

FERPA is a Federal law that gives parents or eligible students the right to have access to a student'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. 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. 34 CFR § 99.3 "Education records."

The term "parent" is defined as including natural parents, a guardian, or an individual acting as a parent in the absence of a parent or a guardian. 34 CFR § 99.3 "Parent." The Department has determined that a parent is absent if he or she is not present in the day-to-day home environment of the child.

Accordingly, a stepparent has rights under FERPA where the stepparent is present on a day-to-day basis with the natural parent and child and the other parent is absent from that home. In such cases, stepparents have the same rights under FERPA as do natural parents.

Conversely, a stepparent who is not present on a day-to-day basis in the home of the child does not have rights under FERPA with respect to such child's education records.

Under FERPA, a school must provide a parent with an opportunity to inspect and review his or her child's education records within 45 days of the receipt of a request. A school is not, however, required to provide a parent with copies of education records unless a failure to do so would effectively prevent the parent from obtaining access to the records. A case in point would be a situation in which the parent does not live within commuting distance of the school. 34 CFR § 99.10.

While a school is required to comply within 45 days with each individual request for access, a school is not required by FERPA to honor standing requests, to provide immediate access to records, or to send out grades to parents at the end of marking periods. Additionally, FERPA would not require a school to provide parents documents such as school calendars, updates, or notices of parent/teacher conferences because such documents do not generally contain information that is directly related to individual students. Likewise, a school would not be required to notify parents about school plays, spelling bees, or sporting events in which their children may be participating. Also, schools are not required by FERPA to permit parents to attend parent/teacher conferences -- such decisions are made at the discretion of local and State officials.

Although a school district would be required to conduct a reasonable search for education records, it is the responsibility of the parent to clearly specify the records to which he or she is seeking access. If a parent makes a "blanket" request for a large portion of his or her child's education records and the parent believes that he or she was not provided certain records which were encompassed by that request, the parent should submit a follow-up request clarifying the additional records he or she believes exist.

FERPA affords parents the opportunity to seek amendment of their child's education records that they believe contain inaccurate or misleading information. 34 CFR §§ 99.20-22. While a school is not required to amend a record in accordance with a parent's request, it is required to consider the request for amendment of an education record, to inform the parent of its decision, and if the request is denied, to advise the parent of the right to a hearing on the matter. If, as a result of a hearing, a school decides not to amend the record, then the parent has the right to insert a statement in the record setting forth his or her views. That statement must remain with the record for as long as the record is maintained.

This right is not unlimited, however, and FERPA does not require a school to afford a parent the right to seek to change substantive decisions made by school officials, such as grades or other evaluations of a student. Thus, while FERPA affords parents the right to seek to amend education records that contain inaccurate information, this right cannot be used to challenge a grade or an individual's opinion, unless the grade or the opinion has been inaccurately recorded.