and practices that may have affected a particular student's outcomes.
- Student data are analyzed at the Complex Area and State level to help determine which policies are effective and which need to be changed.

Links to information about HIDOE data reports may be found on HIDOE's "School Data and Reports" page online at <http://bit.ly/hidoeschooldataandreports>.

Who is responsible for protecting student information?

Because employees and volunteers in HIDOE may come across student information, whether intentionally or by accident, everyone in our schools and HIDOE offices is responsible for protecting that information.

Who may have access to student education records and personally identifiable information (PII)?

Generally, HIDOE must have written permission from the parent, guardian or eligible student in order to disclose any personally identifiable information (PII) or information from a student's education record to non-HIDOE personnel. However, school officials may, if they have legitimate educational interest, have access to those records without consent. A school official is a person hired by HIDOE, in an

administrative, supervisory, instructional, support staff, research or evaluation position, including contractors, consultants, or other outside parties to whom HIDOE has outsourced services or functions instead of using HIDOE employees. School officials have a legitimate educational interest if they need to access an education record in order to fulfill their professional responsibility. In all cases, school officials only have access to student data for those students they have a legitimate educational interest in.

Some examples of reasons that school officials may need access to education records:

- To analyze data to improve teaching and learning;
- To manage HIDOE operations;
- To evaluate student, teacher, school and program outcomes;
- To provide supports or services to students, teachers and schools; and
- To ensure records are accurate.

When is consent not required to release student information?

Generally, personally identifiable information and information from a student's education record cannot be shared without consent, but there are several cases where FERPA regulations allow HIDOE to share records without consent. HIDOE makes every effort to ensure student information privacy is protected, and to notify parent, guardians, and eligible students when information is going to be shared and why. Following are the most common situations in which information may be shared without consent.

School Officials As mentioned above in the section "*Who may have access to student education records and PII?*," individuals designated as school officials by HIDOE may, if they have legitimate educational interest, receive student information without parent, guardian, or eligible student consent. HIDOE encourages staff in our public schools to share student data with colleagues in order to conduct evaluations of educational programs and student performance to improve outcomes and opportunities for students.

Directory Information HIDOE may designate some information as Directory Information, which may be released without consent, unless the parent, guardian, or eligible student has requested that information not be shared – this request is sometimes called an "opt out" request. Releasing Directory Information is not considered harmful or an invasion of privacy. Directory Information is typically used in school publications, such as:

- A playbill, showing the student's role in a drama production;
- The annual yearbook;
- Honor roll or other recognition lists;
- Graduation programs; and
- Sports activity sheets, such as for wrestling, showing weight and height of team members.

HIDOE has designated the following information as Directory Information:

- Student's name;
- Address;
- Telephone number;
- Date and place of birth;
- Dates of attendance (i.e., enrollment/withdrawal dates);
- Grade (class) level;
- Participation in officially recognized activities and sports;

- Weight and height of members of athletic teams;
- Awards received, including honors and Certificates of completion (e.g. diploma);
- The most recent previous educational agency, institution, or school attended; and
- Graduation date.

If a parent, guardian, or eligible student submits a written request for non-disclosure, sometimes referred to as an "opt out," HIDOE may not disclose the student's directory information per the non-disclosure request. The school will accept a signed and dated letter from the parent, guardian, or eligible student.

The "Notice for Directory Information" may be found at <http://bit.ly/hidoedirectoryinfo>.

Transfer of Education Records HIDOE may disclose education records to another school or postsecondary institution at which the student seeks or intends to enroll or transfer, if the disclosure is for purposes of the student's enrollment or transfer.

Health or Safety Emergency HIDOE may disclose information from education records in order to protect the health or safety of students or other individuals in the event of an impending or actual emergency or natural disaster.

State and Federal Agencies HIDOE may release education records to authorized representatives of the United States Comptroller General, Attorney General, or Secretary. HIDOE may also release education records to state and educational authorities.

Studies and Evaluations An individual, company, or organization conducting a study or evaluation on behalf of HIDOE may receive information from student education records under certain conditions. They may only use the information for a specified purpose and may not reuse that information or share it with another individual, company, or organization. They also may not use that information for marketing purposes.

What is the Protection of Pupil Rights Amendment (PPRA)?

The federal PPRA affords parents certain rights regarding our conduct of surveys, collection and use of information for marketing purposes, and certain physical exams. These include, but are not limited to, 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 -
 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. Sexual 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 student's 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, created by a third party;
 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 from the parents or guardians to a student who is 18 years old or an emancipated minor under State law. HIDOE will notify parents of students who are scheduled to participate in specific activities or surveys that involve one or more of the protected areas listed above and will provide an opportunity for the parent to opt his or her child out of participation of the specific activity or survey. HIDOE will make this notification to parents at the beginning of the school year if it 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 that involve one or more of the protected areas and be provided an opportunity to opt their child out, as well as an opportunity to review any pertinent surveys. The following are the specific categories of activities or 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 the U.S. Department of Education; and
- 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, DC 20202

The "Notification for Rights Under the Protection of Pupil Rights Amendment (PPRA)" may be found at <http://bit.ly/hidoeppepra>.

Military Recruiters' Request for Information HIDOE provides the local Inter-Service Recruitment Council (IRC) with secondary students' names, addresses and telephone listings as required by the Every Student Succeeds Act (ESSA). HIDOE releases this specific student information for students in grades 11 and 12 at least once a year. Parents, guardians or eligible students may make a written request that HIDOE not release the student's information to military recruiters. The school will accept a signed and dated letter from the parent, guardian, or the secondary student.

The "Notice to Secondary School students and Parents/Guardians for Secondary School Students: Military Recruiters' Request for Student Information" and, for your convenience, a pre-formatted opt out form is available at <http://bit.ly/hidoemilitaryrecruiters> and are also available from your school.

You may find more detailed documentation about student information privacy at the Hawaii Public Schools Student Information Privacy page: <http://bit.ly/FERPAHI>.

If you have questions about FERPA, PPRA or any of the information presented in this brochure, you may contact:

Data Governance and Analysis Branch
Office of Strategy, Innovation and Performance
Hawaii Department of Education
ferpa@notes.k12.hi.us OR 808-784-6050

or

Family Policy Compliance Office
U.S. Department of Education
<http://www.ed.gov/policy/gen/guid/fpco/index.html>