

Office of the Secretary, Education

§ 99.39

(1) Including in the education records of a student appropriate information concerning disciplinary action taken against the student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community;

(2) Disclosing appropriate information maintained under paragraph (b)(1) of this section to teachers and school officials within the agency or institution who the agency or institution has determined have legitimate educational interests in the behavior of the student; or

(3) Disclosing appropriate information maintained under paragraph (b)(1) of this section to teachers and school officials in other schools who have been determined to have legitimate educational interests in the behavior of the student.

(c) Paragraphs (a) and (b) of this section will be strictly construed.

(Authority: 20 U.S.C. 1232g (b)(1)(I) and (h))

[53 FR 11943, Apr. 11, 1988; 53 FR 19368, May 27, 1988, as amended at 61 FR 59297, Nov. 21, 1996]

§ 99.37 What conditions apply to disclosing directory information?

(a) An educational agency or institution may disclose directory information if it has given public notice to parents of students in attendance and eligible students in attendance at the agency or institution of:

(1) The types of personally identifiable information that the agency or institution has designated as directory information;

(2) A parent's or eligible student's right to refuse to let the agency or institution designate any or all of those types of information about the student as directory information; and

(3) 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.

(b) An educational agency or institution may disclose directory information about former students without

meeting the conditions in paragraph (a) of this section.

(Authority: 20 U.S.C. 1232g(a)(5) (A) and (B))

§ 99.38 What conditions apply to disclosure of information as permitted by State statute adopted after November 19, 1974, concerning the juvenile justice system?

(a) If reporting or disclosure allowed by State statute concerns the juvenile justice system and the system's ability to effectively serve, prior to adjudication, the student whose records are released, an educational agency or institution may disclose education records under § 99.31(a)(5)(i)(B).

(b) The officials and authorities to whom the records are disclosed shall certify in writing to the educational agency or institution that the information will not be disclosed to any other party, except as provided under State law, without the prior written consent of the parent of the student.

(Authority: 20 U.S.C. 1232g(b)(1)(J))

[61 FR 59297, Nov. 21, 1996]

§ 99.39 What definitions apply to the nonconsensual disclosure of records by postsecondary educational institutions in connection with disciplinary proceedings concerning crimes of violence or nonforcible sex offenses?

As used in this part:

Alleged perpetrator of a crime of violence is a student who is alleged to have committed acts that would, if proven, constitute any of the following offenses or attempts to commit the following offenses that are defined in appendix A to this part:

Arson
Assault offenses
Burglary
Criminal homicide—manslaughter by negligence
Criminal homicide—murder and nonnegligent manslaughter
Destruction/damage/vandalism of property
Kidnapping/abduction
Robbery
Forcible sex offenses.

Alleged perpetrator of a nonforcible sex offense means a student who is alleged to have committed acts that, if proven,

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would constitute statutory rape or incest. These offenses are defined in appendix A to this part.

Final results means a decision or determination, made by an honor court or council, committee, commission, or other entity authorized to resolve disciplinary matters within the institution. The disclosure of final results must include only the name of the student, the violation committed, and any sanction imposed by the institution against the student.

Sanction imposed means a description of the disciplinary action taken by the institution, the date of its imposition, and its duration.

Violation committed means the institutional rules or code sections that were violated and any essential findings supporting the institution's conclusion that the violation was committed.

(Authority: 20 U.S.C. 1232g(b)(6))

[65 FR 41853, July 6, 2000]

Subpart E—What Are the Enforcement Procedures?

§ 99.60 What functions has the Secretary delegated to the Office and to the Office of Administrative Law Judges?

(a) For the purposes of this subpart, *Office* means the Family Policy Compliance Office, U.S. Department of Education.

(b) The Secretary designates the Office to:

(1) Investigate, process, and review complaints and violations under the Act and this part; and

(2) Provide technical assistance to ensure compliance with the Act and this part.

(c) The Secretary designates the Office of Administrative Law Judges to act as the Review Board required under the Act to enforce the Act with respect to all applicable programs. The term *applicable program* is defined in section 400 of the General Education Provisions Act.

(Authority: 20 U.S.C. 1232g (f) and (g), 1234)

[53 FR 11943, Apr. 11, 1988, as amended at 58 FR 3189, Jan. 7, 1993]

34 CFR Subtitle A (7–1–08 Edition)

§ 99.61 What responsibility does an educational agency or institution have concerning conflict with State or local laws?

If an educational agency or institution determines that it cannot comply with the Act or this part due to a conflict with State or local law, it shall notify the Office within 45 days, giving the text and citation of the conflicting law.

(Authority: 20 U.S.C. 1232g(f))

§ 99.62 What information must an educational agency or institution submit to the Office?

The Office may require an educational agency or institution to submit reports containing information necessary to resolve complaints under the Act and the regulations in this part.

(Authority: 20 U.S.C. 1232g (f) and (g))

§ 99.63 Where are complaints filed?

A parent or eligible student may file a written complaint with the Office regarding an alleged violation under the Act and this part. The Office's address is: Family Policy Compliance Office, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202-4605.

(Authority: 20 U.S.C. 1232g(g))

[65 FR 41854, July 6, 2000]

§ 99.64 What is the complaint procedure?

(a) A complaint filed under § 99.63 must contain specific allegations of fact giving reasonable cause to believe that a violation of the Act or this part has occurred.

(b) The Office investigates each timely complaint to determine whether the educational agency or institution has failed to comply with the provisions of the Act or this part.

(c) A timely complaint is defined as an allegation of a violation of the Act that is submitted to the Office within 180 days of the date of the alleged violation or of the date that the complainant knew or reasonably should have known of the alleged violation.