



FERPA/HIPAA Quiz Answer Key

T=True; F=False

F	1. Schools must provide a parent with an opportunity to inspect and review his or her child's education records within 60 days of receipt of a request.	<i>FERPA requires that educational agencies and institutions comply with a parent's request to inspect and review education records within a reasonable period of time, but not longer than 45 days after receiving the request. See 34 CFR § 99.10(b). Some states require that schools provide parents with access to education records in less than 45 days, and some school districts may have their own requirements.</i>
F	2. Schools must individually notify parents of their FERPA rights by mail.	<i>Schools are not required to mail to each parent the required FERPA notification, but they must "provide this notice by any means that are reasonably likely to inform the parents or eligible students of their rights." See 34 CFR § 99.7(b). This may include website notices, inserting the notice in the registration package, or printing the notice in the local or school newspaper.</i>
F	3. When a student turns 18 years old and the rights under FERPA transfer from the parent to the student, the school must obtain consent from the student in order to disclose grades and other education records to the parents.	<i>When a student turns 18 years old—or enters college at any age—he or she becomes an "eligible student" and the rights transfer from the parents to the student at that time. However, a school is permitted to disclose any information from a student's education records to the parent if one or both of the parents claim the student as a dependent for IRS tax purposes. See 34 CFR § 99.31(a)(8).</i>
T	4. In a legal separation or divorce situation, both parents have the right to gain access to the student's education records.	<i>FERPA provides rights to either parent, regardless of custody, unless the school has been provided with evidence that there is a court order, state statute, or legally binding document relating to such matters as divorce, separation, or custody that specifically revokes these rights. See 34 CFR § 99.4.</i>
F	5. A school may designate and disclose any information on a student as "directory information," as long as the school notifies parents and provides them with an opportunity to opt out.	<i>A school may only designate "directory information" items about a student that would not generally be considered harmful or an invasion of privacy if disclosed. (See the definition of "directory information" in 34 CFR § 99.3 for examples of the type of information that may be included.) Information such as a student's social security number or special education status may not be designated as "directory information."</i>
F	6. Teachers may post grades by student name or social security number.	<i>A student's grades may only be publicly posted by a randomly assigned code or number that is known only to the student (and parent) and the teacher.</i>
F	7. To be considered an "education record," information must be maintained in the student's cumulative or permanent folder.	<i>The terms "cumulative folder" and "permanent folder" do not appear in FERPA. The term "education record" is broadly defined in FERPA as any record that is (1) directly related to a student and (2) maintained by an educational agency or institution or by a party acting for the agency or institution.</i>
F	8. When a student transfers to a new school, the former school is required to send the student's education records to the new school.	<i>While FERPA permits the transfer of education records, it does not require schools to transfer records to third parties. Rather, it permits disclosures to officials of another school, school system, or post-secondary institution where the student seeks or intends to enroll. (However, please note that the No Child Left Behind Act of 2001 requires that states have in place a procedure for transferring a student's disciplinary records. and individual states also have specific requirements relative to transfer of educational records. In Michigan, MCL 380.1135 requires receiving district to request in 14 days and sending districts to transfer within 30 days.)</i>



T/F	9. A parent of a former student has the same right to inspect and review the student's education records as a parent of a student currently attending the school.	<i>Generally, this is true. However, if a student has either turned 18 or entered a postsecondary institution, the rights under FERPA have transferred to the student. Only if the student is still a minor and is not yet attending a post-secondary institution would the parent have a right under FERPA to have access to the student's education records. If the student is still a dependent for tax purposes, the school may disclose information to the parent without the student's consent.</i>
F	10. Schools are required by FERPA to maintain a student's transcript for 5 years.	<i>FERPA does not require that education records be maintained for any specific period of time and does not generally prohibit the destruction of education records. There may be other requirements for retention of records that schools must follow. However, FERPA does prohibit a school from destroying education records if there is an outstanding request by a parent or eligible student to inspect and review the education records.</i>
F	11. School nurse records are not subject to FERPA but are subject to the HIPAA Privacy Rule.	<i>School nurse records are subject to FERPA because they are "education records." Education records, including individually identifiable health information contained in such records that are subject to FERPA, are specifically exempt from the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule. The reason for this exemption is that Congress, through FERPA, previously addressed how education records should be protected.</i>
T	12. The disclosure of student immunization information to an outside agency such as a state health department is governed by FERPA, not HIPAA.	<i>School officials must comply with FERPA in releasing immunization records and other health records to outside local and state health authorities. Generally, parents must provide consent before such information is released. FERPA does permit disclosure of education records to appropriate officials in connection with an emergency if the knowledge of such information is necessary to protect the health or safety of the student or other persons. See 34 CFR § 99.31(a)(10) and § 99.36.</i>
T/F	13. Records created and maintained by a school resource officer or law enforcement unit are not subject to FERPA.	<i>Records of a school's law enforcement unit are not subject to FERPA if they are (1) created by the law enforcement unit; (2) created for a law enforcement purpose; and (3) maintained by the law enforcement unit. A "law enforcement unit" can be any individual, office, department, division, or other component of the educational agency or institution that is officially authorized or designated by the agency or institution to enforce laws or maintain the physical security and safety of the school. See 34 CFR § 99.8. The answer could be either T or F because the records created and maintained by the unit must be maintained for a "law enforcement purpose." If the records are created and maintained for disciplinary purposes, for example, they are subject to FERPA.</i>
T/F	14. FERPA grants parents the right to have a copy of any education record.	<i>If circumstances effectively prevent a parent from exercising the right to inspect and review the student's education records (such as when the parent no longer lives in commuting distance), then the school shall provide the parent with a copy of the records requested or make other arrangements for the parent to inspect and review the requested records. See 34 CFR § 99.10(d).</i>
15. The following would be an acceptable release of information without the parent's consent.		
T	a. To the state department of education in relation to an audit or evaluation of state-funded education program	<i>Schools may disclose information to state and local educational authorities in connection with an audit or evaluation of federal or state supported education programs or for the enforcement of or compliance with federal legal requirements that relate to those programs. See 34 CFR § 99.31(a)(3) and § 99.35.</i>



<i>T</i>	b. To the student	<i>Schools may have a policy of disclosing education records to a student who is not an eligible student, without consent of the parents. See 34 CFR § 99.5(b).</i>
<i>F</i>	c. To any school official within the school district	<i>Only school officials with a legitimate educational interest may have access to a student's education records. Schools are required to include in the annual notice of FERPA rights the criteria for whom they consider to be a "school official" and what it considers to be a "legitimate educational interest." (Check the Family Policy Compliance Office's website for a model notice with suggested language: http://www.ed.gov/policy/gen/guid/fpco/ferpa/lea-officials.html.)</i>
<i>F</i>	d. To potential employers or honor organizations attempting to verify grades, class rank	<i>These entities are not listed in the FERPA regulations (§ 99.31) as entities to which information may be disclosed without consent. Therefore, parents or eligible students must provide consent for this disclosure.</i>
<i>F</i>	e. To the local newspaper, regarding the final results of a student disciplinary hearing	<i>While there are some types of disciplinary disclosures that may be made public at the college level, at the K-12 level no disciplinary information may be publicly disclosed without consent.</i>
<i>T</i>	f. To a college at which the student intends to enroll, and the request is for the student's GPA	<i>If the student is seeking or intending to enroll in the college, information from the student's education records may be disclosed to the college (§ 99.34).</i>
<i>T</i>	16. Records subject to FERPA are not subject to the HIPAA Privacy Rule.	<p><i>Under FERPA, certain types of treatment records on a student who is 18 years or older or who is attending a postsecondary institution are exempt from the definition of "education records," such as records that that are</i></p> <ul style="list-style-type: none"> <i>made or maintained by a physician or other recognized medical professional;</i> <i>made, maintained, or used only in connection with treatment of the student; and</i> <i>disclosed only to individuals providing the treatment.</i> <p><i>However, if these treatment records are used for purposes other than providing treatment to the student or are made available to persons other than those providing treatment, they would then be considered to be education records. These types of records are also exempt from HIPAA's Privacy Rule. For students under the age of 18, there is no distinction between "medical" or "treatment" records and "education records." Thus, a K-12 student's health records maintained by an educational agency or institution subject to FERPA, including records maintained by a school nurse, would generally be education records subject to FERPA because the are (1) directly related to a student; (2) maintained by an educational agency or institution, or a party acting for the agency or institution; and (3) are not excluded from the definition as treatment records.</i></p>

ver. November 2008

Source: U.S. Department of Education Family Policy Compliance Office