

U.S. Department of Education
Overview for FERPA Case Studies

In December 2011, the U.S. Department of Education (Department or we) released new regulations governing the Family Educational Rights and Privacy Act (FERPA), (76 FR 75604 (Dec. 2, 2011)), and supplemental non-regulatory guidance. We are providing the following case study to illustrate how specific provisions of FERPA may be implemented. This case study uses fictional agencies, does not address individual circumstances, and does not consider additional legal requirements that may be required under other Federal, State, or local laws.

We will be releasing additional case studies, and welcome suggestions for future topics.

Please direct questions to the Privacy Technical Assistance Center (PTAC) at PrivacyTA@ed.gov or 855-249-3072. PTAC will work with the Department's Family Policy Compliance Office (FPCO) to provide you with answers.

March 2012

CASE STUDY #4: PTAC Technical Assistance

(Illustrating the definition of “education program”; also illustrates an LEA requesting technical assistance and coming into compliance)

Background

The local education agency (LEA) in City X has allowed the City Health Department to co-locate health clinics in identified high schools in the LEA. A research organization wishes to conduct two evaluations. One evaluation will assess the effect of the high schools’ education programs on LEA graduation rates, including whether the LEA’s decision to co-locate these health clinics in schools improves graduation rates (the “Graduation Assessment”). The second evaluation will assess the effect of the health clinics’ programs on student health, including whether co-locating health clinics in schools results in more positive health outcomes (the “Health Assessment”). The organization and the LEA do not obtain written consent from parents for this use of personally identifiable information from education records (PII), believing that it is not required.

The LEA reviews the 2011 amendments to the FERPA regulations and is concerned that its arrangement with the research organization may not be in compliance. The LEA contacts the Privacy Technical Assistance Center (PTAC) and asks for technical assistance about FERPA compliance and best practices.

What does PTAC do?

PTAC contacts City X’s LEA. The LEA asks PTAC to make a site visit to meet with officials from the LEA and the research organization. PTAC advises that the LEA may share student information with the research organization without consent under the audit and evaluation exception, so long as the evaluation is of a federally- or state-supported education program. PTAC further advises the LEA that it should have a written agreement with the research organization and use reasonable methods to ensure to the greatest extent practicable that the research organization complies with FERPA.

PTAC consults with FPCO and determines that the disclosure of PII to the research organization for the Graduation Assessment complies with FERPA because it evaluates the effectiveness of the LEA’s education program(s), and because the LEA followed the requirements of the audit and evaluation exception. PTAC determines that the Health Assessment does not comply with FERPA because it evaluates health programs. PTAC advises that the LEA should have obtained parental consent before sharing information for the Health Assessment, and that the research organization may not continue with the Health Assessment without that consent.

PTAC further recommends that the LEA revise its agreement with the research organization, taking into account best practices so that future research is conducted only to evaluate federally- or state-supported education programs. PTAC also advises the LEA that FERPA requires the written agreement to specify how PII will be used to carry out such an evaluation by the research organization in the future.

What does the LEA do?

The LEA agrees with PTAC's recommendations, and executes a new agreement with the research organization, following the best practices identified in the "[Guidance for Reasonable Methods and Written Agreements](#)" to ensure that future research and evaluations performed by the organization are compliant with FERPA requirements. The LEA also obtains written parental consent for the individuals participating in the now-discontinued Health Assessment. Having obtained that consent, they recommence the Health Assessment.

What does FPCO do?

PTAC advises FPCO in its regular meetings about the technical assistance provided to the LEA, and FPCO concludes, based on this information, that the LEA is now in compliance.