

Understanding Federal Privacy Law and Dual Enrollment

The Family Educational Rights and Privacy Act (FERPA) protects the privacy of student educational records, and it can be confusing, especially when dealing with dual enrollment students who are enrolled in both high school and college courses. This information sheet provides a breakdown of how FERPA applies to dual enrollment and when sharing of student data is allowed. Learn more about FERPA at studentprivacy.ed.gov.

Key Points for Dual Enrollment Coordinators

- When a student turns 18 or enrolls in college, certain FERPA rights transfer from the parents to the student.
- This means that, for college courses, the student controls who has access to their educational records. However, high schools can still share dual enrollment information with parents for students under 18.
- Colleges can share records with parents if the student is claimed as a dependent on their federal tax return. Colleges will have a procedure for verifying the student's IRS-dependency status.
- High schools and colleges can share dual enrollment data with each other without student consent for certain legitimate and specific purposes.

When does FERPA permit institutions to share data?

1. With Written Consent.

The institution may share information with any other party with written consent. Consent would need to be given by the party with privacy rights under FERPA (that is, the student or the parents), as noted above. The consent form must specify the purpose of the disclosure, the kind of data to be shared, and with whom the data is to be shared.

2. Exceptions to the Consent Requirement.

FERPA allows some sharing of personally identifiable information (PII) without consent in certain situations:

- **Directory Information.** Schools can share basic information like a student's name, address, or enrollment status unless parents or students opt out. Schools must provide notice to parents and eligible students about the types of directory information that may be disclosed.
- **School Officials.** Teachers, counselors, and others with "legitimate educational interests" can access student records. This extends to third party contractors (like bus companies or food service providers) meeting certain requirements.

- **Other Schools or Institutions.** A student's PII may be shared with another school or higher education institution where the student intends or seeks to enroll, or where the student is already enrolled.
- **Audits and Evaluations.** Students' PII may be used by state or local education authorities or their representatives to audit or evaluate state- or federally-supported education programs.
- **Studies.** PII may be used by researchers to conduct studies on behalf of agencies or institutions. This exception applies only to studies that focus on: (a) developing, validating, or administering predictive tests; (b) administering student aid programs; or (c) improving instruction.
- **Health and Safety.** In the case of a health or safety emergency, or the use or possession of alcohol or a controlled substance by a student under age 21, colleges and high schools may provide information without the student's consent to third parties who can assist in the situation.

School Officials' Role in Data Sharing

FERPA allows school officials with "legitimate educational interests" to access student records.

Who qualifies as a school official? A school official can be a teacher, counselor, administrator, or anyone performing services for the school. This can include third-party contractors such as IT or meal service providers, if they meet certain requirements.

What is a "legitimate educational interest"? School officials must only access records relevant to their job. One example would be a teacher reviewing a student's grades to provide academic advice.

When do third-party contractors qualify as school officials? If the school hires outside companies (like a bus or IT provider), these third parties can also be considered school officials if:

- They are performing a task the school would normally be responsible for doing,
- They are under the school's direct control in terms of handling student data, and
- They agree to follow FERPA rules about not disclosing the information.

Communication is Key

Applying FERPA to dual enrollment students can be complex, making clear communication between schools, colleges, students, and parents very important.

Dual enrollment coordinators play an important role in guiding parents and students through their FERPA rights and responsibilities. Providing clear explanations can prevent misunderstandings and ensure compliance with privacy laws.

Dual enrollment coordinators should consult their institution's policies and procedures regarding FERPA. This information sheet is not a substitute for legal counsel. For more detailed information, visit [Protecting Student Privacy](https://studentprivacy.ed.gov/) (<https://studentprivacy.ed.gov/>).

Allowable vs. Not Allowable Data Sharing Scenarios

Here are a few examples to clarify when dual enrollment data sharing is allowed or not allowed:

Scenario 1: Sharing grades with parents

Allowable: A high school counselor shares a dual enrollment student's college grade with the parents of a student under 18.

Reason: The student is still a minor, and FERPA allows *high schools* to share data with parents.

Scenario 2: Sharing grades with parents

Not Allowable: A college professor shares the grades of a dual enrollment student with their parents without verifying the student's IRS-dependency status and without the student's consent.

Reason: FERPA rights have transferred from parents to the student for college courses, so the college professor can only disclose grades to parents if the student's IRS-dependency status has been verified or the student has provided written consent.

Scenario 3: College and high school sharing data

Allowable: A college and high school share a dual enrollment student's data with each other to monitor progress in a dual enrollment course.

Reason: FERPA allows schools and colleges to share records without student consent to fulfill legitimate educational interests, such as monitoring academic performance. Both the high school and the college recipients must have a "legitimate educational interest" in the information being shared.

Scenario 4: College and high school sharing data

Allowable: The college dual enrollment director shares the academic records of a dual enrollment student with the high school dual enrollment coordinator to ensure college course alignment with graduation requirements.

Reason: FERPA permits the college and high school to share student data without student consent to fulfill legitimate educational purposes, such as verifying academic progress. Both the high school and the college recipients must have a "legitimate educational interest" in the information being shared.

Scenario 5: College and high school sharing data

Allowable: A college instructor informs the high school counselor that a dual enrollment student is struggling in their course, providing detailed information about the student's performance for the purpose of academic intervention.

Reason: The college instructor and high school counselor are both considered school officials with a legitimate educational interest. FERPA allows sharing of this information to support the student's academic success.

Scenario 6: Sharing data with third-party contractors.

Allowable: A college dual enrollment director discloses a student's grades to an after-school tutor working for a school-sponsored tutoring program contracted by the school district.

Reason: FERPA allows data sharing with third-party vendors when they are under contract with the school and are performing an institutional function, acting as school officials.

Scenario 7: Sharing data with third-party contractors.

Not Allowable: A college dual enrollment director discloses a dual enrollment student's grade to a third-party tutor without the student's consent. The third-party tutor was hired by the student's parents and was not contracted directly by the school.

Reason: The third-party tutor is not under contract with the school and therefore is not acting as a school official. Without the student's written consent, this disclosure would violate FERPA.

The Sacramento K-16 Collaborative has created a model data sharing agreement for participating institutions including K-12 schools and districts, community colleges, and universities. This effort involves careful consideration of what data would be appropriate to share to support student success and provide a more seamless experience for students, and what procedures need to be in place to safeguard that student information.