

§ 43.16

§ 43.16 Copy to be provided to parents or eligible students.

Where the consent of a parent or eligible student is required under this part for the release of student records, a copy of the records to be released shall be provided on request to:

- (a) The student's parents or the eligible student.
- (b) The student who is not an eligible student, if desired by the parents.

§ 43.17 Release of information for health or safety emergencies.

(a) Educational institutions may release information from student records to appropriate persons in an emergency if the information is necessary to protect the health or safety of a student or other person. The factors to be used in determining whether records may be released under this section include the following:

- (1) The seriousness of the threat to the health or safety of the student or other persons.
- (2) The need for those records to meet the emergency.
- (3) Whether the persons to whom the records are released are in a position to deal with the emergency.
- (4) The extent to which time is of the essence in dealing with the emergency.

§ 43.18 Record of access.

(a) Each educational institution shall maintain a record kept with the student records of each student, which will indicate all parties other than those specified in § 43.14 which have requested or obtained access to those records and which will indicate specifically the legitimate interest that each party had in obtaining this information.

(b) A record of access shall be available only to:

- (1) Parents or eligible students.
- (2) The school official and his or her assistants who are responsible for the custody of such records.
- (3) Persons or organizations authorized in and under the conditions of § 43.14.

§ 43.19 Transfer of information by third parties.

(a) Educational institutions shall not release personal information on a stu-

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dent except on the condition that the party to which the information is being transferred will not permit any other party to have access to the information without the written consent of the parents or of the eligible students.

(b) With any information released to a party under paragraph (a) of this section, educational institutions shall include a written statement which informs the party of the requirement in paragraph (a) of this section.

§ 43.20 Directory information.

(a) Any educational institution making public directory information shall make a reasonable effort to individually notify the parent or eligible student of the categories of information which it has designated as directory information. The institution shall allow a reasonable period of time after notice has been given for a parent or eligible student to inform the institution that any or all of the information designated should not be released without the prior consent of the parent or eligible student.

(b) Directory information may include the following: A student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended by the student, tribe, agency, area, name of parent, sex, and classification (grade). No other information may be included. Educational institutions have the right to limit the content of directory information.

§ 43.21 Standards for collection and maintenance of student records.

(a) Records shall contain only information about an individual which is relevant and necessary to accomplish a purpose of the Bureau required to be accomplished by statute or Executive order of the President.

(b) Student records which are used in making any determination about any student shall be maintained with such accuracy, relevance, timeliness, and

completeness as is reasonably necessary to assure fairness to the student in making the determination.

(c) Information which may be used in determining a student's rights, benefits, and privileges under Federal programs shall be collected directly from the student or his parents, to the greatest extent practicable. In deciding whether collection of information from a parent or eligible student, as opposed to a third-party source is practicable, the following factors among others may be considered:

(1) Whether the nature of the information sought is such that it can only be obtained from a third party.

(2) Whether the cost of collecting the information from the parent or student is unreasonable, when compared with the cost of collecting it from a third party.

(3) Whether there is a risk that information collected from third parties, if inaccurate, could result in an adverse determination to the student concerned.

(4) Whether the information, if supplied by the parent or student, would have to be verified by a third party.

(5) Whether provisions can be made for verification by the parent of student of information collected from third parties.

(d) Each individual parent or eligible student who is asked to supply information about himself which will be added to a system of student records shall be notified of the basis for requesting the information, how it may be used, and what the consequences, if any, are of not supplying the information. At a minimum, the notice to the parent or eligible student must state:

(1) The authority (whether granted by statute or Executive Order of the President) which authorizes requesting the information and whether disclosure of such information is mandatory or voluntary.

(2) The principle purpose or purposes for which the information is intended to be used.

(3) The routine uses which may be made of the information.

(4) The effects, if any, of not providing all or any part of the requested information.

(e) When information is collected on a standard form, the notice to the parent or eligible student shall be on the form or on a tear-off sheet attached to the form or on a separate sheet, whichever, is most practical.

(f) When information is collected by an interviewer, the interviewer shall provide the parent or eligible student with a written notice which the individual may retain. If the interview is conducted by telephone, however, the interviewer may summarize the notice for the individual and need not provide a copy to the individual unless the individual requests that a copy be mailed to him.

(g) A parent or eligible student may be asked to acknowledge, in writing, that he has been given the notice required by this section.

(h) No student records may be maintained describing how any individual exercises rights guaranteed by the first amendment to the Constitution unless:

(1) Expressly authorized by statute or by the individual about whom the student record is maintained; or

(2) Pertinent to and within the scope of an authorized law enforcement activity.

§ 43.22 Assuring integrity of records.

(a) Student records shall be maintained with appropriate administrative, technical and physical safeguards to insure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom information is maintained.

(b) When maintained in manual form, student records shall be maintained, at a minimum, subject to the following safeguards, or safeguards giving comparable protection:

(1) Areas in which the student records are maintained or regularly used shall be posted with an appropriate warning, stating that access to the records is limited to authorized persons. The warning shall also summarize the requirements of § 43.23 and state that employees may be subject to a criminal penalty for the unauthorized disclosure of student records.