



APRIL 2026 | FACT SHEET

# FERPA and LGBTQIA-Inclusive Policies Work Together to Support Students and Families

The Family Educational Rights and Privacy Act of 1974 (FERPA) is a federal law that protects the privacy of student educational records. For over fifty years, FERPA has worked effectively to ensure students' personal information—such as birth dates, addresses, or attendance—is maintained confidentially by school systems. For students under 18 years old, FERPA recognizes that parents or guardians play a role in safeguarding their children's data privacy and enumerates specific rights for parents or guardians—including the right to request, review, and inspect their child's educational records. However, FERPA does *not* require a school or school district to affirmatively notify parents about information in the child's educational records.

School districts often adapt policies to support the needs of their increasingly diverse student populations, including LGBTQIA+ students. In recent years, LGBTQIA-inclusive policies have complemented FERPA's primary purpose of ensuring student data is not shared without permission to third parties. For example, FERPA prohibits schools from sharing a minor student's sexual orientation or gender identity with the press, prospective colleges, other students, or other students' parents, without the permission of their parent or guardian. Inclusive school policies, such as student support plans that identify a trusted adult in case a student needs help during the school day, can help schools meet the needs of LGBTQIA+ youth with nuance and sensitivity. As K-12 schools may become aware of a student's sexual orientation or gender identity early in the coming out process, educators and school staff can play an important role in supporting the child through this process, while safely and carefully safeguarding the child's privacy within the bounds of FERPA.

Harmful policies that make schools less safe and inclusive, such as forced outing mandates, both harm student well-being and often overstate what is required by federal law. FERPA's protection of parents' and guardians' rights to their child's educational records does not require schools to proactively disclose information. **Notably, schools are only obligated to share information with parents and guardians under FERPA after a valid request is made.**

By forcing schools to immediately disclose a child’s sexual orientation or gender identity to their parents or guardians, and without any consideration of the child’s safety, forced outing policies undermine FERPA’s thoughtful framework and take away the flexibility school districts are allowed to support and protect children. School districts and other stakeholders are now having to navigate a confusing landscape that has been sown with misinformation about FERPA’s applications to student safety policies, while also working to support the varied needs of individual LGBTQIA+ youth in their student populations.

## A. What records are protected by FERPA?

Again, FERPA protects students from having their personal and educational information disclosed without permission—including identifying information like their address or birthdate and their academic records like grades and class enrollment. Congress provided a clear and detailed definition of an “education record,” which are materials that are directly related to an individual student and are maintained by a federally-funded school or someone acting on behalf of the school.<sup>i</sup> FERPA specifies certain exceptions to this definition of education records, including records related to law enforcement and any documents made by instructional, supervisory, and administrative personnel that remain in their sole possession.

For example, if a teacher takes a note about a student’s nickname on an attendance chart, FERPA’s records requirements do not apply. FERPA also does not require schools to share any verbal conversations between school staff, or other information that has not been recorded on a physical or electronic document.

Student health information *can* become part of the education records governed by FERPA, but not always. One common situation where FERPA applies is when minor students (under age 18) are seen by a school nurse or clinic. Treatment inside the school, like checking a temperature or bandaging a scrape, is recorded and becomes part of the student’s education record. However, if a school employee simply learns about a student’s health information, like if a teacher asks a student why they are using crutches and the student answers they broke their leg, that conversation does not count as part of the education record unless there is some school record created documenting the student’s medical treatment from outside school shared with the teacher, such as if the teacher emails the school nurse about the injury.

## B. Who can assert FERPA rights?

FERPA is designed to protect the privacy of students’ information with certain rights afforded to parents and guardians for children under 18. This includes legal parents (both custodial and noncustodial), guardians, or an individual acting as a parent in the absence of a parent or guardian, unless there is a court order, legally binding document, or state law that specifically provides otherwise.

## C. FERPA includes three core rights for parents of minor K-12 students:

1. the right to review and inspect records<sup>ii</sup>
2. the right to request amendments to records,<sup>iii</sup> and
3. the right to consent to disclosure of records.<sup>iv</sup>

None of these rights are absolute, and each right includes several exceptions.<sup>v</sup>

Regarding parents’ right to **review and inspect student records:**

Schools must make records available for inspection in a reasonable timeframe, usually within forty-five days of the request.<sup>vi</sup> However, FERPA's inspection rights are tailored to protect each individual student's privacy. For records that involve multiple students, parents only have the right to inspect the documents or parts of documents that relate to their child or to be informed of the specific information contained in such material. **In all scenarios, FERPA does not require proactive notification to parents of changes or additions to the student's education record.**

In many cases, student records are updated daily or weekly (for attendance, class participation, etc.) and sending many thousands of notifications to parents would make it difficult for schools to function. Therefore, the right to review and inspect is activated only after a parent makes requests access from the school.

Similarly, parents who hold FERPA rights may **request amendments to student records** to ensure that the records are not inaccurate, misleading, or otherwise in violation of the privacy rights of students. Schools are under no legal obligation to accept a parental amendment, but must provide a process (e.g., a hearing) to review and consider their request.<sup>vii</sup>

Finally, parents who hold FERPA rights may **consent to disclosure of records**. Consent is generally needed for the school to publish or publicize information that is in a student's education record. However, there are two scenarios where FERPA allows schools to disclose student data without affirmative consent. First, FERPA designates specific bands of information as directory information, such as a student's name, address, telephone number, date and place of birth, major field of study, participation in officially recognized activities and sports, and dates of attendance. Schools may make *directory information* public *only if* public notice is given in advance and a reasonable period of time is given for parents to object to publication. Second, FERPA authorizes certain disclosures *without* consent or even an opportunity to withhold consent. This includes records shared with other school officials with legitimate educational interests, records connected to a student's application for financial aid, and records shared with the federal Education Department to evaluate compliance with legal requirements, including civil rights obligations.

## D. Application of FERPA for Adult/University Students

All rights bestowed on parents by FERPA are transferred to the student when they reach 18 years of age or attend an institution of postsecondary education. Therefore, parents no longer have the same rights to access a student's education record if the student is eighteen years old, even if they are still enrolled in high school.

As universities work to prevent and redress sexual violence against students, it is important to understand how FERPA interacts with Title IX (the federal law prohibiting sex discrimination) and the rights of student survivors to be safe on campus. For example, FERPA permits schools to disclose limited information to victims and survivors at the end of a Title IX investigation, including the name of the accused student and what discipline the school is imposing for any policies that were broken.<sup>viii</sup> Finally, when schools are working to provide student survivors with necessary supportive measures, they may be required to share limited information about other students to put those measures into place (such as names on a campus "stay-away" order.)

## **UNDER FERPA, SCHOOLS MUST DO THESE THINGS:**

1. **Protect students' personal information and education records from any unauthorized disclosure.**
2. **When a K-12 student's parent requests their child's individual education record, schools must then share applicable records; when students are either 18 years old or enrolled in college, they must be allowed to access their own education records.**

## **UNDER FERPA, SCHOOLS DO NOT HAVE DO THESE THINGS:**

1. **Share a student's records preemptively, *before* any valid request has been made;**
2. **Share a student's record with parents *after* the student has turned 18 or enrolled in a postsecondary institution (like a university or vocational school—in fact, this would *violate* FERPA!);**
3. **Focus extra surveillance on any group of students, or give any student less privacy because of who they are;**
4. **Create and maintain new records which the school otherwise would not create;**
5. **Share information that has *only* been collected and used for providing healthcare (which is common in university health systems)**

## **E. How is the U.S. Department of Education Misusing FERPA?**

FERPA is enforced by the U.S. Department of Education, specifically through its Student Privacy Policy Office (SPPO). For decades, FERPA's regulatory scheme has been consistent, with SPPO investigating and resolving complaints of FERPA violations. However, in March 2025, Secretary of Education Linda McMahon issued a letter to school districts warning that SPPO would begin proactively investigating schools for violating FERPA if they "withhold" education records about a student's gender expression at school from their parents.<sup>ix</sup> In this letter, Secretary McMahon overstated FERPA's legal obligations, falsely implied that schools have a duty to proactively disclose information to parents, and obscured the reality that parents have been successfully requesting their children's school records under FERPA for over fifty years.

In the subsequent months, SPPO launched several investigations that seek to redefine FERPA obligations, going beyond the intent of the law to sow divisions between schools and families. In March 2025, SPPO launched investigations into both California and Maine schools. In California, SPPO's final report in January 2026 claimed a California state law violates FERPA because it directs schools not to forcibly out LGBTQIA+ students who have said they are not ready to come out to their families.<sup>x</sup> In Maine, SPPO claimed<sup>xi</sup> "57 of its 192 school districts have policies" that prevent forced outing in the event of a FERPA request, thereby allowing a student to privately express being trans or nonbinary at school (for instance, by socially using chosen pronouns.)

SPPO's investigations also come amid a landscape where only a small outlier of states and school districts have implemented forced outing policies. Only two states, Alabama and North Dakota, forcibly out a transgender student if a parent requests information from school staff. Accordingly, the Education Department's rhetoric and SPPO's parallel investigations are simply part of a larger pressure campaign to intimidate school districts into adopting policies that are hostile to LGBTQIA+ students rather than actually securing compliance with FERPA's legitimate legal obligations.

## F. School Districts Are Successfully Balancing FERPA & Trans Inclusive Policies

Across many jurisdictions, school districts have developed best [practices](#) to support their LGBTQIA+ students, including by collaborating with students' families to develop plans to address different elements of student life, such as affirming pronouns, restroom use, and bullying prevention. Some best practices identified by the U.S. Department of Health and Human Services include: allowing LGBTQIA+ youth to form and access student clubs and activities, having discussions with student families, providing training for teachers and school staff, maintaining and enforcing policies to prevent bullying and harassment, and allowing teachers to identify themselves as sources of nonjudgmental support through symbols like stickers or flags. Every one of the schools that has invested resources in these best practices is also working to comply with its FERPA obligations—because there is absolutely no conflict between privacy laws and supporting LGBTQIA+ youth who are trying to grow and thrive alongside their peers.

State courts and lawmakers have also recognized these values are not in tension.<sup>xiv</sup> For instance, New Jersey's Law Against Discrimination has been interpreted at the state court level to block three school districts from implementing forced outing policies targeting trans and gender expansive students.<sup>xv</sup> The court explained because the proposed policies *only* targeted trans youth, they were discriminating based on transgender status and gender expression. Several other states—such as Oregon, Minnesota, and Washington—provided districts with guidance encouraging them to follow state nondiscrimination laws in part by respecting trans and nonbinary students, and according them the same privacy that their cisgender peers enjoy at school.

Supportive and inclusive school policies that allow flexibility and recognition of students' individual situations are especially important to allow LGBTQIA+ students to learn and grow in safety. Due to high rates of bias and discrimination, LGBTQIA+ youth face risks of negative educational and health outcomes, such as bullying at school, but a supportive environment at school and home is the most important protective factor against these risks.<sup>xvi</sup> For example, research has shown that trans youth who have even one supportive adult in their lives are 40% less likely to report an attempt of suicide in the past year.<sup>xvii</sup> There is nothing inevitable about the discrimination too many LGBTQIA+ students are forced to grapple with at a young age, and supportive, inclusive school policies are a powerful tool for lifelong resilience.

## G. Conclusion

If and when the Department of Education seeks to formalize its dangerous and regressive misinterpretation of FERPA, it will be important for students, educators, advocates, and everybody who cares about gender justice to unite in flooding the Department with written comments opposing those regulations.

Until then, here are some ways to stay informed and share key information on student privacy and nondiscrimination rights:

- National Education Association, What Educators Should Know About LGBTQ+ Rights, <https://www.nea.org/resource-library/what-educators-should-know-about-lgbtq-rights>(last updated June 25, 2025)
- National Association of School Psychologists, Inclusive and Affirming School-Based Practices for LGBTQ+ Students, 2025, available at [https://www.researchgate.net/publication/396203659\\_National\\_Association\\_of\\_School\\_Psychologists\\_Position\\_Statement\\_Inclusive\\_and\\_Affirming\\_School-Based\\_Practices\\_for\\_LGBTQ\\_Students](https://www.researchgate.net/publication/396203659_National_Association_of_School_Psychologists_Position_Statement_Inclusive_and_Affirming_School-Based_Practices_for_LGBTQ_Students)
- ACLU, LGBTQ Youth & Schools Resource Library, <https://www.aclu.org/documents/library-lgbt-youth-schools-resources-and-links>
- NWLC, Gender Justice Means Freedom to Learn: how school censorship promotes sex discrimination, Feb. 2024, [https://nwlc.org/wp-content/uploads/2024/01/2024\\_nwlc\\_Censorship\\_FS.pdf](https://nwlc.org/wp-content/uploads/2024/01/2024_nwlc_Censorship_FS.pdf)
- U.S. Department of Education, FERPA's Complaint Process Explained, <https://studentprivacy.ed.gov/file-a-complaint> (how to file a privacy complaint with the SPPO)

## Endnotes

- i. 20 U.S.C. § 1232g(4); see also 34 C.F.R. § 99.3.
- ii. 34 C.F.R. § 99.10.
- iii. 34 C.F.R. § 99.20
- iv. 35 C.F.R. § 99.30.
- v. See, e.g. 34 C.F.R. §§ 99.12; 99.31.
- vi. 34 C.F.R. § 99.10(b).
- vii. 34 C.F.R. § 99.21.
- viii. *Actually You Can Disclose That*, NWLC, June 23, 2016, available at <https://nwlc.org/resource/actually-you-can-disclose-that-transparency-in-sexual-assault-reporting-the-family-educational-records-privacy-act-ferpa/>.
- ix. “U.S. Dept. of Education Directs Schools to Comply with Parental Rights,” ED, March 28, 2025, available at <https://www.ed.gov/about/news/press-release/us-department-of-education-directs-schools-comply-parental-rights-laws>.
- x. U.S. Dept. of Education, *ED Finds California Dept. of Education Violated Federal Law by Hiding Students’ Gender Transitions From Parents*, Jan. 28, 2026, available at <https://www.ed.gov/about/news/press-release/us-department-of-education-finds-california-department-of-education-violated-federal-law-hiding-students-gender-transitions-parents> (anti-trans scare quotes omitted).
- xi. U.S. Dept. of Education, “U.S. [ED] Launches Investigation Into Maine Department of Education for Alleged FERPA Violations,” March 28, 2025, available at <https://www.ed.gov/about/news/press-release/us-department-of-education-launches-investigation-maine-department-of-education-alleged-ferpa-violations>.
- xii. Morgan Sexton and Amelia Vance, “Recapping USED’s Recent Surge in FERPA Enforcement Activities,” Public Interest Privacy Center, April 17, 2025, available at <https://publicinterestprivacy.org/ferpa-enforcement-recap/>.
- xiii. Jackie Dilworth, “[Senate] HELP Committee Report Finds OCR Reached a 12-Year Low in Enforceable Relief for Students Facing Discrimination,” April 29, 2026, available at <https://thearc.org/blog/help-committee-report-finds-ocr-reached-a-12-year-low-in-enforceable-relief-for-students-facing-discrimination/> (discussing US Senate Committee report documenting a steep decline, with OCR resolving only about 1% of 11,985 pending student civil rights cases in 2025, with a historically low total of only 83 resolution agreements from January-December 2025).
- xiv. At the federal level, NWLC has advocated for and celebrated introduction of the SAFER Act, which would strengthen student rights to learn free from harassment and discrimination (including discrimination based on LGBTQIA+ status and sex stereotypes) and ensure stronger enforcement of civil rights protections by the US Department of Education. *The SAFER Act: Students’ Access to Freedom & Educational Rights*, NWLC, Dec. 1, 2022, available at <https://nwlc.org/resource/the-safer-act-students-access-to-freedom-educational-rights/>.
- xv. Garden State Equality, “New Jersey Superior Court rules to protect transgender students, supportive parents, and safe schools in forced outing cases,” Feb. 10, 2025, available at <https://www.gardenstateequality.org/release-new-jersey-superior-court-rules-to-protect-transgender-students-supportive-parents-and-safe-schools-in-forced-outing-cases/>.
- xvi. See Glisten, *The 2025 National School Climate Survey: School Experiences of LGBTQ+*
- xvii. *Youth in the U.S (2026)* available at <https://glisten.org/research/national-school-climate-surveys/>.
- xviii. Trevor Project, *Accepting Adults Reduce Suicide Attempts Among LGBTQ Youth*, June 27, 2019, available at <https://www.thetrevorproject.org/research-briefs/accepting-adults-reduce-suicide-attempts-among-lgbtq-youth/>.