

## FERPA

The issue of disclosure of educational records to parents of a dependent student was discussed at one of the Friday morning sessions at the AHEAD in Virginia meeting. The information below, which was provided by Howard Kallem, goes to that issue. While the situation here involved a high school student, the answer would be the same at the college level. Very importantly, note that the letter says that the school *may* disclose the information to the parents -- that it isn't a violation of FERPA for the school to choose to do so -- but that the school isn't *required* to do so.

### **FERPA FILE: Dependency exception allows disclosure to parent**

Although FERPA rights had transferred to an 18-year-old, his high school was still permitted to disclose information from his records to his parent without the student's consent because he remained a dependent for income tax purposes. *Letter re: Alhambra High Sch., 105 LRP 11221* <[/LrpSecStoryTool/servlet/GetCase?cite=105+LRP+11221](http://LrpSecStoryTool/servlet/GetCase?cite=105+LRP+11221)> (FPCO 2004).

An exception to FERPA's prohibition against nonconsensual disclosures allows districts to disclose records to the parent of a "dependent student" as that term is defined by the Internal Revenue Code. If one parent claims the student as a dependent on the most recent income tax return, the school may provide either parent access to the student's education records.

In this case, the student, who had apparently turned 18, alleged the district improperly disclosed information to his natural father without receiving the student's prior written consent. The **Family Policy Compliance Office** acknowledged that once a student reaches age 18, he becomes an "eligible student" and all rights under FERPA transfer from the parent. But because the parent provided the school with evidence that the student remained a "dependent student," the school was permitted to disclose his education records to either natural parent.

FPCO added that the school could have chosen to honor the student's request not to provide the records to the parent, but FERPA did not obligate it to do so.

For more information on FERPA, purchase [What Do I Do When ... The Answer Book on FERPA](http://www.lrpdartnell.com/product/p-300086.html) <<http://www.lrpdartnell.com/product/p-300086.html>> or [Beyond FERPA: A Guide to Student Records Under the IDEA](http://www.lrpdartnell.com/product/p-300139.html) <<http://www.lrpdartnell.com/product/p-300139.html>>, available in LRP Publications' [online store](http://www.lrpdartnell.com/) <<http://www.lrpdartnell.com/>>.

*John Norlin, a legal editor, covers special education and education privacy issues for LRP Publications.*

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**April 13, 2005**

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105 LRP 11221

*Letter re: Alhambra High School*

Family Policy Compliance Office

N/A

October 18, 2004

**Case Summary**

The student, who had apparently turned 18, alleged the district improperly disclosed information to his natural father without receiving the student's prior written consent. The **Family Policy Compliance Office** acknowledged that once a student reaches age 18, he or she becomes an "eligible student" and all rights under FERPA transfer from the parent. But because the parent provided the school with evidence that the student remained a "dependent student", the school was permitted to disclose his education records to either natural parent. FPCO added that the school could have chosen to honor the student's request not to provide the records to the parent, but FERPA did not obligate it to do so.

Judge / Administrative Officer  
Ricky C. Norment, Program Analyst

**Full Text**

Dear [ ]:

This is in response to your July 17, 2004, complaint form to this Office in which your mother, [ ] alleges that the Alhambra High School (School) failed to comply with the Family Educational Rights and Privacy Act (FERPA) when it disclosed information from your education records to [ ] your natural father, without your prior written consent. This Office administers FERPA which addresses issues that pertain to education records.

FERPA is a Federal law that gives parents the right to have access to their minor children's education records, the right to seek to have the records amended, and the right to have some control over the disclosure of information from the records. Once a student turns 18 years of age or attends a postsecondary institution, he or she becomes an "eligible student," and all rights under FERPA transfer from the parent to the student. Based on the information in your complaint form, you are an eligible student. Enclosed for your information is a FERPA fact sheet.

The term "education records" is defined as those records that contain information directly related to a student and which are maintained by an educational agency or institution or by a party acting for the agency or institution. Under FERPA, a school may not generally disclose personally identifiable information from an eligible student's education records to a third party unless the student has provided written consent

However, there are several exceptions to FERPA's prohibition against nonconsensual disclosure of education records. One such exception permits a school to disclose education records to the parent of a "dependent student" as that term is defined in section 152 of the Internal Revenue Code of 1968. If one parent claims the student as a dependent on the parent's most recent income tax statement, the school may provide either natural parent access to the student's education records under this exception.

As with all of FERPA exceptions to prior written consent, a school is "permitted" to disclose education records in accordance with the standards of the exception, though it is not "required" to disclose the records. Based on the information in your complaint form, [ ] has provided the School with evidence that you are a dependent student. As such, the school is permitted to disclose your education records to either of your natural parents under the "dependent student" exception. The school may choose to honor a request from you not to provide your education records to one or both of your parents, but it is not required to do so by FERPA.

I trust that the above information is helpful in explaining the scope and limitation of FERPA as it relates to your concern.