



# Guidance on the Exchange of Student Information

Promoting Safety, Health, and Wellbeing of Students and School Communities in Compliance with House Bill 268 and O.G.C.A § 20-2-1183

## I. Summary

The purpose of this guidance is to provide local school systems and law enforcement officials with proposed terms and conditions that address how student education records, student data, and student personally identifiable information may be shared between local educational agencies (LEAs), law enforcement agencies, judges or court personnel, or other state or local agencies with legal interests in this information<sup>1</sup> in compliance with applicable laws and O.C.G.A. § 20-2-1183. The suggested terms and conditions addressed below are intended to be set forth in a collaborative written agreement that addresses the needs of the LEA, its schools, and the community. LEAs are encouraged to work with their local legal counsel to prepare a collective written agreement that best meets these needs.

The terms and conditions outlined in this document serve as a model, not a final or comprehensive version of the collaborative written agreement as required in O.C.G.A. § 20-2-1183. LEAs should work with their local legal counsel to prepare a collective written agreement that best meets the data privacy and safety needs of their community.

It is recommended that the below terms and conditions be considered and included as may be necessary with any new or existing agreement with law enforcement agencies and other agencies with legal interests in students by October 1, 2025. After the initial agreement has been executed, the parties are encouraged to review the terms and conditions of the agreement on an annual basis and as may be necessary.

## II. Background Information on the Family Educational Rights and Privacy Act (FERPA)

The Family Educational Rights and Privacy Act (FERPA) is a federal law that protects the privacy of student education records.<sup>2</sup> FERPA protects the rights of parents and eligible students to:

- Inspect and review education records;
- Seek to amend education records; and
- Consent to the disclosure of personally identifiable information (PII) from education records, except as specified by law.

### a. Proposed Definitions

The following definitions may be helpful in a collaborative written agreement.

- **Directory Information** - “Directory information” is information contained in the education records of a student that would not generally be considered harmful or an invasion of privacy if disclosed. “Directory information” may include the student’s name; address; telephone listing; electronic mail address; photograph; date and place of birth; major field of study; grade level; enrollment status (e.g., undergraduate or graduate, full-time or part-time); dates of attendance; participation in officially recognized activities and sports; weight and height of members of athletic teams; degrees, honors, and awards received; and the most recent educational agency or institution attended.<sup>3</sup>
- **Disclosure** - “Disclosure” means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records

---

<sup>1</sup> For example, these other agencies could include the local emergency management system or the Division of Family and Children’s Services.

<sup>2</sup> See 34 C.F.R. § 99.2.

<sup>3</sup> 34 C.F.R. § 99.3 and 34 C.F.R. § 99.37.

- by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record.<sup>4</sup>
- **Education Records** - “Education records” under FERPA are defined as those records that are directly related to a student and maintained by an educational agency or institution or by a party acting for the agency or institution.<sup>5</sup> Under state law, an “education record does not include the types of student data excepted in FERPA, does not include student data collected by an operator when it is used for internal operations purposes, does not include student data that is not formatted for or expected to be accessed by school, local board of education, or department employees, nor does it include student data that a local board of education determines cannot reasonably be made available to the parent or eligible student.”<sup>6</sup>
  - **Law Enforcement Unit** - A “law enforcement unit” means any individual, office, department, division, or other component of an educational agency or institution, such as a unit of commissioned police officers or non-commissioned security guards, that is officially authorized or designated by that agency or institution to: (1) enforce any local, state, or federal law, or refer to appropriate authorities a matter for enforcement of any local, state, or federal law against any individual or organization other than the agency or institution itself; or (2) maintain the physical security and safety of the agency or institution.<sup>7</sup>
  - **Law Enforcement Unit Records** - Records of a law enforcement unit means those records, files, documents, and other materials that are: (1) created by a law enforcement unit; (2) created for a law enforcement purpose; and (3) maintained by the law enforcement unit.<sup>8</sup>
  - **Parent** - A “parent” means a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or a guardian.<sup>9</sup>
  - **Personally Identifiable Information (PII)** - This term includes, but is not limited to, the following:
    - a. The student’s name;
    - b. The name of the student’s parent or other family members;
    - c. The address of the student or student’s family;
    - d. A personal identifier, such as the student’s social security number, student number, or biometric record;
    - e. Other indirect identifiers, such as the student’s date of birth, place of birth, and mother’s maiden name;
    - f. Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school

---

<sup>4</sup> 34 C.F.R. § 99.3.

<sup>5</sup> 34 C.F.R. § 99.3.

<sup>6</sup> O.C.G.A. § 20-2-662(4). Documents not considered “education records” under FERPA can be found at 20 U.S.C.A. 1232g(a)(4).

<sup>7</sup> 34 C.F.R. § 99.8(a)(1).

<sup>8</sup> 34 C.F.R. § 99.8(b)(1). Documents that are not records of a law enforcement unit under FERPA can be found at 34 C.F.R. § 99.8(b)(2).

<sup>9</sup> 34 C.F.R. § 99.3.

community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or

- g. Information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates.<sup>10</sup>
- **Student** - A “student” means 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.<sup>11</sup> An “eligible student” is a student that has reached the age of 18 years of age.
- **School Official** - A “school official” is an individual that the LEA has determined has a legitimate educational interest in a student’s education record and to whom the LEA may disclose a student’s education record.<sup>12</sup> A school official may include a teacher, school principal, president, chancellor, board member, registrar, counselor, admissions officer, attorney, accountant, human resources professional, information systems specialist, and support or clerical personnel.<sup>13</sup> FERPA permits schools to outsource institutional services or functions that involve the disclosure of education records to contractors, consultants, volunteers, or other third parties provided that the outside party:
  1. Performs an institutional service or function for which the agency or institution would otherwise use employees;
  2. Is under the direct control of the agency or institution with respect to the use and maintenance of education records;
  3. Is subject to the requirements in 34 C.F.R. § 99.33(a) that PII from education records may be used only for the purposes for which the disclosure was made, such as to promote school safety and the physical security of students, and governing the redisclosure of PII from education records; and
  4. Meets the criteria specified in the LEA’s annual notification of FERPA rights for being a school official with a legitimate educational interest in the education records.
- **Record** - A “record” is any information recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche.<sup>14</sup>

#### **b. Exceptions to FERPA**

Below is a summary of potential exceptions to FERPA’s confidentiality provisions regarding student records that could be relevant to a collaborative written agreement. The parties to the collaborative written agreement can determine if such exemptions should be included in the document.

---

<sup>10</sup> 34 C.F.R. § 99.3.

<sup>11</sup> 34 C.F.R. § 99.3.

<sup>12</sup> See 34 C.F.R. § 99.31 .

<sup>13</sup> See 34 C.F.R. § 99.31(a)(1).

<sup>14</sup> 34 C.F.R. § 99.3.

- **Directory Information** - An LEA may disclose directory information if it has given public notice to parents and eligible students in attendance at the agency or institution of:
  - The types of personally identifiable information that the agency or institution has designated as directory information;
  - A parent's or eligible student's right to refuse to let the agency or institution designate any or all those types of information about the student as directory information; and
  - The period of time within which a parent or eligible student has to notify the agency or institution in writing that he or she does not want any or all of those types of information about the student designated as directory information.<sup>15</sup>

A parent or eligible student may opt out of the disclosure of directory information.

- **Health or Safety Emergency Exception** - FERPA regulations permit school officials to disclose PII from education records without consent to appropriate parties only when there is an actual, impending or imminent emergency, such as an articulable and significant threat. LEAs have the discretion to determine what constitutes a health or safety emergency. Appropriate parties typically include law enforcement officials, first responders, public health officials, trained medical personnel, and parents. This exception is temporarily limited to the period of the emergency and does not allow for a blanket release of PII.<sup>16</sup>

### III. Proposed Terms & Conditions

The LEA, the local law enforcement agency, and other state or local agencies with legal interests in student information shall comply with the terms and conditions of O.C.G.A. § 20-2-662 regarding student educational records, student data and student personally identifiable data.

The following sections provide proposed terms and conditions for the entities that should be included in the collaborative written agreement between an LEA and law enforcement. Additional sections for other parties may be required based on the needs of the local school community.

#### a) A Local Educational Agency (LEA) Responsibilities

The LEA agrees to take the following actions to promote the safety, health, and well-being of students and the school community:

- Release student education records to appropriate parties, such as law enforcement and other first responders in an emergency situation, in order to protect the health and safety of a student or other individuals in accordance with 34 C.F.R. § 99.36. The school official must be able to explain, based on all the information available at that time, what the safety threat is and why it is significant when he or she makes the disclosure.
- Designate certain types of student information as "Student Directory Information" each year. The LEA will immediately provide directory information regarding a student without the written consent of the student's parent or the eligible student to law enforcement, a judge or court personnel, or another state or local agency or

---

<sup>15</sup> 34 C.F.R. § 99.37.

<sup>16</sup> 34 C.F.R. § 99.36.



officer with a legal interest in such information, provided that the parent or eligible student has not opted out of the disclosure of directory information.

- Designate officer(s) from *[name of law enforcement agency]* as school resource officers.<sup>17</sup> The LEA recognizes its School Resource Officers as school officials under FERPA. Therefore, a student's education record, data, and PII may be disclosed to the School Resource Officer (SRO) if the SRO has a legitimate educational interest to review the records, data, or PII in order to promote school safety or secure the physical safety of students, staff, or the school campus.
- Designate *[title of state or local official(s) from local law enforcement, Georgia Emergency Management, Homeland Security Agency, or local juvenile court system]*, who are responsible for working with the LEA to implement the school safety plan in accordance with O.C.G.A. § 20-2-1185, as a school official when *[describe events or situations when this designation is applicable]*. The LEA will provide *[title of official(s)]* with necessary student records, data, and PII for the duration of such events or situations.
- Maintain a record of each request for access to and each disclosure of PII from a student's education record in accordance with 34 C.F.R. § 99.32.
- Review its annual FERPA notification and directory information designation following the execution of any collective written agreement to determine if any updates to the FERPA notification or directory information designation are necessary.

#### **b) Law Enforcement Agency Responsibilities**

- Acknowledge and agree that the LEA must have direct control over a SRO's maintenance and use of any student's education record, data, or PII that is disclosed.
- Limit access to student education records, data, and PII to *[include references to the titles of relevant individuals]* disclosed during an investigation that is intended to protect the health and safety of students, staff, or other individuals or to ensure the physical safety of the school campus.
- Provide to the LEA any written reports relating to any official encounter with a school age youth enrolled or potentially enrolled in the LEA by virtue of the youth's primary address in which the interaction is directly related to a credible report or other credible information that the youth has threatened the death of, or serious injury to, one or more individuals who

## **BTAM**

If an LEA would like to address behavioral threat assessment and management in the collective written agreement, the LEA should consider designating non-employee members of its behavioral threat assessment team (such as a contracted counselor or contracted SRO or security official) as a "school official" as defined above and determine if such individuals or organizations should be included in the agreement. The behavioral threat assessment team should be multidisciplinary in nature with the goal of gathering information to evaluate the level of risk associated with identified behaviors.

<sup>17</sup> This sentence may need to be revised if the LEA has its own law enforcement unit or agency.

are or will likely be at or within a school in the LEA. This report shall be made to a school official *[consider including the title of the appropriate school official]*. The law enforcement agency shall provide any written reports of an official encounter to the school official as soon as possible, but no later than five days from the date of the official encounter.

- Notify the school official *[consider including the title of the appropriate school official]* if a school age youth is charged with a Class A or Class B designated felony act, as defined by O.C.G.A. § 15-11-2 and provide updates to this same school official on any court dispositions that may occur during the course of the criminal proceedings.
- Notify the LEA *[consider including the title of the appropriate official at the LEA]* if law enforcement receives a records request under federal or state law regarding any documents that are provided to law enforcement under this agreement. This notification shall be provided prior to the law enforcement agency responding to any records request.

**c) Responsibilities of Other Agencies with Legal Interests in Students**

*The LEA should consider whether other agencies and their responsibilities should be included in the collaborative written agreement.*

**d) Mutual Agreements by the Parties**

The parties agree as follows:

- Acknowledge and agree that *[name of law enforcement agency]* constitutes a “law enforcement unit” as defined by FERPA at 34 C.F.R. § 99.8(a).
- Acknowledge and agree that documents created and maintained by *[name of law enforcement agency]* in conducting its duties and responsibilities as a law enforcement unit shall remain law enforcement unit records that are not protected under FERPA in accordance with 34 C.F.R. § 99.8(b)(1).
- Acknowledge and agree that any student education records provided under this agreement are protected under FERPA and may only be disclosed as provided by FERPA or under the terms of this Agreement. Education records do not lose their protected status when the LEA has transferred the records to a party under the terms of this agreement.

**IV. Additional Resources**

- a) 34 CFR PART 99—FAMILY EDUCATIONAL RIGHTS AND PRIVACY
- b) Protecting Student Privacy - U.S. Department of Education
- c) Protecting Student Privacy - U.S. Department of Education - K-12 School Officials
- d) Protecting Student Privacy - U.S. Department of Education – SRO FAQ
- e) Protecting Student Privacy - U.S. Department of Education – FERPA Disaster Guidance