



FERPA & COVID-19 DOE/Student Privacy Office FAQs

Townhall Meeting
September 30, 2020

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New Guidance

- On September 29, the U.S. Dept. of Ed., Student Privacy Office released a Q&A on COVID disclosure, via e-mail.
- The new guidance focuses on 4 commonly asked questions.
- This guidance is consistent with the [March 2020 FAQ](#) guidance document.

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New Guidance

- https://studentprivacy.ed.gov/sites/default/files/resource_document/file/FERPA%20and%20Coronaviruses%20Frequently%20Asked%20Questions.pdf
- https://studentprivacy.ed.gov/sites/default/files/resource_document/file/FERPA%20and%20Coronaviruses%20Frequently%20Asked%20Questions.pdf
- <https://blog.ed.gov/2020/09/may-schools-disclose-information-cases-covid-19/>.

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Question #1

- **May a school disclose the number of students who have COVID-19 to parents and students in the school community without prior written consent?**

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Response #1

- Yes, provided that the information the school shares with parents and students does not allow for any individual student to be identified.
- If a school discloses information about students in a non-identifiable form, then prior written consent from the parent or student (depending on the age of the student) is not needed under FERPA.
- When determining what information may be shared without consent, the school must take into account other reasonably available information that could potentially enable non-identifiable information to become identifiable.

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Question #2

- **May a school identify a particular student who has COVID-19 to parents?**

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Response #2

- No. In most cases, it is sufficient for a school to report the fact that an individual in the school has COVID-19, rather than identifying the specific student who is infected.
- In theory, there *may* be situations during a health or safety emergency in which a school may determine that it is appropriate to disclose identifiable information to parents or students about a student with COVID-19 if knowledge of such information is necessary to protect their health.

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Response #2

- In these *limited* situations, school officials may determine that it is appropriate to disclose such information to parents or students if the disclosure is necessary to allow parents and students to take appropriate precaution.
- This decision should be made on a case-by-case basis and the school district's attorney should be consulted first.

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Question #3

- **May a school disclose the number of students who have COVID-19 in order to provide general health data to the public (including the media) without prior written consent?**

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Response #3

- Yes, provided that the information the school shares does not allow for any individual student to be identified. Similar to sharing information with the school community, if a school discloses information about students in a non-identifiable form, then consent is not needed under FERPA.
- Ohio Schools are required to report cases to their assigned Local Health Department who then report to the Ohio Department of Health.
- School districts must name a COVID-19 coordinator to facilitate reporting of case information to local health departments.

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Question #4

- **May a school identify a particular teacher or other school official as having COVID-19?**

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Response #4

- Nothing in FERPA prevents a school from telling parents, students, or the public that a specific teacher or school official has COVID-19. This is because FERPA applies to students' education records, not records on school employees/officials.
- HOWEVER, Ohio Public Records Act, RC 149.43(A)(1) lists, as an exception the following: “a. Medical records - any document or combination of documents, except births, deaths, and the fact of admission to or discharge from a hospital, that pertains to the medical history, diagnosis, prognosis, or medical condition of a patient and that is generated and maintained in the process of medical treatment. “

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Response #4

- While FERPA does not prevent the disclosure that a specific school employee has contracted COVID-19, Ohio’s Public Records Act would prevent that disclosure.
- Board policies and collective bargaining agreements may prevent the release of medical information as well.

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