

Law Enforcement Agency Access to Student Records Frequently Asked Questions

Are there limitations in state and federal law on when school officials may share student records with law enforcement entities?

Yes. The Family Educational Rights and Privacy Act (FERPA) is a federal law that affords parents the right to have access to their children's education records, the right to seek to have the records amended, and the right to have some control over the disclosure of personally identifiable information (PII) from the education records. When a student turns 18 years old, or enters a postsecondary institution at any age, the rights under FERPA transfer from the parents to the student. FERPA prohibits the disclosure of PII from education records to individuals or entities outside the school without prior written consent from the parent unless a specific exception in the law is met. FERPA defines education record broadly to include grades, transcripts, class lists, student course schedules, health records (at the K-12 level), student financial information (at the postsecondary level), and student discipline files. The information may be recorded in any way, including, but not limited to, handwriting, print, computer media, videotape, audiotape, film, microfilm, microfiche, and e-mail. FERPA does not prohibit a school official from releasing information about a student that was obtained through the school official's personal knowledge or observation *unless* that knowledge is obtained through his or her official role in making a determination maintained in the student's education record. The FERPA statute is found at 20 U.S.C. § 1232g and the FERPA regulations are found at 34 CFR Part 99.

Additionally, state laws, Tenn. Code Ann. § 49-1-701, et. seq. (Data Accessibility, Transparency and Accountability Act) and Tenn. Code Ann. § 10-7-504 related to public records, include provisions protecting the confidentiality of student education records similar to FERPA.

Are there exceptions that authorize a school to provide PII from a student education record to a law enforcement entity?

Yes. FERPA allows authorized school officials to release information from or permit access to a student's education record to law enforcement without prior written consent in the following instances:

- To comply with a judicial order or lawfully issued subpoena.
- In connection with an emergency, if knowledge of the information is necessary to protect the health or safety of the student or others.
- For official purposes related to the investigation or prosecution of an act of domestic or international terrorism.
- When state law specifically permits the reporting or disclosure of information related to the juvenile justice system, in a manner that supports the system's ability to effectively serve the student before adjudication, based on the released records.

State law, Tenn. Code Ann. § 37-1-403(b) authorizes school officials to release information to comply with the requirements of child abuse reports, to the extent known, including the name, address, and age of the student; the name and address of the person responsible for the care of the student; and the facts requiring the report.

Are there laws requiring school officials to report certain activities to a law enforcement entity?

Yes. Tenn. Code Ann. § 49-6-4301(a)(2) requires a principal who has direct knowledge of an assault and battery, or an act of vandalism endangering life, health, or safety committed by a student on school property, or who receives a report of such action, to immediately report such action to the director of schools and the municipal or metropolitan police department or sheriff's department having jurisdiction.

Tenn. Code Ann. § 49-6-4301(a)(3) requires directors of schools or heads of public charter schools who have knowledge of a valid threat of mass violence on school property or at a school-related activity pursuant to Tenn. Code Ann. § 39-16-517 made by a student to immediately report it to the municipal or metropolitan police department or sheriff's department having jurisdiction. A threat of mass violence is valid for purposes of this requirement if the determination is made based on the results of the threat assessment required in Tenn. Code Ann. § 49-6-3401(g)(5).

When a school official reports a crime committed by a student with a disability, the Individuals with Disabilities Education Act (IDEA) requires the school district to transmit a copy of the student's special education and disciplinary records to the appropriate authorities (34 C.F.R. § 300.535(b)(1)). The requirement to transmit the student's records is not intended to override the protections available under FERPA. Thus, the school district must ensure that the student's parent has consented to the disclosure or that an exception authorizing disclosure without parental consent applies (34 C.F.R. § 300.535(b)(2)).

Are there other relevant laws regarding student education records or criminal records?

Yes. Federal law requires public school districts to transfer student disciplinary records to any public or private school where the student intends to enroll. Based on the federal law, local school districts and schools, should include a notice in their annual notification of rights under FERPA that they forward education records to other schools that have requested the records and in which the student seeks or intends to enroll (34 CFR §§ 99.7, 99.31(a)(2), and 99.34(a)(1)(ii)). Unless the school or school district includes this notice in their annual notification of FERPA rights or the parent or eligible student initiates the transfer of records, the school or district otherwise would be required to make a reasonable effort to notify the parent or eligible student of the disclosure at the last known address of the parent or eligible student.

Additionally, pursuant to state law, Tenn. Code Ann. § 49-6-3051, if a student has been found guilty of a crime listed in subsection (b) of the law (also listed below), the student's parent, guardian, or legal custodian (which includes the Department of Children's Services acting in any capacity), and any school administrator who has received similar information from the juvenile court or other sources, must provide the student's school principal or designee with specific documents related to the crime.

In Tennessee or in Another State for Equivalent Offenses	In Tennessee
First degree murder, as defined in § 39-13-202	Voluntary manslaughter, as defined in § 39-13-211
Second degree murder, as defined in § 39-13-210	Criminally negligent homicide, as defined in § 39-13-212
Rape, as defined in § 39-13-503	Sexual battery by an authority figure, as defined in § 39-13-527

In Tennessee or in Another State for Equivalent Offenses	In Tennessee
Aggravated rape, as defined in § 39-13-502	Statutory rape by an authority figure, as defined in § 39-13-532
Rape of a child, as defined in § 39-13-522	Prohibited weapon, as defined in § 39-17-1302
Aggravated rape of a child, as defined in § 39-13-531	Unlawful carrying or possession of a firearm, as defined in § 39-17-1307
Aggravated robbery, as defined in § 39-13-402	Carrying weapons on school property, as defined in § 39-17-1309
Especially aggravated robbery, as defined in § 39-13-403	Carrying weapons on public parks, playgrounds, civic centers, and other public recreational buildings and grounds, as defined in § 39-17-1311
Kidnapping, as defined in § 39-13-303	Handgun possession, as defined in § 39-17-1319
Aggravated kidnapping, as defined in § 39-13-304	Providing handguns to juveniles, as defined in § 39-17-1320
Especially aggravated kidnapping, as defined in § 39-13-305	Any violation of § 39-17-417 that constitutes a Class A or Class B felony
Aggravated assault, as defined in § 39-13-102	
Felony reckless endangerment pursuant to § 39-13-103	
Aggravated sexual battery, as defined in § 39-13-504	

In addition to the list of offenses in the table, a court can also order school notification based on the circumstances surrounding the offense.

Additional guidance on this topic can be found at the following links:

- [FERPA | Protecting Student Privacy](#)
- [School Resource Officers, School Law Enforcement Units, and the Family Educational Rights and Privacy Act \(FERPA\)](#)

For further questions, contact the Office of General Counsel at TDOE.GeneralCounsel@tn.gov or (615) 741-2921.