

a new chapter

How parents fit into their students' lives at college

FERPA: Health & Safety Emergencies

The Family Educational Rights and Privacy Act (FERPA) is a Federal law that protects the privacy of students' education records. FERPA also addresses the decisions that school officials need to make on a daily basis. It applies to any "educational agency or institution" that receives funds under any program administered by the U.S. Department of Education, which includes all public K-12 school districts and virtually all postsecondary institutions, public or private.

Parents may be notified when there is a health or safety emergency involving their son or daughter, in spite of any FERPA provision that might otherwise prevent such a disclosure. Changes made to this section of FERPA are intended to "balance the important interests of safety and privacy by providing school officials with the flexibility to act quickly and decisively when emergencies arise."

According to FERPA, "...the Department will not substitute its judgment for that of the agency or institution if, based on the information available at the time of the determination, there is a rational basis for the agency's or institution's determination that a health or safety emergency exists and that the disclosure was made to appropriate parties."

Alcohol & Other Drug Disclosures

If an institution has determined that a student under 21 violated its alcohol or other drug rules, it may disclose that fact to parents, says Steven J. McDonald, general counsel at the Rhode Island School of Design.

However, the student must be under 21 at the time of disclosure, not just at the time the violation occurred.

"Articulate & Significant Threat"

This does not have to be a verbal threat. It simply means that a school official must be able to articulate *what* the threat is when he/she decides to disclose education records.

Disclosure to "Appropriate Parties"

In taking all circumstances into account, institutions may disclose personally identifiable information from education records, without consent, to "appropriate parties" whose knowledge of the information is necessary to protect the health or safety of a student or other individuals, if there's "an articulable and significant threat."

- The person(s) receiving the information isn't required to be the one providing the protection.
- Potential "appropriate parties" may include:
 - ✓ Law enforcement
 - ✓ Threat assessment team members
 - ✓ People who may have information that can assist in providing or evaluating the need for protection and/or how to address the threat (such as peers, roommates, mental health professionals and prior schools attended)
 - ✓ Potential victims
 - ✓ Parents of the student or of potential victims

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Not a Blanket Exception

This “health or safety emergency” exception shouldn’t be considered a blanket exception for routine, non-emergency disclosures of student information, though. Rather, it should only be used to disclose information necessary to protect the health or safety of a student or another individual in connection with an emergency.

What Constitutes an “Emergency”?

According to the final FERPA regulations:

- The institution must be able to release education records information in sufficient time for the institution to act so it can keep people from harm or injury
- An incident must be related to the threat of an actual, impending or imminent emergency, such as a terrorist attack, a natural disaster, a campus shooting or the outbreak of an epidemic like *e-coli*
- An emergency could also be a situation where a student gives sufficient, cumulative warning signs that lead an institution to believe he/she will harm himself or others at any moment
- It doesn’t refer to the threat of a possible or eventual emergency, such as something that might be addressed during an emergency preparedness drill