Without Consent
An analysis of student directory information practices in U.S. schools, and impacts on privacy

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WORLD PRIVACY FORUM
Without Consent:
An analysis of student directory information practices in U.S. schools,
and impacts on privacy

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Brief Summary of Report

If data is the new oil, then student data is among the most desirable data wells of all. While some states have enacted laws to better protect students and their privacy, policymakers have left a formidable front door open: that is, the ability for detailed student information to be made public by schools under an exemption in the federal student privacy law, the Family Educational Rights and Privacy Act.

This exemption is called the Directory Information exemption. When schools choose to, they can designate certain student information of their choice to be made public without prior consent. This information becomes directory information. To provide a balance, Congress provided a right that students and parents can restrict unconsented public disclosure of their directory information. Eligible students can place this restriction on their directory information by submitting an opt out request at the school. Parents or guardians of students under 18 will have to place the restriction for the student. This right to restrict disclosure is an essential one, but students, parents and others may not be aware of the importance and profound privacy impact of this information.

Directory information at schools is not like information in a phone book; it can be much more extensive. Information such as legal name, exact date and place of birth, home address, photographs, gender, social media handles, parent or guardian home address, and primary language spoken are among the many categories of directory information that schools could — and do — choose to release. In our modern world this kind of information can and does create safety, privacy, and other risks for students, particularly those who are victims of crime or have other vulnerabilities, including economic vulnerabilities.

The default privacy setting of students’ directory information under FERPA is set to allow schools to “publish without prior consent.” In theory, the right to opt out should provide privacy checks and balances. But this report finds that many schools, while technically compliant, have not done enough to encourage students and parents to effectuate their FERPA opt out rights. In some cases, notices of FERPA opt out rights are not prominently posted on school web sites. In others, the very notices that students need for learning about how to activate their opt out rights are the same notices that may nudge them to do the opposite by using discouraging language that facilitates inaction or makes opting out of directory information sharing look like an unattractive option.

The research for this report examined directory information practices and related issues in a multi-year study across more than 5,000 schools at the primary, secondary, and postsecondary levels. The research found troubling and challenging student privacy problems that need to be urgently addressed. The report includes detailed findings and recommendations based on the research. In brief, the research found:

• It is completely possible for schools to meet the FERPA minimum standards for FERPA notice and at the same time make FERPA opt out difficult or undesirable for students and parents.
• FERPA directory information notice and opt out is not being consistently implemented in modern, updated ways at schools.
  ○ Not all schools post FERPA opt out forms for students online. For example, 39 percent of studied primary and secondary schools make FERPA opt out forms online and available to the public.
  ○ Some schools require students to write a letter to opt out.
  ○ Some schools give a year for students to opt out; some schools give 10 days.
• The information designated as directory information by many schools can, in our modern world, be invasive of privacy and cause harm. Exact date of birth, home address, gender, and
photographs of students released as public information is longer acceptable and poses demonstrable risk to students.

- Few schools have developed a culture of fostering and promoting students’ rights under FERPA to opt out of directory information sharing.
- WPF research documented a troubling pattern of the brokering of information of minors online.
  - In one case, a company registered as a data broker acquired student directory information.
  - A facial recognition company disclosed it has been brokering the information of minors by collecting the publicly available images of minors for use in its facial recognition product.
  - Among data brokers that stated that they had actual knowledge that they possess the brokered personal information of minors, two companies said they used the information of minors to create predictive scores regarding their parents for commercial purposes.
- Language that schools use to communicate with students and parents about FERPA opt out rights is not always encouraging of pro-privacy choices, and may contain negative nudges that discourage parents and eligible students from opting out.

WPF research found best practice exemplars of modern FERPA implementations at all levels. These best practices have the hallmarks of modern privacy thought, which is a focus on implementing FERPA in a way that creates transparency, accountability, fairness, equality of opportunity to opt out, and an environment that supports student privacy, safety and student thriving for all students and parents.

There is much that can and must be done to improve student privacy outcomes. Some solutions are simple, such as updated guidance requiring schools to post annual FERPA notices, and ideally, opt out forms, on school websites. Some solutions require legislative and regulatory attention, such as ensuring students’ directory information does not get passed to data brokers. Ensuring students’ photographs or digital images are not available on school websites to be scraped for use in test databases for biometric or other systems also requires attention. And ensuring that all students, from all walks of life, including those who are homeless or living in poverty, have the ability to learn about their privacy rights and take advantage of those rights is of utmost importance.

The days of schools designating and releasing broad swaths of directory information publicly as a “default setting” of FERPA privacy rights needs to be behind us. Advances in modern privacy thought and laws demonstrate that directory information is no longer just a dusty right consigned to dense legal notices few understand the full significance of. The COVID-19 pandemic that has so deeply impacted all schools, parents, and students shows the urgent need to ensure that FERPA notices and opt outs are online, available all year, and can utilized without resorting to paper handouts or in-person office visits. The U.S. Department of Education, states, local school boards, and local schools need to do much more to update their approach to how directory information is handled at every level. The current default settings for directory information under FERPA need to be re-examined and the procedures need to be re-evaluated and refitted to a more modern understanding of data privacy. The safety and privacy and thriving of all students depends on it.

**Key Recommendations**

We can and must do more to protect the information of students, and minors. FERPA-covered educational institutions and agencies have an important role in taking affirmative and decisive steps to protect students and minors. Some specific recommendations regarding directory information include:

- Educational institutions covered under FERPA must provide a prominent, publicly accessible FERPA notice online and a FERPA opt out form online at a minimum. This information should be
made available online on an ongoing basis all year. Ideally, this notice will be viewable on multiple types of devices, including mobile phones. Ideally, FERPA opt outs can be viewed, filled out, and submitted via online and mobile means.

- The Department of Education, State educational agencies, local school boards, and educational institutions need to review and revise FERPA notice and opt out methods for accessibility and inclusiveness and for all students and parents, across delivery methods from online to offline, inclusive of mobile, audio, and multiple forms (and languages) of notice.

- Educational institutions covered under FERPA must allow for student opt out on an ongoing basis and not just in the beginning of the school year or upon enrollment.

- Educational institutions must stop brokering student directory information to data brokers, or allowing passive collection of student directory information by data brokers.

- Educational institutions should adopt a minimum necessary rule when deciding which kinds of data to designate as FERPA directory information.

- All FERPA-covered institutions should conduct a safety and privacy review prior to designating categories of information as directory information.

- There should be an express prohibition on the use of photographs of minors released by schools without prior consent under the directory information exemption for training face recognition or biometric systems. This includes yearbooks made using facial recognition. Schools should require yearbook companies using facial recognition in their process to never sell or share that information, and should require specific consent for the use of facial recognition.

- Schools using “platforms” or student information systems, must provide publicly available FERPA annual notices, opt outs, and other information outside of those systems in a way that is accessible to members of the public, including via online access.

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We want to further acknowledge Fordham University School of Law Professor Joel Reidenberg for his decades-long work on student privacy. His work, and those of his colleagues at Fordham CLIP, have created greater transparency in challenging areas of research. Their work created a path that facilitated the research conducted for this report.

We thank the state of Vermont for leading the nation in passing a data broker registry law that requires disclosure of the brokering of the data of minors. Without this law, and without the specific provisions that makes brokering the data of minors more transparent, WPF would not have learned about significant data broker activities regarding student directory information and the data of minors.

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About the World Privacy Forum

The World Privacy Forum is a non-profit public interest research and consumer education group focused on the research and analysis of privacy-related issues and consumer education. The Forum was founded in 2003 and has published significant, groundbreaking privacy research and policy studies, including major multi-year research studies. Among these include Medical Identity Theft: The information crime that can kill you, the first public report on medical identity theft, The Scoring of America, the first major report regarding predictive analytics and privacy, and A Failure to Do No Harm, India’s Aadhaar biometric ID program and its inability to protect privacy in relation to measures in Europe and the U.S., a multiyear peer-reviewed report regarding large scale identity and biometric systems, published in Springer-Nature and co-published at the Harvard-based Technology Journal. Each of these reports has had significant, demonstrable, and positive real-world impacts on consumer privacy.

WPF engaged substantively in the 2008 and 2011 FERPA rulemakings and the 2015 Department of Education’s Dear Colleague letter on student health privacy at institutions of higher education. WPF maintains educational material about student privacy, the Family Educational Rights and Privacy Act, and material about the intersection between health privacy law and student privacy law See: A Patient’s Guide to HIPAA, the Student Privacy 101 series, and additional materials at www.worldprivacyforum.org.

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1 World Privacy Forum’s home page includes information about our activities, as well as numerous privacy research, data visualizations, and data privacy resources. Available at: https://www.worldprivacyforum.org.

Methodology for this report

This report focuses on the privacy of student directory information at FERPA-covered educational institutions, and on students’ ability to learn about and effectuate their FERPA rights. WPF conducted a detailed, multi-year research study on FERPA and directory information-related issues at more than 5,000 primary and secondary schools in 101 U.S. school districts. At the postsecondary level, we studied 102 postsecondary schools in the U.S. The methodologies for the selection of the schools and other aspects of this research are detailed in the appendices of this report.

This report studies implementations of FERPA in regards to student directory information, and examines key risks to student privacy relative to directory information, and what practices or changes would create improved privacy outcomes for students. Because this is not a compliance report, in reporting and discussing the results of our work we have reported our data in aggregate form without identifying schools by name. If and when we identify a specific school in the main report text by name, it is because we are using one or more practices of that school as an exemplar of a good practice.

For some of the results for primary and secondary schools, we have reported results at the district level. When we have done this, it is to understand district-level policies between urban and rural school districts, and in some cases to balance the statistical effects of very large urban school districts on the results in total. For example, some large urban school districts may have 1,000 or more schools. A rural district may contain 50 or fewer schools. We have listed the primary / secondary schools studied in an appendix of this report for transparency. We have not listed the roster of postsecondary institutions we studied, as we were unable to provide results for postsecondary institutions at a high enough level of aggregation to de-identify the results.
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Part I: Introduction and Background

A. Introduction

The first major student privacy law in the United States emerged not from theoretical discussions of potential privacy harms to students, but from bare-knuckled necessity. Parents and students were experiencing serious privacy harms directly related to students’ records held by schools. Some of these harms can be seen in Diane Divokey’s 1974 testimony as she explained to Congress why the Family Educational Rights and Privacy Act was desperately needed:

“It all started innocently enough back in the 1820s, when schools in New England began keeping registers of enrollment and attendance. In the 180-odd years since, the student record has grown to grotesque proportions. Like Frankenstein’s monster, it now has the potential to destroy those it was created to protect.

... by 1970, almost any government agent could walk into a school, flash a badge and send a clerk scurrying to produce a file containing the psychiatric and medical records of a former student. It was unlikely that the student would even know about the intrusion into his private life.”

The federal student privacy law that Congress crafted to address these problems that existed in 1974 is still in place today. This law, the Family Educational Rights and Privacy Act (FERPA), gives parents and students three key rights: the right to access educational records, the right to amend records, and they give students a third right, which is to restrict disclosure of information known as directory information. FERPA requires that sensitive information held in a school record may not be disclosed without prior consent. But schools can choose to publicly release certain categories of information about students without prior consent. This type of student data is called directory information.

What constitutes directory information does not adhere to a specific national list of data types. Rather, it is decided at the local level because schools have been given broad discretion to designate the categories of information they may disclose or release as directory information. The FERPA rules contain a simple test: directory information cannot be considered harmful if it is disclosed, nor can it be considered an invasion of privacy if it is disclosed.

The research for this report found that some of the types of information schools can — and have — designated for unconsented public disclosure include full legal name, exact date of birth, email address, phone number, grade or level of study, photographs, social media handles, videos, a physical or home address, gender, weight, original country and city of birth, and primary language spoken, among other data. Some of the information categories schools designate as directory information are considered sensitive by modern privacy standards. That information, such as precise home address and exact date of birth can pose meaningful safety and privacy risks to students and parents. For vulnerable
students, such as those who are victims of crime or at risk in other ways, the risks of harm from disclosure are even more significant.³

Further, in 1974 there were no websites, and web “scraping” did not exist.⁶ Now, even information that could be considered to be acceptable to release as single data points, such as a students’ school email address, when scraped and used by data brokers, can become part of a lifelong profile of a student. And photographs posted publicly can and have been scraped and have become part of test databases for biometric systems, and in some cases products that are sold commercially, presenting an additional risk for minor students whose photographs are published on the open web by schools.⁷ Few schools, parents, or students would expect their innocently posted images of students participating in school activities to be used in this way.

The most recent updates to the FERPA regulations date from 2011, which in digital years is a significant amount of time. Many advances in privacy standards and law occurred since 2011, and some of these changes represent a turn of historic significance. In 2011, 78 countries around the world had significant national data privacy laws. In 2020, this number is now 142.⁸ The privacy laws include Europe’s globally influential General Data Protection Regulation, which reframed definitions of privacy, expanded individuals’ data rights, and added to the obligations of data controllers. Today, a set of ten minimum standards are recognized internationally, including accountability, access, correction, [studentprivacy.ed.gov/frequently-asked-questions](studentprivacy.ed.gov/frequently-asked-questions).

5 Students can experience many types of vulnerabilities, including financial vulnerability. Too little attention is paid to the sobering fact that students in Kindergarten, 1st, 2nd, and 3rd grades are most likely to experience homelessness. Out of 1,351,120 homeless students in the U.S. in 2016-2017, fully 460,937 of these students were in grades K-3. Parents of these students will be the ones who have to exercise FERPA rights. People who live in poverty have equal privacy rights under FERPA, and both deserve and need assistance and consideration in effectuating those rights. For a discussion of privacy and poverty, see: John Gilliom, Overseers of the Poor, Surveillance, resistance, and the limits of privacy. University of Chicago Press, 2001. More information available at: https://www.press.uchicago.edu/ucp/books/book/chicago/O/bo3626685.html. For statistics, see also: Digest of Education Statistics, NCES. Available at: https://nces.ed.gov/programs/digest/d18/tables/dt18_204.75a.asp.


7 At least one company has disclosed that it has collected the images of minors for use in a facial recognition system. See: Filing of Clearview AI, Registration ID 367103, January 14, 2020, Vermont Data Broker Registry. Vermont Secretary of State. Available at: https://www.vtsosonline.com/online/DatabrokerInquire/DataBrokerInformation/businessID=367103. See: Response to Question 7: “Clearview AI Inc. collects publicly available images. This collection includes publicly available images of minors. We provide collected images in a searchable format to users. We actively work to remove all images of California-resident minors from all datasets. Clearview AI, Inc. processes all opt-out requests in a manner compliant with the relevant local laws, including opt-out requests related to minors.”

These advances in privacy standards, when combined with the rapid and ongoing evolution of computing techniques, structure and speed of digital architectures and data flows, combined with tools for information analysis such as machine learning, are comparable to the difference between driving a Model T and driving a Jaguar. What constituted appropriate implementation policies under FERPA in 2011 are insufficient today because those policies — even if complied with fully — leave students vulnerable to the privacy threats that FERPA sought to protect.

The world has changed, and it is essential that educational institutions and agencies modernize FERPA implementations so as to bring FERPA forward into the current era of data as predictive power and digital complexity. This study is not about whether or not schools comply with a minimum baseline of FERPA compliance as stated in 2011. Most do. This study asks the question: can parents and students readily effectuate their rights under FERPA in modern ways? Are schools actively facilitating students’ use of their FERPA rights?

It is entirely possible for an educational institution to comply with FERPA by doing the bare minimum. A FERPA notice can be given on paper, which is acceptable under FERPA. And parents and students may only have a few weeks each year to turn in a FERPA opt out form restricting disclosure. This is acceptable under FERPA. Schools may ask parents and students to write their own opt out letter. This, too, is currently acceptable under FERPA. Almost all schools take steps to comply with FERPA

9 In modern global data privacy laws, there are 10 key commonalities that form a new global baseline for what is considered by scholars to be baseline “strong” data privacy legislation. These commonalities arise from standards developed by the European Union, the Council of Europe, the OECD, and APEC. The ten ‘global’ elements that are common to all four international instruments are, as quoted in Greenleaf:


11 Opt out or opt-out? Initially, this report hyphenated “opt out” when the term was used to modify a noun, and generally did not hyphenate otherwise. Parents have the right to opt out using an opt-out form is an example use. While this is technically correct, we received feedback from some reviewers that the hyphenation changes were a distraction in a long report that uses the term “opt out” repeatedly. In response, we have opted to use opt out without hyphenation throughout for consistency and ease of reading.
baseline standards, what this report calls “FERPA default settings.” However, what is most needed is to understand how schools are doing “FERPA plus settings.” These are implementations of FERPA that are modernized and do more to provide an environment that nurtures the flourishing of FERPA privacy rights.

FERPA’s rights serve institutions, agencies, students, parents, and teachers, and the rights FERPA confers to students and parents are more meaningful today than ever. FERPA gives students and parents three key rights:

**Right of Access (Inspect and Review).** Parents of students and eligible students have the right to access their educational records held by educational institutions and by State educational agencies.

**Right to Correct Records (Request Amendment(s)).** Parents and eligible students can challenge the content of their educational records and to seek to amend records.

**Right to Restrict Release of Records.** Parents and eligible students can elect to restrict the release of their educational records to third parties, with some exceptions.

Of these rights, this report focuses on the right under FERPA to opt out of, or restrict, the release of directory information by parents and eligible students. Students, or for those under 18, their parents, can elect to opt out of the sharing of directory information. However, opting out requires a supportive environment from school educators that fosters meaningful notice in the current digital environment, expanded access to information about how to opt out, and the modeling of dignity and respect as institutions create a culture of respectful, modernized FERPA opt out implementations.

Educators have a general obligation to do no harm in the area of student privacy, and to create a safe place for student flourishing by modeling the behavior they most want to see in their students. If the goal is fostering students who respect the dignity of others, then educators must themselves show respect for student dignity. This includes nurturing the dignity that students garner when students are able to exercise their rights to make choices about their information appropriate to the context of their lives. By supporting these processes, educators and students can achieve the results both seek.

To understand and document “modern FERPA plus settings” for implementations with respect to directory information opt out, this report analyzed multiple aspects of FERPA directory implementation activities across approximately 5,000 schools at the primary, secondary and postsecondary levels in both urban and rural areas. To conduct this analysis, the report looked at aspects of “FERPA plus”

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12 FERPA rights fall to the parents or guardians of children under the age of 18. At the age of 18, FERPA rights revert to the student. Under FERPA, students 18 and older are “eligible students.”

13 State educational agencies include, for example entities such as State departments of education, for example, the Virginia Department of Education, or the Montana Office of Public Instruction. For more on State educational agencies’ roles, see the Council of Chief State School Officers (CCSSO). See in particular: *The State Education Agency’s Role in Supporting Equitable Student-Centered Learning*, CCSSO, November 10, 2019. Available at: https://ccsso.org/resource-library/state-education-agencys-role-supporting-equitable-student-centered-learning.

14 Exceptions to the consent restrictions are set out in §99.31, and include 16 specific exceptions where disclosure of student educational records are allowed without consent.

15 The sampling of the approximately 5,000 schools represents under 1 percent of the approximately105,298 educational institutions that are covered under FERPA.
implementation that would meaningfully allow parents and students of today to effectuate their rights, including the availability of FERPA notice and opt out online, and other specific aspects of implementation. The research took over four years. The methodology in Appendix C describes the efforts made to sample a diverse array of schools, and to document FERPA implementations.

Activities ranged from analysis of web sites, to emailing schools, to calling schools and talking with faculty and staff. Additional activities included relevant literature searches, interviews with legal and other experts, and discussions with educators about problems and potential solutions.

The goals of this report include identifying the baseline presence of FERPA “default settings” and then in particular, to do the following:

1. Identify and report on FERPA settings regarding modern, updated directory information implementation settings, challenges, and opportunities; and,

2. Identify the best practices (or modern FERPA settings) that will assist schools, protect people, and protect privacy.

Findings

Context for the findings

This report is not a compliance report. This report does not look at all of FERPA; rather, this report is focused on directory information. We began our research with baseline documentation of FERPA “default settings” as a starting point for our deeper research regarding student privacy and impacts of directory information data flows.

As a baseline, our research found that approximately 95 percent of studied schools studied met FERPA minimum requirements for directory information notice. This is FERPA’s “default setting,” and it means that schools must do a prescribed bare minimum of providing appropriate notice about FERPA at least once per year and provide a way for parents or eligible students to submit a directory information opt out request. The methodology in Appendix C describes the research we undertook to document this initial baseline.

Key Findings

Key findings in the research of more than 5,000 schools regarding modern FERPA implementation practices found that:

Overall findings:

While some states have enacted laws to better protect students and their privacy, almost all policymakers have left a formidable front door open: that is, the ability for detailed student information to be made public by schools under FERPA Directory Information exemption. When schools choose to, they can designate certain student information to be made public without prior consent. This information is directory information, and to provide a balance to this right, Congress included a right for students and parents to opt out of unconsented public disclosure of their information.

- It is completely possible for schools to meet the FERPA minimum standards for FERPA notice
and at the same time make FERPA opt out difficult or undesirable for students and parents.

- FERPA is not being consistently implemented in modern, updated ways at schools.
- There is high variability of how schools are implementing FERPA to the point that there is considerable inconsistency in implementation.
- The information designated as directory information by many schools can, in our modern world, be invasive of privacy and cause harm. Exact date of birth, home address, gender, and photographs of students released as public information is longer acceptable and poses demonstrable risk to students.
- Few schools have developed a culture of fostering and promoting students’ rights under FERPA to opt out of directory information sharing.
- WPF research documented a troubling pattern of the brokering of information of minors online. In one case, a company registered as a data broker acquired student directory information. In another, a facial recognition company disclosed it had been collecting the publicly available images of minors for use in its product. Among the data brokers that said they “have actual knowledge that it possesses the brokered personal information of minors,”16 two companies said they used the information of minors to create predictive scores regarding their parents.
- Language that schools use to communicate with students and parents about FERPA is not always encouraging of pro-privacy choices, and may contain negative nudges that discourage parents and eligible students from opting out.

- WPF research found best practice exemplars of modern FERPA implementations at all levels. These best practices have the hallmarks of modern privacy thought, which is a focus on implementing FERPA in a way that creates transparency, accountability, fairness, equality of opportunity to opt out, and an environment that supports student privacy, safety and student thriving.

Specific findings:

- **At the primary and secondary level, 39.7 percent of 5,145 schools studied post a FERPA opt out form online that is available to the public. (Total aggregate).**

- **At the postsecondary level, 60 percent of 102 postsecondary schools studied post a FERPA opt out form online that is available to the public (Total aggregate)**

51 percent of primary/secondary schools posted some form of annual FERPA notice online in a way that was available and accessible to the public. Accessibility varied depending on what format and area of the website the notice was in.

98 percent of postsecondary schools posted an annual FERPA notice online in a way that was available and accessible to the public.

- An analysis of FERPA opt out forms, when available, indicate that many of the forms contain “nudges,” or language that discourages a pro-privacy choice.

16 The Vermont Data Broker registration form states: “Does the data broker have actual knowledge that it possesses the brokered personal information of minors? (Yes or No response required.) “If so, provide a statement detailing the data collection practices, databases, sales activities, and opt-out policies that are applicable to the brokered personal information of minors.” See Vermont Data Broker Registry, Vermont Secretary of State. Available at: [https://www.vtsosonline.com/online/DatabrokerInquire/](https://www.vtsosonline.com/online/DatabrokerInquire/).
• **Time allowed for opt out varies considerably between K-12 and postsecondary schools.** Most postsecondary schools typically offer FERPA opt outs all year. Most Primary and secondary schools typically offer **1 to 2 months** for parents to opt out. Specifically:
  
  o **At the primary / secondary level,** parents have an average of just **1 to 2 months** to opt out of directory information sharing. The shortest opt out time our research found was 10 days, and the longest was 90. Most schools offer between 30 to 45 days at the beginning of the school year.
  
  o **Greater than 90 percent of postsecondary institutions allow for FERPA opt out to be turned in and effectuated during the entire academic year.**

• Some students’ FERPA directory information that has not been restricted by a FERPA opt out is being brokered. **There is a provable, direct link to data broker activities regarding student directory information.**

• **49 percent of schools include student photographs in directory information that can be released without consent.** The risks that can be associated with the public release of student images or digital photographs are discussed in detail in three sections of the report: the *Directory Information Content, Data Brokers and the Data of Minors*, and the *Student Biometric Data and FERPA* sections. In brief, allowing student photographs to be included as directory information poses a significant risk for “web scraping” of the images for use in face recognition systems, a risk that our research has documented is already occurring. Beyond this risk, the unconsented release of student images by schools can also pose safety and other privacy concerns to parents and students.

• **The research found that categories of information designated as directory information by schools studied for this report often contain information that is in fact privacy sensitive and consequential.** The research found high variability of what schools elect to include in directory information.
  
  o The research found the following specific categories of student data studied schools designated for unconsented disclosure under the FERPA directory information rules. (Not all schools used all of these information categories. This is an aggregate of all fields found in the research.)
  
  o Name of student
  o Gender
  o Date of birth
  o Date and place of birth
  o Hometown, city, and state
  o Primary language spoken
  o Social media handles
  o Local address
  o Permanent home address
  o Residence Hall address
  o Address of parents or guardians
  o Telephone listings Student email addresses
  o Telephone number and email address of parents or guardians
  o Student email addresses
  o Student employee telephone listing
- Dates of attendance
- Withdrawal dates
- Program / major field of study
- Degrees and certificates received / dates
- Academic and co-curricular awards, honors, and scholarships, and dates received
- Number of hours enrolled and number completed
- The most recent educational institution attended
- Participation in officially recognized activities
- Weight and Height of students on athletic teams
- “PeopleSoft number”
- Student ID number, user ID or other unique identifier
- Student’s district identification number
- Photograph(s)
- Electronic images
- Digitized photo
- Class photo
- Videos
- Photographs or recordings of students taken by surveillance cameras where the images do not depict specific students engaging in actions that would constitute violations of the Code of Student Conduct
- Yearbook pictures
- Annual yearbook print copies, playbills, program guides, or recordings of school sponsored events
- Student employee telephone listing
- Student employee job classification
- Student employee email address
- Student positions held
- Nature and place of employment
- Nature and place of employment at school Yearbook pictures

- The research found that platforms in use at some schools - especially at the K-12 level — did not actively facilitate the public’s ability to learn about a school’s FERPA policies. However, the research also found that some platforms facilitated improved FERPA implementations. This was particularly the case at the postsecondary level.
  - Some of the schools used platforms that produced no results for a site-wide keyword search for FERPA. (Without login).
  - When FERPA notices are not posted on publicly available pages, it does not facilitate effective modern FERPA notice, nor does it assist in facilitating students’ and parents’ exposure to and knowledge about FERPA rights.
  - Some platforms, especially some of the best practice exemplars at the postsecondary level, have used technology to provide more effective, more granular FERPA opt out in the student information systems as well as on the school’s publicly available web pages.
The findings for this report are extensive. Part II of the report discusses the above findings in detail as well as additional findings.

**Recommendations**

Some FERPA implementation problems could be addressed by simple solutions, such as adding permanent, prominent, and publicly available links to FERPA notices and opt out forms, and ensuring that FERPA opt out forms in particular are on prominent and publicly available positions on websites.

Other aspects, such as creating a culture that respects the dignity of students and supports students’ and parents’ efforts to achieve better privacy and safety results, will take more effort. This report unambiguously documents problems with FERPA that can have real-world impacts. There is urgency in addressing these problems cooperatively. Schools must do more to protect students’ privacy, ensure their safety and wellbeing, and prevent uses of student data that parents and students find objectionable, unsafe, or harmful, or that impedes their ability to attain educational and other goals. Ultimately, good results in privacy depend on a culture at the school level that fosters respect for privacy and a culture that values the protections students have under FERPA.

Based on the extensive research of more than 5,000 educational institutions from K-university conducted for this report, and the significant FERPA implementation gaps documented, this report offers the following recommendations:

- **Educational institutions covered under FERPA must provide a prominent and publicly accessible online FERPA notice and a FERPA opt out form at a minimum.** These materials should be made available to the public in an easy to find and openly accessible location on the school’s public-facing website irrespective of whether FERPA information is also available on a student portal or technology platform. It is not acceptable for institutions to only publish FERPA materials behind registration requirements or on password protected systems.
  - Institutions that still hand out paper FERPA forms should work to also post FERPA materials to a permanent, prominent site open to the public. Paper forms should be available in a well-understood place, and schools should conduct an assessment of FERPA implementation to ensure that vulnerable and marginalized students and parents can still access, effectuate, and benefit from their FERPA rights.
- **Students and parents who are non-English speakers should have materials accessible to them in their language.**
- **Ideally, each FERPA-covered institution should provide a FERPA opt out form in multiple formats for parents and eligible students: paper, electronic, call in, etc.**
- **Each FERPA-covered institution should provide all students with FERPA notice and opt out that is readily accessible, including making available accessible via mobile device quickly and without undue searching.** It is important to address the needs of parents who are financially vulnerable or vulnerable in other ways. Not all parents or students will have access to a computer, but many will have access to a mobile device of some sort.
- **It is important that schools provide FERPA opt out forms.** Those opting out under FERPA should not have to write a letter from scratch to do so. This is a well-established principle in other areas of consumer protection law.
- **FERPA opt out forms should allow students the opportunity and option of selecting what specific information types they want to have restricted.** Students should not have to have an
all-or-nothing FERPA choice. For example, students should be able to allow a yearbook photo to be taken and at the same time have the ability to restrict their home address from being published. More “granular” choices are preferable to just a single selection that opts students out of all data sharing.

- **Educational institutions covered under FERPA must allow for student opt out on an ongoing basis and not just in the beginning of the school year.** Information privacy problems can pose serious safety threats to students. It is neither appropriate nor safe to require students to wait, in some cases, for up to a year to opt out.
  - This report found that some educational institutions do in fact offer a yearlong, continuous opt out. However, many institutions offer only a 2 to 3 week window per year for opting out of unconsented disclosure of directory information. This is not an appropriate policy in today’s digital ecosystems. Asking students to wait a year to restrict the dissemination of their information is similar to asking identity theft victims to wait a year before they get credit monitoring, or get a new credit card.

- **Educational institutions should adopt a minimum necessary rule when deciding which kinds of data to designate as FERPA directory information.**

- **All FERPA-covered institutions should conduct a safety review prior to designating categories of information as directory information.** This safety review should incorporate views from law enforcement professionals, survivors of crimes such as identity theft as well as domestic violence, sexual assault, and stalking, and other stakeholders who have a viewpoint on what information is dangerous if released about them, in the context of their lives. The Department of Education should conduct one or more safety review workshops with stakeholders and provide the results to educational institutions.

- **The Department of Education should determine a standard name for FERPA notices and opt outs, and require that schools use these names.** FERPA annual notices and opt out forms should be consistently named and have a consistent structure so that students, parents, and educators can more readily understand where to locate resources online and off.

- **Educational institutions must stop brokering student directory information to data brokers.** This is a significant gap in student privacy protection. We are aware of one state education department that has put rules in place that prohibit the sale of student information. This is an appropriate and beneficial structural protection for student data that restricts data flows from the school side. It is crucial that these restrictions also apply to directory information.
  - Educational institutions must also have strict policies and procedural protections in place that prevent disclosure of student directory information that is subject to an opt out to any third party.
  - States that have passed or are considering passing a data broker registry statute should include language about the information of minors in the registry’s requirements. Data brokers should be specifically required to answer the question of if the company has had “actual knowledge that it possesses the brokered information of minors.”

- **Congress, the FTC, state legislatures, States Attorneys Generals, and the Department of Education should work together to create a do-not-broker procedure, list, or rules that ensure that student directory information does not go to data brokering activities.**

- **Schools should no longer designate photographs or any images of students as directory information.**

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17 One way to identify data brokers is to look at state data broker registration databases. See, e.g., the Vermont data broker registration records, available at [https://www.sec.state.vt.us/corporationsbusiness-services/data-brokers.aspx](https://www.sec.state.vt.us/corporationsbusiness-services/data-brokers.aspx).
information. Photos and videos of students pose safety risks to some students. Publicly available images of students on school websites and elsewhere can and already have been collected by commercial companies and used in biometric and face recognition systems.

• **There should be an express prohibition on the use of student photographs for training face recognition systems by anyone.** Schools that designate minor students’ photographs as directory information need to restrict those photographs from becoming available to third parties to “scrape” or otherwise utilize in training databases for biometric systems. Also, school yearbook companies that utilize facial recognition should only do so with express prior written consent, and schools should ensure that yearbook companies cannot keep or share any facial recognition templates with any other third parties.

• **Schools using “platforms,” better described as integrated student information systems, must provide publicly available FERPA annual notices, opt outs, and other information outside of those systems in a way that is accessible to members of the public.**
  - Schools that are using a student platform need to assess the platform implementation for the availability, prominently on the school’s home page, links to FERPA annual notices and FERPA opt out forms as well as other information about FERPA for parents and students. This information needs to be posted in a way that is available to the public, including prospective parents who do not have password access to the platform contents.
  - No student or parent should ever be asked to waive their FERPA rights by a vendor or a platform in order to view a FERPA annual notice. FERPA notices and opt outs should be made publicly and prominently available without any registration requirements by vendors or platforms.
  - Any schools using platforms must be mindful of student and parent vulnerabilities from health-related, socioeconomic and other vulnerabilities.

• **The Department of Education needs to craft a new policy regarding appropriate methods of giving FERPA notice to incorporate modern methods. For example, web sites and mobile phones.**

• **The Department of Education should encourage accessible methods of FERPA notice that include people who may, for example, have low or no vision, or other challenges that would...**

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18 An integrated student information system is one that manages student records in concert with additional data streams such as school budgetary information, district programs, and more. Integrated systems can be quite large and complex. The largest systems may incorporate dissemination of deidentified student data to requesting institutions. A detailed description of such a system is available at the National Center for Education Statistics, Building an Automated Student Record System, Available at: https://nces.ed.gov/pubs2000/building/desc_system.asp. The U.S. Department of Education has issued guidance on the use of integrated student information systems. Integrated Student Information Systems and Privacy, U.S. Department of Education, Privacy Technical Assistance Center, January 2017. Available at: https://student-privacy.ed.gov/sites/default/files/resource_document/file/IDS-Final_0.pdf.

19 WPF notes the importance of the US Department of Education letter to the Agora Cyber Charter School, Nov. 2, 2017. Available at: https://studentprivacy.ed.gov/sites/default/files/resource_document/file/Agora%20Findings%20letter%20FINAL%202011.2.17.pdf. This letter clarifies that students and parents cannot be compelled to waive their FERPA rights by requests from school technology vendors, including platforms. This extends to the status of waiving FERPA rights to information collected at registration. WPF asserts that parents and students should also not be forced to register at a school platform in order to learn of and see the school’s annual FERPA notice, including the specific categories of information it has designated as directory information. FERPA annual notice is important, and should be made publicly and prominently available — without any registration requirements by vendors or platforms.
prevent or hinder them from accessing a FERPA notice or opt out form, including lack of technology.

- DoED should require schools to provide paper and publicly available electronic versions of FERPA forms to promote accessibility and transparency.
- The Department of Education should review its own FERPA model notice and other guidance materials for “negative nudges” that may encourage parents or students to not choose privacy and safety protective options.
- The Department of Education needs to urgently review the categories of information that may be considered for inclusion in directory information. The current categories do not fit the test of no harm and no invasion of privacy. Several categories must be struck from the list and others should be considered for addition. While perfection in policy is not obtainable, the Department must think through the lifetime consequences for the release of home address, exact place and data of birth, and other categories. Photographs of students, including minors, under the directory information rules, can be repurposed without prior consent; for example, for biometric face recognition testing and inclusion in test databases or functional databases. Many parents and students would be likely to object to this use. While biometric templates held by the school may not be released under the current rules without consent, there is nothing to prevent photographs designated as directory information from being repurposed after disclosure, for example, in biometric products. This is not a “science fiction” scenario, it is already happening. The Department of Education has a responsibility to think through the more modern risks to information of students and to take appropriate action.

B. Background: The Framework of the Family Educational Rights and Privacy Act

Congress enacted the Family Educational Rights and Privacy Act (FERPA) in 1974 to protect the privacy of students and their parents or guardians. Congress amended FERPA nine times since 1974. FERPA confers rights to parents when the student is under the age of 18. The rights transfer to students when they turn 18 or enroll in a postsecondary school, thus becoming “eligible students.” The following are FERPA’s key rights:

Right of Access (Inspect and Review). First, FERPA ensures that parents of students and eligible students have the right to access their educational records held by educational institutions and by State

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20 In January 2020, a New York Times article revealed that a facial recognition company, Clearview AI, had scraped in excess of 3 billion images from social media sites. The images were used in a product then sold to law enforcement agencies. There are new implications from the scraping of photographs from social media websites, and also the “open web.” See: Kashmir Hill, *The secretive company that might end privacy as we know it*, The New York Times, January 20, 2020. Available at: https://www.nytimes.com/2020/01/18/technology/clearview-privacy-facial-recognition.html. See also: Louise Matsakis, *Scraping the web is a powerful tool, Clearview AI abused it*, Wired, January 25, 2020. Available at: https://www.wired.com/story/clearview-ai-scraping-web/.


23 FERPA rights fall to the parents or guardians of children under the age of 18. At the age of 18, FERPA rights revert to the student. Under FERPA, students 18 and older are “eligible students.”
Right to Correct Records (Request Amendment(s)). Second, FERPA allows parents and eligible students to challenge the content of their educational records and to seek to amend records.

Right to Restrict Release of Records. Third, FERPA allows parents and eligible students to restrict the release of their educational records to third parties, with some exceptions.

FERPA applies to educational institutions and agencies that receive funds under any program administered by the Department of Education. In practice, this means that most public elementary and secondary schools and school districts are subject to FERPA, but most private and religious K-12 schools are not subject to FERPA because they generally do not accept federal funding from the Department of Education. FERPA covers most postsecondary institutions such as colleges and universities both public and private, including medical, law, and other professional schools by virtue of the mechanics of Federal student grant and assistance programs.

The National Center for Education Statistics' count of U.S. educational institutions yields a total of 98,277 public schools, 34,576 private schools, and 7,021 postsecondary Title IV institutions. Title IV institutions are those educational institutions that accept funding administered by the Department of Education, which brings them under FERPA regulations. All totaled, counting just the public K-12 institutions and the postsecondary Title IV institutions, FERPA covers approximately 105,298 educational institutions.

Exceptions to the consent restrictions are set out in §99.31, and include 16 specific exceptions where disclosure of student educational records are allowed without consent.

The scope of FERPA has changed over the course of FERPA's legislative history. When it was first enacted, the scope of FERPA was very broad. A covered entity under the original FERPA statutory language was defined as “any state or local educational agency, any institution of higher education, any community college, any school, agency offering a preschool program, or any other educational institution.” This would have allowed FERPA to cover private schools. The Buckley/Pell amendment was brought forward just four months after the original enactment in 1974. The amendment narrowed the scope of FERPA to an “Educational agency or institution” defined as “any public or private agency or institution which is the recipient of funds under any applicable program.”

Educational institutions that receive funding from one or more of the programs under Title IV are covered by FERPA as a whole, even if just a constituent part of the institution receives the funds. 34 CFR §99.1 (d).

“Title IV institutions” in this context are those institutions that accept student assistance programs administered by the by the US Department of Education. Title IV is part of the Higher Education Act of 1965, as amended in 1998. Title IV specifies student assistance programs administered by the Department of Education. Title IV, Part A specifies grant programs to students, an exemplar of which is Federal Pell Grants. (Sec. 401). Title IV also covers federal work-study programs, federal Perkins loans, and William D. Ford Federal Direct Loan Programs, among others.

Number of educational institutions, by level and control of institution: 
Selected years, 1980–81 through 2015–16

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<thead>
<tr>
<th>Level and control of institution</th>
<th>1980–81</th>
<th>2009–10</th>
<th>2015–16</th>
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<tr>
<td>Public schools</td>
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<td>Elementary</td>
<td>59,326</td>
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</tr>
<tr>
<td>Postsecondary Title IV institutions</td>
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<td></td>
<td></td>
</tr>
<tr>
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<tr>
<td>4-year colleges</td>
<td>1,957</td>
<td>2,774</td>
<td>3,004</td>
</tr>
</tbody>
</table>

Figure 1

While the FERPA statute itself is short, the U.S. Department of Education has written extensive regulations implementing FERPA. These regulations include a series of rules regarding restrictions of the release of educational records to third parties. Generally, under FERPA, protected information about students is divided into three broad categories: educational records, personally identifiable information, and directory information.

### C. Protected Information as defined under FERPA

#### -Educational Records

Schools cannot disclose educational records of students to third parties without specific consent unless one of 16 exceptions applies (See below.) Examples of protected student information in educational records under FERPA include student health records, grades, disciplinary notes, assessment tests, and so forth.

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31 Education records are defined under FERPA as those records that are (1) directly related to a student, and (2) maintained by an educational agency or institution or by a party acting for the agency or institution. 20 U.S.C. § 1232g(a)(4)(A); 34 CFR § 99.3. What constitutes an educational record has been particularly contentious, and the definition has been subject to extensive litigation. See for example, U.S. Supreme Court, Owasso Independent School Dist. No. I-011 v. Falvo, 534 U.S. 426, Supreme Court of the United States, (2002).
In order to be considered “an educational record” under FERPA, the records must be maintained by the educational institution. A record maintained by a student is not an educational record under FERPA. When teachers and administrators discuss FERPA protections, they often mean protections for protected information in educational records. Significant recordkeeping requirements exist regarding requests for and disclosures of personally identifiable information from students’ educational records.\(^{32}\)

Exceptions to the requirement of prior consent are nuanced, and are discussed in detail by the Department of Education.\(^{33}\) In appendix D of this report, we provide a complete copy of all of the FERPA exceptions. Some of the key exceptions include:

- **Directory information** as defined under FERPA. A school may disclose directory information without consent if it has given public notice of the types of information it has designated as directory information, and the period of time within which an eligible student has to notify the school that he or she does not want any or all of those types of information designated as directory information. Also, FERPA does not require a school to notify eligible students individually of the types of information it has designated as directory information. Rather, the school may provide this notice by any means likely to inform eligible students of the types of information it has designated as directory information.

- University officials carrying out their specifically assigned educational or administrative responsibilities. A contractor, consultant, volunteer, or other party to whom an agency or institution has outsourced institutional services or functions may be considered a school official under this paragraph provided that the outside party
  
  (1) Performs an institutional service or function for which the agency or institution would otherwise use employees;
  
  (2) Is under the direct control of the agency or institution with respect to the use and maintenance of education records; and
  
  (3) Is subject to the requirements of § 99.33(a) governing the use and redisclosure of personally identifiable information from education records.

- Appropriate officials in connection with a health or safety emergency.\(^{34}\)

- To authorized representatives of the Comptroller General of the United States, the Attorney General of the United States, the U.S. Secretary of Education, and State and local educational authorities for audit or evaluation of Federal or State supported education programs, or for the

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32 FERPA-covered educational institutions must maintain records of each request for access and each disclosure of personally identifiable information from the records of each student. For each request or disclosure, schools must include the names of the parties who have requested or received records, and what the legitimate interests the parties had in making the request. See: FERPA 34 CFR § 99.32. Available at: https://studentprivacy.ed.gov/ferpa-regulations#0.1_se34.1.99_137.


In Part V of this report, see also the Resources for Parents and Students, which has more information about emergencies and FERPA.
enforcement of or compliance with Federal legal requirements that relate to those programs.

- To organizations conducting studies for or on behalf of the school making the disclosure for the purposes of administering predictive tests, administering student aid programs, or improving instruction.

- To comply with a judicial order or a lawfully issued subpoena.

- To the victim of an alleged perpetrator of a crime of violence or a non-forcible sex offense concerning the final results of a disciplinary hearing with respect to the alleged crime.

- To any third party the final results of a disciplinary proceeding related to a crime of violence or non-forcible sex offense if the student who is the alleged perpetrator is found to have violated the school’s rules or policies. The disclosure of the final results only includes: the name of the alleged perpetrator, the violation committed, and any sanction imposed against the alleged perpetrator. The disclosure must not include the name of any other student, including a victim or witness, without the written consent of that other student.\(^{35}\)

**-Personally Identifiable Information under FERPA:**

FERPA prohibits disclosure of *personally identifiable information* that could create a risk of harm or would constitute an invasion of privacy. Biometric information and Social Security Numbers are specifically prohibited from release without prior written consent. Under FERPA regulations, “personally identifiable information” is defined as including, but not limited to, information that directly or indirectly identifies students.\(^{36}\) As with disclosure of educational records, there are some exceptions that allow release without consent.\(^{37}\)

**-Directory Information under FERPA:**

FERPA treats *directory information*, the third category of protected information, differently than other types of protected information under FERPA. *Directory information* means information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. See section D for specific categories of information that can and cannot be designated as directory information.

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36 Definition of Personally Identifiable Information under FERPA, CFR 34 §99.3

The term includes, but is not limited to—

(a) The student's name;
(b) The name of the student’s parent or other family members;
(c) The address of the student or student’s family;
(d) A personal identifier, such as the student’s social security number, student number, or biometric record;
(e) Other indirect identifiers, such as the student’s date of birth, place of birth, and mother's maiden name;
(f) Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or
(g) Information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates.

See Appendix D for a full list of the exemptions.

37 Exceptions to the release of student educational records without prior written consent are set out in §99.31, and include 16 specific exceptions.
Schools may designate a subset of students’ educational records as directory information. The information that schools classify as directory information may be publicly released without prior consent from parents of students or eligible students, if certain conditions are met.

In the FERPA regulations, “publicly released” is broadly defined, and includes release of information to any individual or organization other than the student’s parents or eligible student.\(^\text{38}\) Publicly released directory information is “in the wild,” in that after the school releases it, directory information can be freely republished and redisclosed with no restrictions. Schools must track disclosures of protected information from educational records, and the information disclosed generally may not be redisclosed. However, FERPA does not require that schools to track disclosures of directory information.

**D. What information can schools classify as Directory Information?**

*As discussed, directory information* means information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. Directory information is typically a subset of information that FERPA includes as “personally identifiable information.”

To reiterate, the definition of “personally identifiable information” under the FERPA 2011 regulations is as follows:

*Personally Identifiable Information*

- The term includes, but is not limited to—
  - (a) The student’s name;
  - (b) The name of the student’s parent or other family members;
  - (c) The address of the student or student’s family;
  - (d) A personal identifier, such as the student’s social security number, student number, or biometric record;
  - (e) Other indirect identifiers, such as the student’s date of birth, place of birth, and mother’s maiden name;
  - (f) Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or
  - (g) Information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates.\(^\text{39}\)
  - Of this set of personally identifying information described in FERPA, some information is not available to use as directory information. The regulations give a list of allowable

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\(^{38}\) “Publicly released” is defined in FERPA under disclosure. “Disclosure means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record.” 34 CFR Part §99.3.

\(^{39}\) 20 U.S.C. 1232g; 34 CFR Part 99.3.
directory information, and give educational institutions discretion to add more categories to the list. The following is the most recent regulatory description of what can and cannot be included in directory information:

**Directory Information**

- (a) Directory information includes, but is not limited to, the student’s name; address; telephone listing; electronic mail address; photograph; date and place of birth; major field of study; grade level; enrollment status (e.g., undergraduate or graduate, full-time or part-time); dates of attendance; participation in officially recognized activities and sports; weight and height of members of athletic teams; degrees, honors, and awards received; and the most recent educational agency or institution attended.

- (b) Directory information does not include a student’s—
  - (1) Social security number; or
  - (2) Student identification (ID) number, except as provided in paragraph (c) of this definition.

- (c) In accordance with paragraphs (a) and (b) of this definition, directory information includes—
  - (1) A student ID number, user ID, or other unique personal identifier used by a student for purposes of accessing or communicating in electronic systems, but only if the identifier cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user’s identity, such as a personal identification number (PIN), password or other factor known or possessed only by the authorized user; and
  - (2) A student ID number or other unique personal identifier that is displayed on a student ID badge, but only if the identifier cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user’s identity, such as a PIN, password, or other factor known or possessed only by the authorized user.

FERPA attempts a difficult balancing act with its approach to differentiating *personally identifiable information* and *directory information*. In today’s data ecosystems, it is difficult to persuasively argue that the information FERPA allows for inclusion in directory information is without “risk of harm” in today’s world and its digital ecosystems. This is particularly true of full name, street address, photos and videos, and home address. See the section of this report regarding data brokers.

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E. FERPA Notices and the Conditions for Public Release of Students’ Directory Information

Student directory information may be disclosed publicly without consent after certain conditions are met. The key requirement FERPA imposes on schools is that prior to disclosing directory information, schools must give public notice to parents of students and to eligible students, and this notice must be made annually. The notice must contain three specific elements:

1. **What kinds of information** the school has designated as “directory information.”

2. **Clear notice** that parents or eligible students have the right to refuse or opt out of these types of information as directory information.

3. **The specific time period** parents or students have available to notify the educational institution in writing that they do not want all or part of the information designated as directory information. The time allowed must be reasonable for parents or eligible students to submit a FERPA directory information opt out request.

The FERPA notice requirements are specified in the regulations issued by the Department of Education under the FERPA statute. The most recent iteration of the FERPA regulations published in 2011.42

Schools may choose to designate directory information elements, but also and also take an extra step of placing restrictions on the information they have designated as available for disclosure. For example, one institution wrote in its FERPA policy that because date of birth could be considered “somewhat more sensitive to some community members” that the school was going to make reasonable efforts that the date of birth would only be released to “those who have a legitimate need to obtain such information.”

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a) An educational agency or institution may disclose directory information if it has given public notice to parents of students in attendance and eligible students in attendance at the agency or institution of:

(1) The types of personally identifiable information that the agency or institution has designated as directory information;

(2) A parent’s or eligible student’s right to refuse to let the agency or institution designate any or all of those types of information about the student as directory information; and

(3) The period of time within which a parent or eligible student has to notify the agency or institution in writing that he or she does not want any or all of those types of information about the student designated as directory information.

(b) An educational agency or institution may disclose directory information about former students without complying with the notice and opt out conditions in paragraph (a) of this section. However, the agency or institution must continue to honor any valid request to opt out of the disclosure of directory information made while a student was in attendance unless the student rescinds the opt out request.

... (d) In its public notice to parents and eligible students in attendance at the agency or institution that is described in paragraph (a) of this section, an educational agency or institution may specify that disclosure of directory information will be limited to specific parties, for specific purposes, or both. When an educational agency or institution specifies that disclosure of directory information will be limited to specific parties, for specific purposes, or both, the educational agency or institution must limit its directory information disclosures to those specified in its public notice that is described in paragraph (a) of this section.

(e) An educational agency or institution may not disclose or confirm directory information without meeting the written consent requirements in §99.30 if a student’s social security number or other non-directory information is used alone or combined with other data elements to identify or help identify the student or the student’s records. Available at: https://studentprivacy.ed.gov/ferpa-regulations#0.1_se34.1.99_137.
When an educational institution places restrictions like these on directory information, it is called “limiting directory information.” Putting limits on the disclosure of information designated as directory information is up to the discretion of the school. When schools specify some limits on how they disclose directory information, the limit is binding on them.

Under FERPA, the regulations regarding directory information are permissive, which means that schools may release directory information if they want to. But schools do not have to release this information because directory information disclosures are not mandated by the FERPA statute or its associated regulations, with some exceptions.

F. What Methods Can Schools Use to Make Notice Under FERPA?

Current FERPA regulations require that schools must provide annual notice to parents and eligible students. The particular means or method of notification is left “to the discretion of each school.” The school may generally provide notice by any means likely to inform eligible students of the types of information it has designated as directory information. The Department of Education allows for group notification of FERPA rights, and does not require that schools notify parents or eligible students individually. The means of notification that have been specifically mentioned in the FERPA regulations include notice through the following methods:

- A special letter,
- PTA bulletin,
- Student handbook,
- Or a Newspaper article

These notification methods are just examples. Nevertheless, the Department of Education needs to provide formal, updated guidance regarding FERPA notification that takes into account notification on websites, via electronic mail, or through school platforms or integrated student information systems.

The research results regarding FERPA notices appear in detail in the following section of the report along with best practices to help improve outcomes.

43 “Schools may disclose, without consent, ‘directory’ information such as a student’s name, address, telephone number, date and place of birth, honors and awards, and dates of attendance. However, schools must tell parents and eligible students about directory information and allow parents and eligible students a reasonable amount of time to request that the school not disclose directory information about them. Schools must notify parents and eligible students annually of their rights under FERPA. The actual means of notification (special letter, inclusion in a PTA bulletin, student handbook, or newspaper article) is left to the discretion of each school.” [Emphasis added] US Department of Education, Family Compliance Office Home, Family Rights and Privacy Act, Available at: https://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html.
Part II: Discussion of Findings

FERPA Policies

I. Notice of FERPA Policies

The mechanics of FERPA rely heavily on the notice component of FERPA. Each year, educational institutions must provide a FERPA notice to parents and eligible students, and this notice must provide three specific elements.

First, notice must provide specific information about what kinds of information the school has designated as “directory information.”

Second, the notice must clearly state that parents or eligible students have the right to refuse or opt out of these types of information as directory information.

Third, the notice must declare the specific time period that parents or students have to notify the educational institution in writing that they do not want all or part of the information designated as directory information. The amount of time for opt out must be reasonable.

Again, it is important to emphasize that schools are given broad discretion as to the mechanics of how they make the notice. For example, schools may provide a notice in a special letter, a newspaper article, a PTA bulletin, or a student handbook, for example. The means of notification are not limited to these forms of notification, however.

The FERPA regulation sets out the requirements for notice. The three-part FERPA notice is not a

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a) An educational agency or institution may disclose directory information if it has given public notice to parents of students in attendance and eligible students in attendance at the agency or institution of:

1. The types of personally identifiable information that the agency or institution has designated as directory information;

2. A parent’s or eligible student’s right to refuse to let the agency or institution designate any or all of those types of information about the student as directory information; and

3. The period of time within which a parent or eligible student has to notify the agency or institution in writing that he or she does not want any or all of those types of information about the student designated as directory information.

b) An educational agency or institution may disclose directory information about former students without complying with the notice and opt out conditions in paragraph (a) of this section. However, the agency or institution must continue to honor any valid request to opt out of the disclosure of directory information made while a student was in attendance unless the student rescinds the opt out request.

... 

d) In its public notice to parents and eligible students in attendance at the agency or institution that is described in paragraph (a) of this section, an educational agency or institution may specify that disclosure of directory information will be limited to specific parties, for specific purposes, or both. When an educational agency or institution specifies that disclosure of directory information will be limited to specific parties, for specific purposes, or both, the educational agency or institution must limit its directory information disclosures to those specified in its public notice that is described in paragraph (a) of this section.

e) An educational agency or institution may not disclose or confirm directory information without meeting the written consent requirements in §99.30 if a student’s social security number or other non-directory
suggestion for covered schools; appropriate and compliant notice must be given. The Department of Education has published Model FERPA Notices, included for reference in Appendix E.

Effective notice is crucial. If parents and eligible students do not receive proper notification that directory information may be released without prior consent, then important protections provided by the statute become moot in practice. The intent of Congress was to provide privacy for parents and students.

We utilized two separate methodologies to understand FERPA notices.

- First, we undertook an exhaustive search for FERPA notices at the studied schools. We attempted to find a studied school’s FERPA notice no matter how much effort it required. This meant checking web sites, emailing schools, and calling schools and school districts. The reason phone calls were in some cases necessary is because schools may distribute FERPA notice via paper or email. For a small percentage of schools, we were unable to list any result. Some schools refused to talk to us when we called them and requested a copy of the FERPA notice. A very small percentage of schools simply did not have the form, or did not understand what we were asking for.

- In our second methodology we sought to quantify what a very simple search on the schools’ web sites would find regarding FERPA notice and opt out. We conducted a methodical search of school web sites using specific parameters for each studied school.
  - When a search tool was available for the school and/or district website, we did a keyword search for FERPA and tested for the following:
    - A.) Whether there were search results for “FERPA,” and
    - B.) If there were results, did a search lead to the annual FERPA notice?
  - For this methodology, we did not conduct hours of research in order to find the FERPA forms.
  - When a search tool was not available, we looked on the home page for a link to FERPA.

We give a more detailed description of our methodology in the appendices of this report.

For the research regarding online notice, we analyzed the web sites of educational institutions according to all of the data fields listed in Appendix A and B. It is important to contextualize the research results by noting that nowhere in the FERPA regulations is it specified that educational institutions must post FERPA notice on a web site. It is acceptable for educational institutions to provide the notice on paper, or however the institution sees fit. However, because of the widespread use of online tools today, testing for online versions of the FERPA notice is an important data point.

The purpose of conducting this research is 1) to understand how a modern parent or eligible student would reasonably be able to find FERPA materials on their own; 2) to document in this baseline study the general practices of schools; and 3) to propose improvements. It is a reasonable assumption that students and parents will seek FERPA documentation online as a primary response to acquiring the relevant FERPA information from a school. As such, this research analyzed the online implementation of FERPA.

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information is used alone or combined with other data elements to identify or help identify the student or the student’s records. Available at: https://studentprivacy.ed.gov/ferpa-regulations#0.1_se34.1.99_137.
A. What the Research Found

The research methodologies for FERPA notice included a comprehensive search and a second “simple search” for locating material on school websites as a parent or student might.\textsuperscript{45}

Comprehensive search for notice across multiple posting mediums, including paper:

When utilizing \textit{many methods of searching for FERPA notice} (comprehensive website searches, website searches at school and district level, and in some cases relevant board of education searches, phone calls, emails), then \textit{a majority of educational institutions did provide some form of FERPA notice.}

- 98 percent or 100 of 102 postsecondary institutions studied provided annual FERPA notices when a comprehensive search for notice was performed utilizing phone, web, paper and other searches.
- 97 percent or 5,035 of 5145 primary / secondary schools studied provided annual FERPA notice when a comprehensive search for notice was performed was performed utilizing phone, web, paper and other searches.

\textit{Note: One postsecondary school and a handful of primary/secondary schools did not respond to WPF’s queries via phone or other methods.}

Comprehensive searches could take anywhere from a half hour to many hours to complete.

We note that while it was important for WPF to conduct comprehensive searches to establish a research baseline, it also became abundantly clear that FERPA notice can be very difficult and time consuming to reacquire if the notice was not also made prominently available online.

\textbf{Search for online FERPA notice utilizing simple search techniques}

Utilizing a “simple search” methodology, we searched for information on school websites regarding \textit{online FERPA notice}. We found:

- 51 percent of primary/secondary schools posted some form of annual FERPA notice online.
- 98 percent of postsecondary schools posted the annual FERPA notice online.

It is important to note the overall influence of school platforms in these results. At the primary and secondary levels, if a large, urban school district was utilizing a platform that did not post FERPA notices, then it could mean that more than 1,000 schools were on that platform and did not post FERPA notices online in a public facing way.

School districts’ choice of platform and how that platform was configured had an effect on the results at the primary and secondary level in particular. Platforms at the postsecondary level generally did not interfere with the presence of public-facing FERPA pages on postsecondary educational sites.

1. At the postsecondary level, 98 percent of schools posted FERPA notice online. Within these results are important distinctions in notice:

   - 2 institutions provided no FERPA notice online, nor opt out forms.

\textsuperscript{45} The survey methodologies are explained in Appendix A, B, and C.
• 5 institutions provided FERPA notice, but the locations were in difficult locations (student financial aid web pages, how to pay a bill, IT department.)
• 30 institutions provided FERPA notice online, but not an opt out form.
• 8 institutions provided exceptionally clear FERPA notice online, but no opt out form.
• 35 institutions provided very clear notice and a FERPA opt out form.
• 22 institutions provided notice and opt out, but it was unclear, dense, or hard to navigate.

The problematic practices can be grouped into several key areas.

First, problems most typically involved the *completeness* of the notices. The preponderance of problems involved incomplete information, or information that was disorganized or hard to understand. The problems were not about just complying with FERPA. For example, dense and legalistic language is not a compliance problem. It is a “FERPA-plus” challenge in that the notice was not effective in communicating to students and parents.

• *Missing FERPA policies*: Not all schools posted complete FERPA notices or policies online. For example, one state postsecondary school did not provide FERPA *notice* to students online, although an *opt out form* was available in the school’s online system.
• *Legalistic language*: Some FERPA websites had complete FERPA notices and forms, but they contained dense language that could be difficult for many students to follow. The school technically complied with notice requirements, but the notice was ineffective.
• *Missing links to FERPA forms*: One of the most common problems at the postsecondary level was that some FERPA forms were missing. **Of the 100 schools that posted a FERPA notice online, 30 did not post a FERPA opt out form online.** A key reason schools did not post an opt out form is because the schools directed students to opt out by writing a letter or “notifying in writing” the proper department. A number of schools had a good FERPA page with general information, but the webpages did not link to either withholding or withdrawal forms. Students learned they had rights, but could not easily effectuate them.

From our researchers’ notebooks, some excerpts of bright spots and problems when evaluating FERPA notices online.

• “Limited information only pertaining to FERPA in the context of paying university bills.”
• “Very clear pages for both students and staff members on FERPA rights and responsibilities.”
• “Very obscure location under cost & aid / tuition & costs / student accounts.”
• “Poorly organized page on IT section of website with minimal relevancy to students.”
• “Clearly organized FERPA page with student-centric info; needs to have PDF of opt-out form.”
### Postsecondary: Are FERPA Notice and FERPA Opt Out Forms Downloadable Outside the Student Information System?

<table>
<thead>
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<th>No</th>
<th>Yes</th>
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<td>WA</td>
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Figure 2. Aggregate of studied postsecondary institutions that make a FERPA opt out notice and a FERPA opt out form available on their web site that is open to the public. No registration is required to view the forms.

### Postsecondary: Is FERPA Notice or Opt-out available on the School Registrar Page?

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<th>No</th>
<th>Click Away</th>
<th>Unknown</th>
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</tbody>
</table>

Figure 3. Aggregate of studied postsecondary institutions that post FERPA notices or opt outs on, or one click away from, the Registrar page. This research was to understand the role of Registrar pages of postsecondary institutions regarding FERPA information.
2. **At the primary and secondary level**, the research revealed several challenges regarding FERPA notices. The challenges documented by the research are:

- **Regarding online notification, FERPA notices were often extremely difficult to find on primary/secondary websites.** Some school websites had literally no information about FERPA, but extended searches through district-level links tended to uncover FERPA notices posted on the school website and other related websites.
  - Approximately **32 schools posted FERPA policies on a separate Board of Education website.**
  - **A handful of schools, (<30) posted FERPA notice in a code of conduct.**
  - **6 schools had broken links to FERPA notices.**
    - In cases where the notice was difficult to find, follow-up phone calls often found that the schools primarily provided either paper or electronic forms to parents once a year. The primary and secondary schools did largely comply with FERPA, but this compliance could be invisible online.
    - Some school platforms had deleterious impacts on the public availability of FERPA notice. Schools that use certain platforms create “FERPA deserts” where literally no information about FERPA can be found through a keyword search or through following links on the public website. Even if FERPA information is posted behind the password protection, it is not enough. Public-facing FERPA notices are important for parents and students who are looking for school policies around data privacy.
  - **Multiple terms, and confusion about the terms:** If schools did not use or know the term FERPA or directory information, searching for the relevant notices and opt out information online became extremely difficult. It was a challenge to discuss FERPA in general or directory information in particular with primary and secondary staff members who did not have general knowledge of these terms.
  - **Student Handbooks as a notification method:** Some primary and secondary schools post FERPA notices in student handbooks. The handbooks are sometimes available online. The FERPA notices tend to be buried in the handbooks even when the handbooks are posted online.
  - **Parents asked to write opt out letter from scratch:** Some schools ask parents to write an opt out letter from scratch.
    - For example, one school posted a notice that said: “Parents will be given an opportunity to prevent the release of this directory information by filing a written objection with the district.”46 The notice, which was primarily a notice of information designated as directory information, did not include any contact information for parents who might want to file an objection (opt out).

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46 A copy of this notice is on file at WPF offices.
“FERPA Deserts” Can be Created by Poorly Implemented School Website Platforms

Website platforms can be improperly configured and can create “FERPA deserts” where no FERPA information is available on the school website to the public. When this occurs, it is a deeply flawed implementation of FERPA. FERPA policies and notices need to be publicly available on all school websites regardless of website platform or construction.

The websites below are of schools in different states. Both schools are using the same platform.

**Middle School (Mid-Atlantic): No Search Results for FERPA on School Website**

![Middle School Website Screenshot](image)

*Figure 4: This screenshot of an urban Mid-Atlantic middle school website shows the results after a keyword search for FERPA was performed from the home page. There were no results site-wide. This is a problematic implementation of FERPA notice. This school is using the same platform as the high school in the Figure 5.*

**High School (Northeastern): No Search Results for FERPA on School Website**

![High School Website Screenshot](image)

*Figure 5: In the screenshot above, a rural Northeastern high school website in a different state displays a zero search result to a keyword search for FERPA. No FERPA notices are posted on the school’s public web site. A keyword search displays no content site wide. Clicking through the links also did not turn up FERPA notice.*

3. **Best Practices:**
Postsecondary institutions

- It is a best practice for the mandatory annual FERPA notice to be posted online in a prominent location year round.
- Although it is not mandatory per the regulations, we recommend institutions provide FERPA opt out forms online along with FERPA notices.

These two following exemplars highlight key best practices at the postsecondary level.

- **Provide a permanent online repository of policies for the handling of student data, including FERPA.** Ensure that all FERPA forms, including opt out, are available on the same webpage. Provide a “One Stop Shop” FERPA hub.
- **Keep responsibility for similar policies in the same office, such as the registrar.** There should be a list of school officials who can answer questions from students and parents. The research found that 4/102 postsecondary schools, or **less than 1 percent** of postsecondary schools, posted detailed FERPA information directly on the Registrar’s site. However, **32 percent**, or 33/102 postsecondary institutions posted FERPA information 1 to 2 clicks away from the Registrar’s site. Links from the Registrar’s site could easily become a quasi-standard location for postsecondary schools to post FERPA data. This would provide helpful consistency for students.

A best practice exemplar here is Penn State University, which provides a good, simple form listing relevant data policies on the Registrar’s page. **FERPA policies are included and are thoroughly described.** The FERPA materials include a link to a comprehensive, clear, and well-written document titled *University Policy on Confidentiality of Student Records*. That document discusses FERPA and other privacy policies, includes names and contact details of school staff who can provide more information, and lists university officials responsible for student records. The addition of contact information and responsible parties is helpful for students and parents.

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47 Penn State, Registrar Page. Available at: [http://www.registrar.psu.edu/confidentiality/directory_information.cfm](http://www.registrar.psu.edu/confidentiality/directory_information.cfm).

48 Penn State University, AD11 University Policy on Confidentiality of Student Records. Available at: [https://policy.psu.edu/policies/Ad11](https://policy.psu.edu/policies/Ad11).
Best Practice, PennState University Registrar's Page

Figure 6. PennState adds excellent contextual text about FERPA directory information and links to FERPA annual notices and FERPA opt out forms directly on its Registrar page. This is a best practice exemplar for FERPA notice.

The University of Tennessee, Knoxville, provides another best practice case study for treatment of FERPA materials. The university provides the FERPA annual notice, all FERPA forms, explanations of the policies, and the full context for FERPA at a FERPA website. The website provides the kind of rich notice that serves students and parents.

49 University of Tennessee, Knoxville, One Stop Shop: FERPA. Available at: https://ferpa.utk.edu/procedures/.
Figure 7. The University of Tennessee, Knoxville created a “one stop shop” with prominent labeling, prominent links to FERPA directory information privacy, and additional information. This is another exemplar of a best practice in FERPA notice implementation.

Best Practices:

Primary and Secondary institutions

- Provide parents, students, and the public with prominent online FERPA notice, and online FERPA opt out forms. In today’s digital world, all FERPA materials online must be available on a public-facing part of the school website. Parents must be able to easily find FERPA materials before they enroll their children in a school. If the school runs a non-public school platform or student portal, the school will still need to ensure that in addition to school portal activity around FERPA, that there is publicly available notice on the website.

- Prominent FERPA notice entails providing a clearly labeled link from the home page directly to the FERPA annual notice. Or, a search for FERPA in a search box should uncover the pertinent information. Parents and students should not need to click through websites and do investigative searches to find the annual FERPA notice.

A best practice exemplar may be found on this Baltimore City School’s website, Carver Vocational Tech High School, Baltimore City Schools. Search results for term FERPA. Available at:
FERPA on the home page led to clear results for FERPA. The first search result is the relevant page: the Opt out of release of directory information. This type of simple search with a well-positioned relevant result provides a supportive environment for a student or parent searching a school website for FERPA information.

**Best Practice, Baltimore City Public School website search, FERPA results**

![Image showing Baltimore City Public School website search results for FERPA](https://www.baltimorecityschools.org/schools/454)

Figure 8. At Baltimore City Public School website, a search from the school's home page displayed relevant results that led to FERPA notice and opt out information. This is an example of a best practice implementation of FERPA notice online.

The actual FERPA opt out notice for the school is quite good, and represents best practices regarding clarity, granularity of choice, and completeness.
Best Practice: FERPA Opt out and contextual information for Baltimore City Public Schools

Baltimore City Public Schools (City Schools) takes student privacy very seriously. Sometimes we are asked to provide information about schools and students to organizations or individuals, and sometimes we share pictures of students, student work, and other information about school activities.

If you DO NOT want information about your child (or about yourself if you are a student 18 years of age or older*) to be shared, please read this form, fill out the blanks and return the signed form to your school.

What information may be shared with outside groups?
City Schools may share “directory information” with outside organizations. A federal law (the Family Educational Rights and Privacy Act, or FERPA) defines this as information that is generally not considered an invasion of privacy to release. City Schools designates a student’s name, address, telephone number, current school name, photographic image, participation in activities and sports, height and weight (if on an athletic team), years in attendance at City Schools, grade level, major field of study, degrees, honors and awards received, and most recent educational institution attended prior to City Schools as directory information.

There are also two federal laws that require City Schools to provide military recruiters, upon request, with student names, addresses, and telephone numbers, unless parents/guardians (or you, if you are a student 18 years of age or older*) have advised us that they do not want the information disclosed.

If you DO NOT want your directory information released to some or all outside organizations, you must fill out this form, sign it, and return it to your school. Unless you do so, City Schools may release this information without your written or oral consent, including to military recruiters.

* If you are a current student, 18 years of age or older, do not live at home, and are not claimed as a dependent by your parent/guardian on his/her tax return, you are considered an "eligible student" and can fill out this form yourself.

Complete and return only if you DO NOT want information to be shared in any or all of the ways described on this form by September 30, 2019 or within two weeks of enrollment.

Student’s name: _____________________________

Student’s identification number (if known): _____________________________

Current school and grade: _____________________________

Parent/guardian’s name (please print; leave blank if you are an eligible student): _____________________________

If you are signing as an eligible student, what is your date of birth? _____________________________

Signature of parent, guardian or eligible student: _____________________________ Date: _____________________________

As the parent/guardian of this student or as the eligible student, I do not allow City Schools to release my child’s (or, if you are an eligible student, my) directory information (check all that apply):

- In City Schools materials (e.g., team rosters, performance programs or playbills, school or district websites, social media, etc.)
- To United States military recruiters
- To institutions of higher learning
- To the media
- To any organization of parents, teachers, students or former students; businesses; agencies; governmental or political offices; or any combination of these groups
- To anyone

I do not allow City Schools or external media outlets (check all that apply):

- To report on or use my child’s (or, if you are an eligible student, my) name, photo, audio-, or videorecording
- To publish, reproduce, or display my child’s (or, if you are an eligible student, my) intellectual property created during school-sponsored activities and/or learning experiences

Figure 9. A click on a link to Opt Out of Release of Directory Information on Baltimore City Public School’s website leads directly to this quite good FERPA opt out form. Making such forms available to the public prior to any sign in requirements is a best practice.
• Notice of FERPA policies and opt out should be prominent and should remain online year-round. Many K-12 schools provide paper forms or email forms to parents. A best practice is to provide FERPA annual notice linked from a prominent place on the home page at all times in addition to the paper forms.

• Use consistent terms: FERPA, directory information opt out, or directory information restriction are the most commonly used terms. It would be helpful for the Department of Education to standardize the terminology so that students and parents see the same terms at all schools.

• Put all relevant FERPA forms and information in one prominent location online that is publicly available. Parents and students who are relocating or thinking of a local move need to be able to see FERPA forms readily online.

• To serve the needs of those who are highly adapted to digital technologies, educational institutions should ensure FERPA notices are readily available online and can be read on mobile devices as well as laptop computers. School web sites are key for providing prominent links to FERPA annual notices that are accessible to the public and students.

Additional recommendations:

• Guidance: The U.S. Department of Education should provide new guidance for K-12 schools specifically providing that all FERPA materials be available on the public-facing web sites of K-12 schools as a minimum necessary step.

• The guidance should also address “school platforms” or integrated student information systems. The guidance should specifically provide that parents can access FERPA materials without being required to provide registration information to any system. FERPA policies should be posted online and available to the public to meet general transparency obligations.

• School boards, state lawmakers, and Department of Education regulators should provide updated and more specific instructions for primary and secondary schools’ annual FERPA notices.

II. Information Schools Can Share When No Opt Out is in Place?

Directory information means information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. The specific types of information included in directory information are left to the discretion of the school. As a result, there is wide variability in what information educational institutions share without prior consent from a student or parent.

Schools can designate as directory information a student’s full name, age, photograph, email address, phone number, grade or level of study, course of study, and physical address, among other information. Schools may not include as directory information Social Security Numbers, or school ID numbers (there are some exceptions for the use of school ID numbers).

One point worth emphasizing is that some directory information about students at all levels may be collected by data brokers and used in personal and household files about the student for the rest of the student’s life. Information that a school may eventually discard after a student leaves can live on forever in private files. Further, information that schools have disclosed about students name, exact data of birth, gender, primary language spoken, and even home address and names of parents and/or guardians may be used in ways that schools have not intended nor imagined.
We also note that gender has become a complex and controversial designation. Gender is no longer just M or F, and gender changes can and do occur. Schools must grapple with these issues, but they do not need to make matters worse by releasing gender information publicly.

A. What the Research Found

• The research revealed significant variability in designations of directory information. Some schools release minimal information. Others release broad categories of information.

• Almost all schools share student names.

• An aggregate of all fields we found during the research, from all institutions including primary, secondary, and postsecondary includes the following categories of directory information that schools, in aggregate, have designated to be released without prior consent:
  o Name of student
  o Gender
  o Date of birth
  o Date and place of birth
  o Hometown, city, and state
  o Primary language spoken
  o Social media handles
  o Local address
  o Permanent home address
  o Residence Hall address
  o Address of parents or guardians
  o Telephone listings Student email addresses
  o Telephone number and email address of parents or guardians
  o Student email addresses
  o Student employee telephone listing
  o Dates of attendance
  o Withdrawal dates
  o Program / major field of study
  o Degrees and certificates received / dates
  o Academic and co-curricular awards, honors, and scholarships, and dates received
  o Number of hours enrolled and number completed
  o The most recent educational institution attended
  o Participation in officially recognized activities
  o Weight and Height of students on athletic teams
  o “PeopleSoft number”
  o Student ID number, user ID or other unique identifier
  o Student’s district identification number
  o Photograph(s)
1. At the postsecondary level, controversial data types emerged in the information that secondary schools chose to designate as directory information included:

- Local address
- Permanent home address
- Residence Hall address
- Date of birth
- Hometown, city, and state
- Nature and place of employment
- The most recent educational institution attended
- Photographs

These data fields present meaningful privacy risks to students in today's world. The FERPA regulations are out of step with modern thought and digital realities. This is especially true for people who are victims of crime or others have heightened safety concerns (e.g., victims of domestic violence, jurors, and others). Students may not wish for their previous institutions to be named for a number of justifiable reasons. People who have experienced identity theft in the past will be aware that an exact date of birth plus a local address and other key pieces of personal data is a significant risk for identity theft.

Because directory information is essentially public and without further restrictions on use and disclosure, photographs may be repurposed in private sector and governmental analytical systems, such as face recognition systems. Parents and students may object to the unrestricted use of photographs, and the photographs may present additional safety risks for some students. Further, there are emerging issues with use of biometrics derived from "scraped" photographs.51 As a result, the release of

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photographs today faces new aspects of sensitivity. Clearview AI, a company that builds face recognition products for sale to law enforcement, has disclosed in writing that it collects and uses publicly available images of minors:

Clearview AI Inc. collects publicly available images. This collection includes publicly available images of minors. We provide collected images in a searchable format to users. We actively work to remove all images of California-resident minors from all datasets. Clearview AI, Inc. processes all opt-out requests in a manner compliant with the relevant local laws, including opt-out requests related to minors.52

The open posting of student photographs has acquired risks that schools need to take into account when determining what information to include in directory information. While we do not know if Clearview AI scraped school websites or not, we do know the company scraped social media sites. Schools with social media pages to which they posted images of students may have been included in the scraping.

2. **At the primary and secondary school level**, the research showed a similar pattern of difference is the types of information included as directory information. The problematic elements include the following information:

- Gender
- Permanent home address
- Date and place of birth
- Address of parents or guardians
- Telephone number and email address of parents or guardians
- Primary language spoken
- Social media handles
- Photographs

We note that the U.S. Department of Education guidance has already provided guidance discouraging the use of students’ gender, race, and ethnicity as directory information.

“The Department, through letters, guidance, and compliance training, since at least 1991, has consistently advised that the disclosure of a student’s sex, ethnicity, or race as directory information would not comply with the regulatory definition, which provides that directory information is information that would not generally be considered harmful or an invasion of privacy if disclosed.”53

52 Filing of Clearview AI, Registration ID 367103, January 14, 2020, Vermont Data Broker Registry. Vermont Secretary of State. Available at: https://www.vtsosonline.com/online/DatabrokerInquire/DataBrokerInformation?businessID=367103. See: Response to Question 7: “Clearview AI Inc. collects publicly available images. This collection includes publicly available images of minors. We provide collected images in a searchable format to users. We actively work to remove all images of California-resident minors from all datasets. Clearview AI, Inc. processes all opt-out requests in a manner compliant with the relevant local laws, including opt-out requests related to minors.”

Schools routinely collect data. Collection of many types of personal information is understandable and is not, by itself, the heart of the privacy problem created by FERPA. The problem is that schools can release too much personal information as directory information without affirmative consent. Date and place of birth and primary language spoken do not belong in records released without prior written consent. Similarly, publicly releasing the home address of parents and guardians can interfere with safety plans of parents who face significant safety concerns. For example, public officials, including elected officials, judges, law enforcement, and teachers may have good reason for keeping their home addresses out of the public domain. The research found a few schools include social media handles in directory information. This too can be sensitive information for some, both students and parents.

Photographs for primary and secondary students create similar risks as discussed above for college students.

3. Roster of Information Shared Without Opt Out in Educational Institutions
This is a sampling of the data collected for the research. Note the variability of data policies across institutions. Also, note that some institutions place copious data in directory information, including information the Department of Education has specifically said should not be included, such as gender. The information in these tables comes from the sample set of rural and urban schools studied for this research.

**Roster of Student Information Shared Without Prior Consent if not Opt Out is in Place**

<table>
<thead>
<tr>
<th>Names of students</th>
<th>Names of students</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dates of attendance at the university</td>
<td>Dates of attendance at the university</td>
</tr>
<tr>
<td>Program/major field(s) of study</td>
<td>Program/major field(s) of study</td>
</tr>
<tr>
<td>Degrees and certificates received including dates</td>
<td>Degrees and certificates received including dates</td>
</tr>
<tr>
<td>Participation in officially recognized university activities</td>
<td>Participation in officially recognized university activities</td>
</tr>
<tr>
<td>Academic and co-curricular awards, honors, and scholarships received and dates received</td>
<td>Academic and co-curricular awards, honors, and scholarships received and dates received</td>
</tr>
<tr>
<td>Weight and height of students on athletic teams</td>
<td>Weight and height of students on athletic teams</td>
</tr>
<tr>
<td>Students' email addresses</td>
<td>Students' electronic mail addresses</td>
</tr>
<tr>
<td>Hometown, city and state</td>
<td>Hometown; city and state</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Student's name</th>
<th>Directory information includes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Participation in officially recognized activities and sports</td>
<td>student's name,</td>
</tr>
<tr>
<td>Weight and height of members of athletic teams</td>
<td>address,</td>
</tr>
<tr>
<td>Degrees, honors, and awards received</td>
<td>telephone number,</td>
</tr>
<tr>
<td>Major field of study</td>
<td>date and place of birth,</td>
</tr>
<tr>
<td>Dates of attendance</td>
<td>honors and awards, and</td>
</tr>
<tr>
<td>The most recent school attended</td>
<td>dates of attendance.</td>
</tr>
<tr>
<td>Personal Information</td>
<td>Institutional Information</td>
</tr>
<tr>
<td>--------------------------------------</td>
<td>---------------------------------------------------------</td>
</tr>
<tr>
<td>name, address (including e-mail), telephone number, college, class, major, dates of attendance, degree, honors and awards conferred.</td>
<td>Student’s name; address (mailing, permanent, and/or e-mail); telephone numbers; major field of study; dates of Attendance; number of course units in which enrolled; degrees and honors received; the most recent previous educational institution attended; and participation in officially recognized activities, including intercollegiate athletics, and the name, weight, and height of participants on intercollegiate athletic teams.</td>
</tr>
<tr>
<td>Student’s name*</td>
<td>Student name</td>
</tr>
<tr>
<td>Local/Residence Hall address*</td>
<td>Addresses (e.g., local, home, mailing and/or e-mail, including directory number)</td>
</tr>
<tr>
<td>Home and/or Cell telephone numbers*</td>
<td>Telephone numbers</td>
</tr>
<tr>
<td>Official university email address*</td>
<td>Date of birth</td>
</tr>
<tr>
<td>College</td>
<td>Degrees, honors and awards received (including Dean's List, National Merit, National Achievement, and National Hispanic Scholars)</td>
</tr>
<tr>
<td>Class standing/Classification</td>
<td>Most recently attended educational institution</td>
</tr>
<tr>
<td>Academic program (degree, major, minor)</td>
<td>Academic level</td>
</tr>
<tr>
<td>Dates of attendance</td>
<td>Major</td>
</tr>
<tr>
<td>Status (full or part-time registration)</td>
<td>College</td>
</tr>
<tr>
<td>Degree(s) received</td>
<td>Dates of attendance</td>
</tr>
<tr>
<td>Honors and awards received</td>
<td>Enrollment status (e.g., undergraduate or graduate, full-time or part-time)</td>
</tr>
<tr>
<td>Participation in officially recognized activities</td>
<td>Participation in officially recognized activities/sports</td>
</tr>
<tr>
<td>Weight and height of members of athletic teams</td>
<td>Weight/height of members of athletic teams</td>
</tr>
<tr>
<td>Name, address, telephone number, date and place of birth, honors and awards, dates of attendance</td>
<td>Student’s name</td>
</tr>
<tr>
<td>Name of the school attended prior to the current one</td>
<td>Degrees and awards received</td>
</tr>
<tr>
<td>Participation in official school activities and sports</td>
<td>Weight and height of members of athletic teams</td>
</tr>
</tbody>
</table>
• Name
• NetID
• PeopleSoft Number
• School or College
• Major Field of Study
• Degree Sought
• Student Level
• Degrees, Honors & Awards Received
• Residency/Match Information (medical/dental students)
• Dates of Attendance
• Participation in Officially Recognized Activities and Sports
• Weight and Height of Athletic Team Members and Other Similar Information Including Performance Statistics
• Photographic Likenesses and Video of Athletic Team Members
• For Student Employees, Employing Department & Dates of Employment

On directory opt out form /XX/ University considers the following items to be directory information:
• the student’s name,
• address,
• telephone listing,
• electronic mail address,
• photograph,
• major field of study,
• participation in officially recognized activities and sports,
• weight and height of members of athletic teams,
• dates of attendance,
• grade level,
• enrollment status,
• degrees,
• honors, and awards received, and
• the most recent previous educational agency or institution attended by the student.
• For bargaining unit student employees, directory information also includes: the name of the department employing the student,
• the student employee’s telephone listing within the department,
• the student employee’s e-mail address within the department, and
• the student employee’s job classification.
• No other student information is released to non
• university personnel without your written permission
<table>
<thead>
<tr>
<th>Personal Information</th>
<th>Institutional Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Student’s name;</td>
<td>• Student name</td>
</tr>
<tr>
<td>• address;</td>
<td>• Permanent mailing address</td>
</tr>
<tr>
<td>• telephone number;</td>
<td>• Month and day of birth</td>
</tr>
<tr>
<td>• email address;</td>
<td>• Photograph</td>
</tr>
<tr>
<td>• major field of study;</td>
<td>• Student identification number, User ID, or other unique identifier</td>
</tr>
<tr>
<td>• classification by year;</td>
<td>• Email address</td>
</tr>
<tr>
<td>• number of hours in which enrolled and number completed;</td>
<td>• Telephone number</td>
</tr>
<tr>
<td>• participation in officially recognized activities and sports;</td>
<td>• University or College previously attended or currently attending</td>
</tr>
<tr>
<td>• weight and height of members of athletic teams;</td>
<td>• Dates of attendance</td>
</tr>
<tr>
<td>• dates of attendance including withdrawal dates;</td>
<td>• Full vs. part-time student status</td>
</tr>
<tr>
<td>• degrees,</td>
<td>• Awards and honors</td>
</tr>
<tr>
<td>• scholarships,</td>
<td>• Class standing/year</td>
</tr>
<tr>
<td>• honors, and awards received, including type and date granted;</td>
<td>• Major, minor, concentration and/or program of study Degree(s)/Certificate(s) candidacy</td>
</tr>
<tr>
<td>• photograph</td>
<td>• Degree(s)/Certificate(s) earned</td>
</tr>
<tr>
<td></td>
<td>• Previous Institutions attended</td>
</tr>
<tr>
<td></td>
<td>• Graduation expected/completion</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Personal Information</th>
<th>Institutional Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Name</td>
<td>• Name, date, and place of birth;</td>
</tr>
<tr>
<td>• Addresses</td>
<td>• Local address;</td>
</tr>
<tr>
<td>• Telephone numbers</td>
<td>• Permanent address;</td>
</tr>
<tr>
<td>• E-mail addresses</td>
<td>• Telephone number (if listed);</td>
</tr>
<tr>
<td>• Date of birth</td>
<td>• Classification;</td>
</tr>
<tr>
<td>• Major field(s) of study</td>
<td>• Major field of study;</td>
</tr>
<tr>
<td>• Enrollment status (including current year, credit load, and full-or part-time status)</td>
<td>• Participation in official University activities and sports;</td>
</tr>
<tr>
<td>• Dates of attendance</td>
<td>• Weight and height of members of athletic teams;</td>
</tr>
<tr>
<td>• Degrees, honors, and awards received</td>
<td>• Dates of attendance at the University;</td>
</tr>
<tr>
<td>• Previous institution attended</td>
<td>• Degrees, honors, and awards received;</td>
</tr>
<tr>
<td>• Participation in officially recognized activities</td>
<td>• The most recently attended educational institution; and</td>
</tr>
<tr>
<td>• Participation in athletics</td>
<td>• Digitized photo (/XXXXX/ State University Card).</td>
</tr>
<tr>
<td>• Height and weight of athletes</td>
<td></td>
</tr>
<tr>
<td>• Photograph</td>
<td></td>
</tr>
</tbody>
</table>
Directory information may include the following:

- Student name
- Address
- Telephone listing
- Date and place of birth
- Photograph
- Major field of study
- Participation in officially recognized activities and sports
- Weight and height of members of athletic team
- Dates of attendance
- Awards received
- Most recent previous school attended by a student

Examples include a student’s photograph for publication in the school yearbook; a student’s name and grade level for purposes of communicating class and teacher assignment; the name, weight, and height of an athlete for publication in a school athletic program; a list of student birthdays for generating schoolwide or classroom recognition; a student’s name and photograph posted on a district-approved and -managed social media platform; and the names and grade levels of students submitted by the district to a local newspaper or other community publication to recognize the A/B honor roll for a specific grading period.

Primary Directory Information - Use in School Publications:

- The District designates the following as primary directory information for use by the District in school publications without prior parental written consent:
  - Student’s name;
  - Grade level;
  - Student’s participation in officially recognized activities or sports;
  - Weight and height of athletes;
  - Honors, awards, and degrees;
  - Information which denotes accomplishments and achievements;
  - Individual and group photographs;
  - Dates of attendance;
  - School attending; and
  - Parent/Guardian name.

Examples of the use of the above information in school publications by the District include, but are not limited to: class rosters posted inside school buildings; a program showing a student’s role in a music or drama production; the annual yearbook; school newspaper; honor roll or other recognition lists; graduation programs; and sports activity programs, such as for wrestling, showing weight and height of team members.

Directory Information - Student Contact Lists and Public Requests (Outside Organizations):

- The District designates the following as directory information that may be disclosed by the District without prior written parental consent:
  - Student’s name;
  - Street address;
  - Telephone number;
  - School attending; and
  - Grade level.

Examples of the use of this outside organization directory information include, but are not limited to: use in a parent/student contact list (e.g. buzz book, school telephone directory, school contact list); providing information, upon request, to individuals, groups or organizations outside of school (e.g. parent groups [booster groups, PTA], outside organizations serving youth, companies that manufacture class rings or supply graduation items, photographers).
- Student name,
- address,
- telephone number,
- date and place of birth,
- major field of study,
- participation in officially recognized activities and sports,
- weight and height of members of athletic teams,
- dates of attendance,
- indication of “graduate” or “non-graduate”,
- degrees and awards received,
- most recent previous school attended, and
- photograph.

<table>
<thead>
<tr>
<th>Directory Information:</th>
</tr>
</thead>
<tbody>
<tr>
<td>student’s name</td>
</tr>
<tr>
<td>participation in officially recognized activities and sports</td>
</tr>
<tr>
<td>address</td>
</tr>
<tr>
<td>telephone listing</td>
</tr>
<tr>
<td>weight and height of members of athletic teams</td>
</tr>
<tr>
<td>photograph</td>
</tr>
<tr>
<td>degrees (excludes specifying diploma type of student earning the following):</td>
</tr>
<tr>
<td>modified standard diploma</td>
</tr>
<tr>
<td>IEP diploma and/or certificate of attendance),</td>
</tr>
<tr>
<td>honors, and awards received</td>
</tr>
<tr>
<td>date and place of birth</td>
</tr>
<tr>
<td>dates of attendance</td>
</tr>
<tr>
<td>grade level</td>
</tr>
</tbody>
</table>

/xx/ School District has identified the following information as directory information:

<table>
<thead>
<tr>
<th>Name of student in attendance or no longer in attendance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address</td>
</tr>
<tr>
<td>Telephone listing</td>
</tr>
<tr>
<td>Date and place of birth</td>
</tr>
<tr>
<td>Dates of attendance</td>
</tr>
<tr>
<td>Participation in officially recognized activities and sports</td>
</tr>
<tr>
<td>Height and weight, if a member of athletic team</td>
</tr>
<tr>
<td>Awards, degrees and honors received</td>
</tr>
<tr>
<td>Other similar information</td>
</tr>
<tr>
<td>Annual yearbook print copies, playbills, program guides, photographs or recordings of school sponsored events</td>
</tr>
<tr>
<td>Photographs or recordings of students taken by surveillance cameras where the images do not depict specific students engaging in actions that would constitute violations of the Code of Student Conduct.</td>
</tr>
<tr>
<td>The School Administration reserves the right to determine whether release of such information should be released.</td>
</tr>
</tbody>
</table>
The /xx/ School District designates the following information as Directory Information regarding individual students:
- name of parent(s)/legal guardian and address,
- student name,
- address,
- telephone number,
- date of birth,
- gender,
- weight and height of members of athletic teams,
- participation in activities recognized by the District,
- dates of attendance,
- degrees and awards received,
- yearbook pictures, and information,
- class pictures,
- most recent previous school attended and the school to where the student transferred, if applicable.

The following information is considered directory information:
- parent/guardian and student name,
- home address,
- home telephone number,
- home email address,
- student photograph,
- student date of birth,
- dates of enrollment,
- grade level, enrollment status,
- degree or award received,
- major field of study,
- participation in officially recognized activities and sports teams,
- height and weight of athletes,
- most recent school or program attended,
- and other information that would not generally be considered harmful or an invasion of privacy if disclosed.

The term directory information relating to a student includes, but is not limited to:
- Name;
- Physical and electronic mail address;
- Telephone listing;
- Date and place of birth;
- Major field of study;
- Participation in officially recognized activities and sports;
- Weight and height of members of athletic teams;
- Degrees and awards received; and
- The most recent previous LEA or institution attended by the student.

- Student’s Name
- Participation in officially recognized activities and sports
- Address
- Telephone listing
- Weight and height of members of athletic teams
- Electronic mail address
- Photograph
- Degrees, honors, and awards received
- Date and place of birth
- Major field of study
- Dates of attendance
- Grade level
- The most recent educational agency or institution attendance
• Student’s name
• address
• date of birth
• dates of enrollment;
• Parent or legal custodian’s name and address;
• Student’s grade level classification;
• Student’s participation in recognized school activities and sports;
• Weight and height of members of athletic teams;
• Student’s diplomas, certificates, awards and honors received.

Figure 10: The information in these tables comes from the sample set of rural and urban primary and secondary schools studied for this research. Each box contains a list of the information the schools designated as directory information that could be publicly released without prior consent.

4. Best Practices; all levels:

• **Follow a minimum necessary rule when designating directory information.** Expansive inclusions of students’ gender, primary language, and place of birth are not necessary. Schools can use this data, but including these data fields in directory information and releasing it to third parties is unnecessary and therefore not a good practice because routinely its inclusion is not required to achieve the goal of the school through disclosure.

• **Consider exact age, date of birth, home address, photographs and videos, and gender to be categories of information that should be restricted.** Home address of a student placed in directory information presents a safety risk for some students and parents. Both schools and the U.S. Department of Education should recognize a modern understanding of safety considerations attached to publicly releasing home address information. Not only is the student potentially put into a dangerous situation, their family members who may also have risks associated with others knowing their home addresses may also be endangered. For example, judges, elected officials, police officers and victims of stalking or other crimes may be put at risk.

• **Photographs of students released through directory information create high risks to all students.** It is a best practice to not include digital images of students as directory information. Photographs of students can pose safety risks to some parents and students. Additionally, photographs of students are riskier to release because of the possibility of permanent storage and use by commercial and other biometric systems. The photographs may be input for web scraping tools that can undertake biometric analysis. It is a best practice to not include student photographs in directory information.

**Example:** One sampled K-12 school district includes a minimal amount of data as directory information.

• Student’s name
• Street address
• Telephone number
• School attended
• Grade level.

This is a step in the right direction of a best practice but for the inclusion of street address and, perhaps, telephone number. What this example shows is that directory information can include just a few data elements about each student.

III. How Much Time Do Parents or Eligible Students Have to Opt Out?

The research found distinct patterns regarding allowances for opt out timing. All institutions allow parents or eligible students to submit an opt out upon enrollment, whenever that may occur. Apart from initial enrollment, colleges and universities often give students the entire academic year to opt out, and K-12 institutions give students much less time to opt out, with time periods as short as two weeks to an average of 45 days.

What the Research Found:
A. Opt out allowances at Postsecondary Institutions:
   • The majority of opt outs at postsecondary schools are allowed in an ongoing manner during the entire academic year. The opt out, with no exceptions we could find, stays in place until a student rescinds the opt out in writing.

B. Opt out allowance at Primary and Secondary Institutions:
   • At the primary and secondary levels, opt out periods range from a very short period of 10 days on the low end, to an approximate average of 45 days to submit an opt out.
   • The preponderance of primary and secondary schools allow an opt out period of an average of 45 days.
   • For students just enrolling in school, the opt out can be submitted upon enrollment.

Shortened opt out periods at the K-12 level are not sufficient for protecting privacy in the current digital environment. Schools need to modernize their approach to opt out timing, understanding that information problems will not politely wait for the start of a school year. Data moves very quickly now. A one-year waiting period for opting out is not acceptable, because safety problems can arise that need to be attended to without delay. One particular primary/secondary school in the study gave a deadline of October 15 for submission of the opt out. If parents miss the October 15 deadline, the school allows the submission of an opt out during the entire school year, but the school begins releasing directory information as of November 1 of each school year, and any opt out submitted after the October deadline would only apply the following year.

In another example particularly applicable to postsecondary students, a company that registered as a data broker in the Vermont data broker registry noted that they offer an opt out of their system. The filing at the Vermont Secretary of State’s office explained that the opt out available needed to be completed at the local schools under FERPA. If a student learns of this or another data broker and wants

54 National Student Clearinghouse, Data Broker Registration, Vermont, 2/11/2019, Registration ID 353284, Filing number 0002513425. Available at: https://www.vtsosonline.com/online/DataBrokerInquire/FilingHistory?businessID=353284.
to submit an opt out, the effectiveness of the opt out will depend on whether or not the local school allows for opt outs whenever a student turns them in.

The opt out period for educational institutions needs to be regularized and modernized to be up to expected privacy standards in modern privacy legislation. This means opt outs need to be available all year for all educational institutions, and opt outs are accepted and actionable during the entire school year. The policy update to opt out deadlines needs to be made sooner rather than later, certainly at the local level, and also at the Federal level in revised regulations.

C. Best Practices for Time Allowed for FERPA Opt Out at all educational institutions:

- **Directory Information Opt Outs should be allowed all year by all institutions covered under FERPA**: this is a baseline protection that needs to be updated in the FERPA guidance.

- **Expedited opt outs should be made available for vulnerable people and populations**: If in the event that a safety situation, data breach, or a toxic data leak traceable to directory information that has been disclosed, those at risk need to be provided immediate means of masking or hiding their data.

IV. Access to FERPA Opt Out Forms

The research found significant variability in whether or not schools posted a FERPA opt out form online. FERPA opt out forms are forms that students can fill out to request a FERPA restriction (or opt out). The overall findings were that:

- 60 percent of postsecondary institutions posted a FERPA opt out form online.
- 39.7 percent of the primary and secondary institutions studied offered an opt out form online.

The Department of Education mandates that FERPA-covered educational institutions post an annual FERPA notice, but it does not mandate that schools provide a specific FERPA opt out form, either online or off. One of the key items this research tested was if the educational institution posted an opt out form online, and if that form was accessible to the public. The reason the research tested for this is twofold.

First, it is important for parents and eligible students to have an opt out form on hand because most students are stymied by the prospect of having to write a FERPA opt out letter from scratch. This is not a theoretical concern; some schools do ask students to write their own opt out request from scratch. The availability of a FERPA opt out form is an important tool in facilitating the ability of parents and eligible students to exercise their FERPA rights.

Second, many parents and eligible students search web sites for information as a first response to a question they may have. A best practice is that parents and students should be able to locate a FERPA notice online, read it, and either have an opt out form included with the notice, or have access to a separate opt out form online. It would be ideal for those who want to submit a FERPA opt out request to be able to easily accomplish the task from start to finish using a mobile phone. Allowing students ongoing access to FERPA opt out forms is a modernized approach to delivering forms in a consistent, year-round way. Particularly at the postsecondary level, not all relevant individuals in a student’s life
may have access to a password-protected student system, so publicly available FERPA information is still important.

Currently, there is not a unitary model for a FERPA opt out form that is provided by the Department of Education. Even well-resourced schools may not have legal counsel available to draft a customized form. Therefore, many schools may fail to provide an opt out form simply because of the scarcity of legal budget or resources available. This is an area where the Department could provide very helpful information that would make a positive difference.

The Department also does not yet appear to post specific guidance regarding online FERPA opt out form policy. For example, what must be included on an opt out form? What should the format for an opt out form be, electronic and paper and audio, or all three? What is the guidance for making opt out accessible for all students and parents?

Particularly at the postsecondary level, there is movement away from paper opt out and to opt out within online password protected integrated student information systems. Within this trend are schools that are building significant FERPA “home pages” which are open to the public, and where FERPA forms and notices are posted for all to see. These are best practices. It would be a negative outcome for postsecondary FERPA opt out forms and notices to only be made available behind student systems with no public accessibility.

A. What the Research Found, Details

Postsecondary Institutions

1. 60 percent of postsecondary institutions posted a FERPA opt out form online. Recall that 98 percent of postsecondary schools posted the annual FERPA notice online. However, when it came to posting FERPA opt out forms, there was tremendous variability. Remember: there is no requirement to post a FERPA opt out form online, but it is a best practice.

Some of the details the research found include the following:

• 32 percent of institutions posted a copy of their FERPA opt out form online and within their internal student system. This is a best practice.
• 30 percent of institutions posted the FERPA opt out in the internal student system
• 54 percent of institutions made a paper copy of the FERPA opt out form available.
• 4 postsecondary institutions post FERPA opt out forms on the registrar’s page very prominently. These forms are publicly accessible.
• 35 percent of institutions posted FERPA opt out forms either on the Registrar’s page or just one or two clicks away from the Registrar’s page.

Postsecondary institutions, with encouragement from the Department of Education, are in a particularly good position to move to a more systematized approach to the posting of FERPA opt out forms. It is a positive for eligible students and members of the public to be able to have a consistent idea of where to find FERPA opt out forms. Ideally, opt out forms would be available within a dedicated student system, and also be available as part of a complete FERPA “hub” available on the public facing school website for reference and ease of access.
Figure 10. Postsecondary institutions that provide a paper copy of FERPA opt out forms. Of schools studied, approximately 54 percent of institutions made a paper copy of the FERPA opt out form available.
Figure 11: Postsecondary institutions that provide a FERPA opt out within their digital student management systems. Of schools studied, approximately 30 percent of institutions posted the FERPA opt out in the internal student system.
Figure 12. Postsecondary institutions that provide a copy of FERPA notice and opt out forms on the school website. Of schools studied, approximately 32 percent of postsecondary institutions posted a copy of their FERPA notice and opt out form online and made it publicly available outside of registration or password protected systems. This is a best practice.
Postsecondary: Is FERPA Notice or Opt-out available on the School Registrar Page?

Figure 13. Aggregate of studied postsecondary institutions that post FERPA notices or opt outs on, or one click away from, the Registrar page. This research was to understand the role of Registrar pages of postsecondary institutions regarding FERPA information.
2. At the primary and secondary level:
   • 39.7% of percent of the 5,145 primary and secondary institutions studied offered an opt out form online in some form. (2,045 opt outs posted in 5,145 schools studied).
   • 617 of the 2,045 online opt outs were available in online student handbooks.
   • 34 of the 2,045 online opt outs were available in the online code of student conduct.

The numbers of primary and secondary schools offering a public posting of a FERPA opt out form is low, hovering around 40 percent. The research suggests that much more work remains to be done. In some school districts, platforms have been configured in a way that hampers public access to FERPA forms. Some platforms at the K-12 level do not facilitate the schools’ posting of a FERPA annual notice outside the password protected areas of the school web site, and similarly do not facilitate keyword searches for FERPA notices or forms on the publicly available sections of the school websites.

Although it was not material to the overall results, when we analyzed our research at the district level to see if we found any patterns, we found differences in the rural and urban implementations of posting FERPA opt out forms online.

At the primary / secondary district level, aggregate: 55
   • 13.8% of rural school districts have posted FERPA opt out forms online at the school district level.
   • 31 percent of urban school districts have posted FERPA opt out forms online at the school district level.

55 Note that these results are aggregate to all rural and all urban school districts. When FERPA opt out is counted by district, the numbers become less precise and the overall count of online FERPA form postings changes to approximately 44 percent. Large urban school districts can contain hundreds of schools, which can have varying implementations apart from the district. Despite the mushiness of the number (+/- 5%), the different between urban and rural implementation was significant and stood out in the research. More work is needed in this area to both incorporate a larger sample size, and to seek understanding of the reasons why this is happening, and what would help solve the problem(s).
Primary / Secondary School Districts: Is the FERPA opt out form available on the school district web site?

Urban School Districts

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Figure 15. Aggregate of studied urban area primary/secondary school districts that made a FERPA opt out form available online, and freely available to the public, i.e., not behind a password protected area. 31 percent of urban school districts have posted FERPA opt out forms online at the school district level.
Primary / Secondary School Districts: Is the FERPA opt out form available on the school district web site?

Rural School Districts

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Figure 16. Aggregate of studied rural primary/secondary school districts that made a FERPA opt out form available online, and freely available to the public, i.e., not behind a password protected area. **13.8 percent of rural school districts** have posted FERPA opt out forms online at the school district level.
Best Practices for Access to Opt Out Forms:

- It is a best practice for educational institutions to post a FERPA opt out form online.
- It is crucial that all educational institutions post FERPA opt out forms online in a way that is publicly accessible and does not require a password or registration.
- FERPA opt out forms should be posted prominently, and should be labeled clearly. Parents and students should be able to access the form from the search function on the website. If the website does not have a search function, the FERPA opt out notices and policies should be posted with a prominent link on the home page of the school website.
- Ideally, the FERPA opt out forms will be posted in the context of FERPA annual notice, and other FERPA-related information.
- Paper opt out forms should be made available for individuals who do not have online access.
- For postsecondary institutions, the FERPA opt out form should have a publicly available “home base,” preferably the registrar’s page.
- For primary and secondary institutions, the FERPA opt out form should be accessible to the public, even if a platform is in use at the school website.
- FERPA opt out processes need to specifically accommodate individuals with disabilities or limitations.

Further Recommendations:

- The Department of Education should seek to further understand and study the differences in FERPA opt out form implementation at the rural / urban school districts. There is a possibility that additional guidance would be helpful in facilitating rural districts to post FERPA opt out forms online.

V. Is the FERPA Opt Out Process Known?

Regardless of whether or not an opt out was found online, the research probed whether or not educational institutions explained how parents or eligible students could submit an opt out. Schools, even those that did not post an opt out form, fared better in posting instructions for submitting an opt out.

1. What the Research Found:

- The research found that almost all postsecondary schools made the FERPA opt out process known, whether that was provided via paper or online.
- Schools that posted a FERPA notice online generally included how to opt out in that notice. In some cases the explanation of how to opt out was in the context of a FERPA “home page” with general guidance on how to manage FERPA options at the educational institution. The precise notification to students of how to opt out varied. For example, opt out could be given in writing to a registrar, it could be done via a student information system, it could be given by writing a letter and submitting it to the school, etc.
- It was not unusual for schools to request that parents and students submit a “written request for opt out” without providing an opt out form. Parents interviewed as part of this research indicated that to avoid writing a letter, they copied another school’s opt out form they found online and turned it in. The World Privacy Forum posts a sample opt out form on its website. Research interviews uncovered parents who had printed the WPF’s sample form out and used it as their opt out form.
• Postsecondary institutions generally show a pattern of informing students how to opt out. Instructions are typically found in the FERPA policy notice, which \textbf{98 percent of postsecondary schools} provide.

• For primary and secondary schools, we were able to locate opt out procedures for \textbf{62 percent of urban school districts}, and \textbf{49 percent of rural school districts}.


• It is a best practice for schools to provide information about how to opt out on the annual FERPA notice.

• It is a best practice for schools to provide a permanent online home for information about FERPA opt out procedures and make that accessible to the public.

• Primary and secondary schools in particular noted to WPF researchers that they communicate FERPA opt out procedures directly to parents via email. Direct notification exceeds FERPA standards, but for school districts that are resource-scarce or in the midst of transitioning to electronic systems, direct emails to ensure notification are a good practice. The practice may not be sustainable at very large institutions, but it is a sustainable practice for very small or small institutions or districts.

• It is a best practice to notify students regarding accommodations for opting out for individuals who may not have the capacity to write their own letter. This appears to be an overlooked issue. Not all parents or eligible students will be comfortable figuring out what a FERPA opt out letter should say, or even where to start. Not providing an opt out form may prove to be an insurmountable opt out form for some students. This should be considered as part of the institution’s decision-making process regarding opt out procedures.
### Primary / Secondary Schools: Is the FERPA Opt Out Process Known?

#### Urban School Districts

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*Figure 17. Aggregate of studied urban area primary/secondary school districts that provided parents or eligible students with instructions about how to submit a FERPA opt out. 62 percent of urban school districts provided this information online in some way.*
Primary / Secondary Schools: Is the FERPA Opt Out Process Known?

Rural School Districts

Figure 18. Aggregate of studied rural primary/secondary school districts that provided parents or eligible students with instructions about how to submit a FERPA opt out. 49 percent of rural school districts provided this information online in some way.
VI. Content of FERPA Opt Out Forms

The research found many varieties of opt out forms. Samples of opt out forms are located in the Appendices. There is no standard format for FERPA opt out forms, and the variety and scope of opt out forms makes it difficult to easily classify them. The Department of Education suggests some language for opt out forms, but the Department does not dictate what the opt out form specifically says. This is appropriate, given that schools have a great deal of discretion as to how they approach directory information policies.

However, the quality of students’ opt out experience could be improved overall by the use of more granular opt out forms versus “all of nothing” opt out forms.

Granular FERPA Opt Out Forms

Granular FERPA opt out forms are those that contain a list of specific categories of information the school has designated as directory information along with the option to specify an opt out of one or more of the specific categories. For example, a granular opt out may allow students to restrict the publication of their photograph, and also allow them to continue to publish their email address, if desired. This type of approach allows students to select discrete information categories of their directory information that may be disclosed without consent.

Granular forms allow students to agree to have their name published in a PTA book, without allowing the disclosure of information for other uses. Students have individualized privacy needs, and granular choices allow students to choose what is important or necessary to them and avoid other, unknown consequences.

Broad Opt Out Forms

Broad opt out forms are those that allow students to restrict all sharing of directory information. The forms offer an “on or off” choice.

What the Research Found

For studied educational institutions across all levels, the research found a continuum of opt out forms that fell into one of two main styles of FERPA opt out forms, highly granular opt outs, (opt outs that allow students to select which specific categories of information they want to restrict) and broad opt outs (opt outs that require students to opt out of everything).

- The majority of opt out forms at are “broad” opt out forms. Because of the high variability of opt out forms and methods, it is difficult to quantify this with precise percentages. We estimate that approximately 80 percent of opt out forms that are provided online are primarily “broad opt outs.”
- At the postsecondary level, we noticed slightly more occurrences of granular opt out forms. Of those colleges and universities posting granular opt out forms, institutions tended to allow for the most granular FERPA opt outs in integrated student information systems.

Best Practices:

- It is a best practice to provide more choices for selecting categories of directory information on FERPA opt out notices.
• It is a best practice to revise, if possible, “all-or-nothing” FERPA opt out notices to provide granular choices (Yes / No) about individual data categories designated by the school for inclusion in directory information.

• It is a best practice to provide detailed categories that students can choose to opt out of. Our research indicated that integrated student information systems, particularly at the postsecondary level, may offer very granular and extensive opt outs compared to standard FERPA opt out forms. It is a best practice to use integrated systems and platforms to make FERPA opt out more accessible and more adaptive.

One best practice exemplar of a granular opt out comes from University of Arkansas. In this opt out, students have a detailed menu of information they can choose to restrict, while allowing other kinds of information sharing. This is a best practice for students.
FERPA – Setting Your Restrictions

The Family Educational Rights and Privacy Act (FERPA) is a Federal law that protects the privacy of student education records. Please go to the Registrar’s website for more information about FERPA and what it means to you.

To restrict the release of your directory/public information, you must complete and submit the FERPA Directory Restriction form located on your User Profile tile on your Student homepage.

1. Click the Profile tile on your homepage.

2. On the dropdown menu, click FERPA to open the form.
3. Review the list of items you may restrict and click the check box of each item you wish to have restricted. Please note that if you have Names – Hold All Directory Information selected your last semester of enrollment, your name may not appear in your Commencement program or on Senior Walk. Please contact the Registrar's Office for information.

4. Click Save to record your preferences. Your information is now confidential and restricted.

Figure 19. The University of Arkansas is providing a highly granular FERPA opt out for its students. In its FERPA opt out, University of Arkansas students have a detailed menu of information they can choose to restrict, while still allowing other kinds of information sharing. This is a best practice. It is most common to find FERPA opt out forms that allow students a range of very little to some
opportunity to specify particulars of an opt out. The following is a typical broad opt out FERPA form. This form is a good example of a useful opt out form.

**Example of a “broad” FERPA opt out**

```
Student Directory Information Notification

Please sign and return this form to the school within ten (10) days of the receipt of this form ONLY if you do not want directory information about your child disclosed to third parties in accordance with the Family Educational Rights and Privacy Act (FERPA). If we receive no response by that date, we will disclose all student directory information at our discretion and/or in compliance with law.

Date

Dear Parent/Eligible Student:

This document informs you of your right to direct the District to withhold the release of student directory information for _______________________________________________.

Student’s Name

Following is a list of items this District considers student directory information.

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<th>-Student’s name</th>
<th>-Enrollment status (e.g., undergraduate or graduate; full-time or part-time)</th>
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<td>-Address</td>
<td>-Participation in officially recognized activities and sports</td>
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<td>-Telephone listing</td>
<td>-Weight and height of members of athletic teams</td>
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<td>-Electronic mail address</td>
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<td>-Photograph (including electronic version)</td>
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<td>-Date and place of birth</td>
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<td>-Dates of attendance</td>
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If you do NOT want directory information provided to the following, please check the appropriate box.

☐ Institutions of Higher Education, ☐ Potential Employers, ☐ Armed Forces Recruiters, ☐ Other

NOTE: If a student’s name, grade level, or photograph is to be withheld, the student will not be included in the school’s yearbook, program events, or other such publications.

Parent/Eligible Student’s Signature    Date

Rev.: 7/12

Figure 20. This FERPA opt out form is a broad opt out that allows for some accommodation for personalizing the opt out. This is a commonly encountered type of FERPA opt out form.
VII. Does the FERPA Opt Out Contain Nudges?

Nudges to take a particular course of action regarding privacy choices comes in all shapes and sizes in FERPA opt out forms. The Information Commissioner of the UK explains that a nudge occurs when the outcome of two alternatives is presented, with one alternative framed more positively than the other. This nudges the user towards the preferred option of the person who offered the choice. Nudges are important in the FERPA context because in our review of hundreds of FERPA opt out forms, it became clear that nudges are common in FERPA opt out forms and related materials.

The nudges take on different forms, but generally FERPA nudges can encourage parents and eligible students to choose less privacy-protective options or to not restrict directory information release at all due to fear of the potential deleterious consequences identified on the opt out form.

Nudges have become better understood in the past few years. The UK Information Commissioner’s Office is wary about nudging children: “Do not use nudge techniques to lead or encourage children to provide unnecessary personal data or turn off privacy protections.”

What the Research Found

The research found numerous examples of varied nudges in FERPA opt out forms. The nature and type of nudges varied significantly. We estimate that at least half of the opt out forms examined for this study contained one or more nudges.

Examples of commonly encountered privacy nudges on FERPA opt out forms include the following:

Warnings of being left out of various publications

At the postsecondary level, a common warning is that student’s names will not appear on the commencement bulletin. Another common warning is that the school will not confirm a student’s attendance at the school. FERPA opt out forms, intentionally or not, could make opting out sound like a terrible idea, rather than an affirmative protective right with clear benefits.

Your name will not appear on commencement bulletin....

Here is another example of a “you’ll be left out” nudge, this one from another postsecondary institution. The language acts to discourage opt outs:

---


Students who wish to restrict their names should realize that their names will not appear in the commencement bulletin and other university publications. Also, third parties will be denied any of the student’s directory information and will be informed that we have no information available about the student’s attendance at /XX/.58

Lengthy list of hurdles for students who choose to opt out.....

The opt out form quoted below contains a list of consequences ranging from telling prospective employers that there is no record of graduation to a requirement that the student “must” conduct all business with the university with a signed authorization, using the self-service portal, or in person with a form of ID. The university did not mention the benefits of opting out. This is a negative nudge.

WHAT ARE THE EFFECTS OF OPTING OUT?

Some of the effects of your decision to request confidential status will be that you must conduct all business with the University with a signed authorization, self-service portal, or in person with a form of ID. Friends or relatives trying to reach you will not be able to do so through the University. Information that you are a student here will be suppressed, so that if a loan company, prospective employer, family...59 member, etc., inquires about you, they will be informed that we have no record of your attendance or graduation.

Please be aware that opting-out of releasing your child’s directory information will deny the release of this information in all circumstances

This example, below, from a primary/secondary institution, gives parents the option of doing nothing, or having an opt out with very few choices available for customization. This opt out provides an all-or-nothing choice. Putting the “you do not need to do anything” language in bold, and by making the opt out sound difficult, this opt out form may discourage parents from opting out.60

If you agree to allow /xxxx/ School District to release directory information about your child, you do not need to do anything.

If you do not want your child’s directory information released, you must provide written notification to your child’s school principal within 20 days of enrollment. You may use this form or another form of written documentation to provide that notification. Please be aware that opting-out of releasing your child’s directory information will deny the release of this information in all circumstances; parents may not select items or circumstances under which some information may or may not be released. Parents must renew their required opt-out annually.

58 A PDF of this page is available at the World Privacy Forum office.
59 FERPA Directory Information Disclosure. A PDF of the page is available at the World Privacy Forum office.
60 FERPA Opt Out Form, school district. A PDF copy of this opt out form is available at the WPF office.
**Positive Nudges**

What if a FERPA opt out form contained a positive nudge? It might look something like this:

If you opt out, your directory information will not be made public, where it can potentially fall in the hands of data brokers who can use, keep, and sell your personal information for years or even decades.

Or:

If you have safety considerations, it may be in your best interest to submit a FERPA opt out. If you submit a FERPA opt out, your directory information will not be made public without your consent. Your home address, phone number, photograph, videos of you, and other information will not be disclosed to third parties, except in certain circumstances.

**Best Practices:**

- **Students should not be discouraged from utilizing their rights under FERPA by the use of subtle or overt negative language or “nudges.”**
- **Schools need to consider that some students want FERPA opt outs because of serious safety considerations. Schools should ensure that they present a balanced view of FERPA opt outs.**

**Further Recommendations:**

We recommend that the Department of Education examine its FERPA education materials and guidance for negative nudges, and similarly, should undertake a sincere effort to produce neutral or privacy-protective nudges in FERPA model opt out materials.

We also recommend that educational institutions at all levels review the emerging “nudge” literature as well as their current FERPA opt out language on web sites, letters, forms, and other materials. A good resource is the January 2020 recommendations on age-appropriate design for children from the UK Information Commissioner’s Office. Their recommendations include specific examples and discussion of nudge techniques, with specific examples geared to children. The ICO recommended that information designers not use nudge techniques to lead children to make poor privacy decisions, to use pro-privacy nudges where appropriate, and to consider nudging to promote health and wellbeing.
Part III. Additional FERPA-Related Privacy Issues in Schools

I. Online Student Directories at FERPA-covered Schools

About half of colleges and universities studied post a directory of faculty and enrolled students online. The information in these directories falls under the rules for directory information as defined in FERPA. The directories may be made public, or may only be available through some form of authentication given by the school to enrolled students.

Of the directories that are made public, there is often a search function that allows a user to find a student or faculty member by name.

What the Research Found:

- Of these schools, 46 postsecondary schools make the directory available to the general public and 12 postsecondary institutions require some form of authentication before logon.
- We did not find examples of extensive interactive student directories online at studied primary or secondary schools.

The research found that postsecondary schools were the main educational institutions that utilize student directory information to provide “phone directory” service online. It is a best practice to post the directories so that the directories are not accessible to the public. Among those directories that we found that were open to the public, we found several problematic implementations.

Example One: Ability to search online student directory by first name

One type of implementation that is problematic can be seen in a large university in the Southwest that maintains its university student phonebook online. The online phonebook allows for keyword searches for students’ names, and specifically allows for searches by first name. Anyone can search the phonebook, as it is not restricted to faculty and registered students.

By typing in first names like Susan, Bob, or any other potential first name of a student, a list of all students with that first name in the university are displayed.

The list also includes the following information:

- Full name
- Status as student
- Email address
- Graduate or undergraduate level designation
- What college the student is studying in College of Science, etc.
- The students major; civil engineering, Spanish, etc. 61

61 A copy of the page cited is available at WPF offices and will be made available to qualified academic research requests.
This example of an online student directory is a partial listing of information designated by the university as directory information. Unless a student restricted disclosure through a FERPA opt out, then the students’ information is viewable online. FERPA does not require that schools display this information publicly, but they can if they choose to.

Public information dissemination is a problem for any student who is the victim of a crime or who has other safety concerns. Anyone with a working mobile phone and who could guess first names could find this information in the university’s phonebook. If safety problems arise for particular students mid-semester, it is not guaranteed that they will remember about their opt-out right and take action to protect their personal information.

Further, restricting public availability of student information keeps the information from data brokers. Because the world of data brokers is largely hidden from public view, it is unlikely that most students are aware that if they fail to opt out, their personal information can end up in commercial files with the potential to be used for the rest of their lives. This may not be a major issue with transitory information, but other data such as exact date and place of birth may have commercial value for a long time.

Example Two: Ability to search for student by last name

In another example of an implementation of an online student directory, a large urban university in the Northeast maintains a phone directory online that allows limited searching — for example, this directory does not allow for searching by first name, only by last name.

This university, however, lists some of its students by their full name at several of its colleges’ websites. For example, a program of graduate study on a particular sub-college at the university listed all enrolled students by their full name on the program website. This information enables a search in the institution’s overall online student directory.

The full name search of the student directory at this institution gives the email address of that individual, along with the department, school, and year. That this institution’s phonebook does not allow searching by first name is a sound policy. However, it is a moot point because students’ full names are listed in full elsewhere on the site.62

Best Practices:

- Because of the potential risks to student safety, it is a best practice for educational institutions to publish their online student directories privately. Only authenticated users (e.g., faculty, staff, and enrolled students) should have access.
- It is a best practice to require knowledge of a student’s last name for searching, even if the directory requires authentication and is not open to the public.
- Every effort must be made to prevent “site scraping” of student contact information in online student directories. Schools need to utilize strong anti-scraping software and techniques as a preventive security measure.

In the chart below, the green states indicate that the sampled postsecondary institutions in that state

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62 A copy of the page cited is available at WPF offices and will be made available to qualified academic research requests.
allowed public access to the student directory. Red/green indicates that institutions in that state had differences in approaches; at least one institution did not allow public access to the student directory in the split states. The red states indicate states where sampled institutions did not make the student directory publically accessible.

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**Postsecondary Institutions: Is the school’s student directory accessible to members of the general public?**

![Image of state map indicating accessibility of student directories]

*Figure 21. 56 percent of postsecondary schools have some form of online directory of students’ information. Of these schools, 46 postsecondary schools make the directory available to the public and 12 postsecondary institutions require some form of authentication before logon.*
II. Data Brokers, the Data of Minors, and Students’ FERPA Directory Information

Data brokers are businesses that knowingly collect and sell or license to third parties the brokered personal information of a consumer with whom the business does not have a direct relationship. The U.S. Federal Trade Commission has said in its report on data brokers that “Data brokers acquire a vast array of detailed and specific information about consumers; analyze it to make inferences about consumers, some of which may be considered sensitive; and share the information with clients in a range of industries. All of this activity takes place behind the scenes, without consumers’ knowledge.”

The World Privacy Forum has studied data brokers extensively. For the first time, we can document that data brokers are brokering the information of minors. We can also document that student directory information itself is being acquired by at least one company that has registered as a data broker. Specifically:

- Our research for this report found documentation that at least one company registered as a data broker is acquiring the directory information of students.

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63 In this report, we are using the definition of “data broker” used in the Vermont data broker statute. See: Act No. 171. An act relating to data brokers and consumer protection. Chapter 62, Subchapter I. §2430, (4)(A): “Data broker” means a business, or unit or units of a business, separately or together, that knowingly collects and sells or licenses to third parties the brokered personal information of a consumer with whom the business does not have a direct relationship.” Available at: https://legislature.vermont.gov/Documents/2018/Docs/ACTS/ACT171/ACT171%20As%20Enacted.pdf.


• Some companies registered as data brokers have disclosed that they have actual knowledge that they possess the brokered personal information of minors. Some of this information included name, age, racial data, address, child ID, and gender, among other information.

• At least one company that has registered as a data broker is collecting the images of minors for use in facial recognition.

Data brokers are important in the context of student directory information because students, parents, and schools need to be aware that student information that has been made public by being designated as “directory information” can fall into data broker hands. Data brokers can pose potential privacy risks because they can acquire, broker, analyze, and utilize information regarding identifiable individuals without being in a direct relationship with that individual. In some cases, data brokers will use data about individuals to predict behavior. (We wrote about this topic extensively in a report called The Scoring of America.66) Some data brokers use the information of minors to infer information about their parents, and then use those resulting inferences for marketing.

Information about students, especially high school and college students, has been available on data broker lists for many years. A search we conducted in 2020 for types of data broker information currently available about high school students found 748 list results for the search term “high school.”67 Data brokers may offer categories of data for sale through what the industry calls “data cards.”68 One data card described a mailing list of high school students approaching graduation. The data card stated:

“The Applications and Deadlines - High School Students Approaching Graduation mailing list boasts sophisticated, affordable consumer information specific to your advertising efforts targeting students ready to finish high school. These kids are getting ready to enter a new stage of their life. Whether they’re heading to a 4-year university, community college, or entering the workforce, these students are making big moves in their lives.”69

Another data card described its marketing list of “High School Students Across the US” as being comprised of “extensive, in-depth consumer data for individuals currently attending high school.”70 The data card included the following description:

“High School Students Across The US Email/Postal/Phone Mailing List


67 Nextmark Consumer List Search, all channels, “high school.” Nextmark. Search conducted at: https://lists.nextmark.com/market. This same keyword search was repeated throughout the research period to assess the availability of lists on the topic.

68 A data card is a short description of the information available in a data broker list.

69 Applications and Deadlines - High School Students Approaching Graduation Mailing List, Nextmark, #349837, Available at: https://lists.nextmark.com/market?page=order/online/datacard&id=349837.

70 High School Students Across The US Email/Postal/Phone Mailing List, Nextmark, #350243 , Available at: https://lists.nextmark.com/market?page=order/online/datacard&id=350243.
Our High School Students Across The US mailing list is comprised of extensive, in-depth consumer data for individuals currently attending high school. Some of us consider these the awkward years, but for others they were the golden ones. This mailing list contains the in-crowd, geeks, jocks, hipsters, and a rainbow of other cliques. These consumers are working to do anything to fit in - from buying used cars to wearing the trendiest clothes. The records from this list are consistently updated every month with National Change of Address processing (3x more often than our competitors do), and provide the latest data available for high school students. Over 97% deliverable, this list allows marketers to increase their customer base by focusing their advertising on a niche, target audience - high school students across the United States.\footnote{High School Students Across The US Email/Postal/Phone Mailing List, Nextmark, #350243, Available at: https://lists.nextmark.com/market?page=order/online/datacard&id=350243.}

For this list, the privacy status was listed on the data card as “unknown.” Additional information that was available to be included with the list, called “selects,” included child’s age, ethnicity, dwelling size and type, interest categories, and additional highly specific information along with postal mailing address, email, and phone.

**A Portion of the Selects for the “High School Students Across The US Email/Postal/Phone Mailing List,” Nextmark, #350243**

<table>
<thead>
<tr>
<th>SELECTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>AGE</td>
</tr>
<tr>
<td>CHILDS AGE</td>
</tr>
<tr>
<td>DWELLING SIZE/TYPE</td>
</tr>
<tr>
<td>ETHNIC/ETHNICITY</td>
</tr>
<tr>
<td>GENDER/SEX</td>
</tr>
<tr>
<td>HOME OWNER</td>
</tr>
<tr>
<td>INCOME SELECT</td>
</tr>
<tr>
<td>INTEREST CATEGORIES</td>
</tr>
<tr>
<td>LENGTH OF RESIDENCE</td>
</tr>
<tr>
<td>LIFESTYLE</td>
</tr>
<tr>
<td>MARITAL STATUS</td>
</tr>
<tr>
<td>OCCUPATION</td>
</tr>
<tr>
<td>PERSONALIZATION</td>
</tr>
<tr>
<td>POSTAL CODE</td>
</tr>
<tr>
<td>RECENTY</td>
</tr>
<tr>
<td>REVERSE EMAIL APPEND</td>
</tr>
<tr>
<td>SCF</td>
</tr>
<tr>
<td>STATE</td>
</tr>
<tr>
<td>ZIP</td>
</tr>
</tbody>
</table>

\footnote{71} Figure 22. This screenshot captures a portion of the data card for the High School Students Across The US Email/Postal/Phone Mailing List, Nextmark, #350243, as displayed on Nextmark.com.
The existence of data broker lists are no longer a surprise, or they should not be. For example, the Federal Trade Commission wrote a lengthy and detailed report in 2014 about data brokers.\textsuperscript{72} Fordham University testified at the Vermont data broker study hearing and published a study regarding data brokers and student information in 2018.\textsuperscript{73} WPF has repeatedly testified about data brokers before states, federal agencies, and Congress, and has asked Congress and the states to act regarding data brokers. Progress has been excruciatingly slow, but there has been some progress.

Notably, in 2018 Vermont became the first state in the country to pass a law regarding data brokers.\textsuperscript{74} The law passed in May 2018, and the state’s data broker registry became a requirement in January 2019. Until the Vermont data broker registry came online in 2019, it was nearly impossible to achieve transparency regarding the direct transfer of student directory information from schools to companies. While it was possible to locate lists of high school and college students’ data on data broker lists, irrefutable proof of direct transfers of school directory information under FERPA from schools to data brokers was not available.

A 2018 Fordham report\textsuperscript{75} was the first to analyze information available regarding students and data brokers. The authors, through extensive Freedom of Information Act requests, found that the New York City Department of Education provided student directory information to the National Student Clearinghouse (The documentation is on file with Fordham CLIP).\textsuperscript{76}

Two states currently have data broker registries: Vermont, which as previously noted was the first state to have such a registry, and California.\textsuperscript{77} WPF’s findings rely on the Vermont registry, because it has disclosure requirements regarding the data of minors. California’s statute does not require mandatory disclosure regarding the information of minors.

The Vermont Data Broker Registry,\textsuperscript{78} which has been accessible to the public for review since 2019, has created some transparency into how data brokers process information about minors.\textsuperscript{79} Data brokers operating in the state of Vermont must disclose in their registration filings whether the company has

\begin{flushleft}

73 N. Cameron Russell, Professor Joel R. Reidenberg, et al. Transparency and the Market for Student Data, Fordham University, 2018. The Fordham CLIP testimony in Vermont was influential in creating awareness of the need to address the impact of data brokers on minors. WPF also testified at the Vermont hearing.


77 California Data Broker Registry, California Attorney General’s Office. Available at: https://www.oag.ca.gov/data-brokers. The registry in California is active.

78 Vermont Data Broker Registry Search, Vermont Secretary of State, Corporations Division. Available at: https://www.vtsosonline.com/online/DataBrokerInquire.

79 Act No. 171 (H.764). Commerce and trade; consumer protection An act relating to data brokers and consumer protection, (9 V.S.A. ch. 62, subch. 5).
\end{flushleft}
“actual knowledge that it possesses the brokered information of minors.” It is through this transparency requirement that a company registered in Vermont as a data broker revealed that it has specifically acquired student directory information subject to FERPA.

We have charted and analyzed the active data broker filings in the Vermont registry current to February 2020, and their responses to whether or not they possess the brokered personal information of minors. Some key findings from our research includes the following:

One Vermont data broker registrant, the National Student Clearinghouse, states in its filing that it collects student data from participating postsecondary educational institutions, including directory information. One part of its filing stated:

> “NSC collects student data from participating postsecondary institutions and discloses such data to 3rd parties as contractually authorized by such institutions, in compliance with the Family Educational Rights & Privacy Act. FERPA allows disclosure of directory information (DI) without consent unless the student has opted-out of having their DI disclosed, and NSC respects such opt-outs as FERPA requires. Individuals may opt-out of the disclosure of their DI by notifying their institution.”

Regarding the information of minors, the National Student Clearinghouse stated:

> “There are rare cases in which the Clearinghouse has actual knowledge that it possesses such information on minors who are or who have been enrolled in postsecondary education. We collect, maintain, and protect this data with the same robust policies we apply to all student data, and respect the same FERPA directory information opt-out rights as we do for non-minors enrolled in postsecondary education. See our privacy policy at: https://www.studentclearinghouse.org/privacy-policy/.”

One Vermont data broker registrant, Acxiom, uses the data of minors to create insights related to the minor’s adult parent. One part of Acxiom’s filing stated:

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80 Vermont Data Broker Registry Search, Vermont Secretary of State, Corporations Division. Available at: https://www.vtsosonline.com/online/DataBrokerInquire.

81 National Student Clearinghouse, Data Broker Registration, Vermont, 2/11/2019, Registration ID 353284, Filing number 0002513425. Available at: https://www.vtsosonline.com/online/DataBrokerInquire/FilingHistory?businessID=353284. The National Student Clearinghouse works directly with schools to provide services. See About the Clearinghouse, Available at: https://www.studentclearinghouse.org/about/how-we-serve-the-k-20-to-workforce-continuum/. The NSC has signed a K-12 Privacy Pledge, available at https://studentprivacypledge.org/privacy-pledge/.

“Acxiom will not knowingly disclose identifiable data on minors under 18 to third parties for use in marketing. We do use data such minor data to identify/remove records from our and our clients’ marketing files. We use such minor data in creating insights solely related to the minor’s adult parent, but we don’t disclose identifiable data about the minor in the insights created. Where permitted by law, we use and disclose minor data for non-marketing uses (e.g., fraud detection/prevention products).”

Acxiom did not state where the information of minors was acquired. As a result, it is not possible at this time to know if directory information is the source for this data or not. It is unknown how Acxiom (or other data brokers) handle the information of minors when those minors reach the age of majority. In Vermont, the age of majority is 18 years old.

Another Vermont data broker registrant, Experian Marketing, collects detailed data elements relating to minors, including date of birth, gender, ethnicity, “Child’s Person ID,” and uses this and other information to create a score indicating the presence of children indicator. One part of Experian’s filing states the following:

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83 Acxiom, Data Broker Registration, Registration ID 352752 Vermont 1/30/2019, Filing number 0002506353. Available at: https://www.vtsosonline.com/online/DataBrokerInquire/DataBrokerInformation?businessID=352752.

84 Vermont Statutes Annotated, Title 33, Chapter 59.
“Experian acquires and maintains the following data elements as they relate to minors within our ConsumerView relational database repository:

- Parents Name
- Child’s name if available
- Child’s Date of Birth (includes full date of birth, month/year, exact age, combined age)
- Child’s Person ID
- Child’s gender
- Child’s ethnicity
- 1st child indicator
- Address

Experian uses this data to create a modeled probability score and data elements that indicate the presence of children within prescribed age ranges in a household. Experian licenses this presence of children indicator to third parties to market to a household or parents, with use of presence of children indicators representing children three years old or younger requires prior Experian review and approval. Experian does not release the children’s data elements listed above to any external third parties.

Experian also collects and maintains the following data elements as they relate to minors in our Social Security Administration Death Master File:

- Child’s name
- Child’s Social Security Number or Child’s Date of Birth
- Child’s Date of Death
- Verification Code

Experian licenses the Death Master File from the Social Security Administration. We use the file for fraud prevention and for legitimate business purposes in compliance with applicable law, rule, regulation or fiduciary duty.\(^{85}\)

Note: To see the detailed information we have cited from the Experian filing, it will be necessary to locate the addendum to the Experian filing.\(^{86}\)

Another Vermont data broker registrant, Clearview AI, collects images of minors that are “publicly available,” and uses them in their facial recognition product(s) except for the images of minors who are California residents. Clearview AI states the following in one part of its Vermont data broker registration filing:

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\(^{86}\) To view the Experian Marketing addendum, after accessing [https://www.vtsosonline.com/online/DatabrokerInquire/DataBrokerInformation?businessID=367915](https://www.vtsosonline.com/online/DatabrokerInquire/DataBrokerInformation?businessID=367915), click on *filing history*, then click on *Data Broker Registration*. Scroll down to the last page, and a letter containing the information is available as an attachment to the filing.
“Clearview AI Inc. collects publicly available images. This collection includes publicly available images of minors. We provide collected images in a searchable format to users. We actively work to remove all images of California-resident minors from all datasets. Clearview AI, Inc. processes all opt-out requests in a manner compliant with the relevant local laws, including opt-out requests related to minors.”

We do not know if Clearview AI acquired the information of minors from school websites, but we do know that Clearview AI acquired information from social media websites. It remains a distinct possibility that Clearview AI acquired student images that schools posted on social media sites.

**Student Directory Information and Third Parties**

It is possible that few schools realize the full extent of the modern privacy issues related to what happens to directory information after it has been made public. As we have discussed in this report, under current FERPA regulations, schools may choose to provide students’ directory information to third parties without prior consent from parents or eligible students. Schools are not required to disclose if they routinely give directory information to third party companies. If an educational institution meets the conditions for releasing students’ directory information, and if a student/parent did not opt out of the sharing of directory information, then the school may share the information it has designated as directory information with third parties, essentially without restriction. Even if a school did not specifically share directory information with any particular third party, and just posted student directory information on a publicly available website, this information can be acquired through web scraping.

Moreover, once disclosed, unless a specific law is in place restricting onward use, no existing mechanism prevents onward transfer of directory information by an initial recipient, including data brokers.

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87 *Filing of Clearview AI, Registration ID 367103*, January 14, 2020, Vermont Data Broker Registry. Vermont Secretary of State. Available at: [https://www.vtsosonline.com/online/DatabrokerInquire/DataBrokerInformation?businessID=367103](https://www.vtsosonline.com/online/DatabrokerInquire/DataBrokerInformation?businessID=367103). See: Response to Question 7: “Clearview AI Inc. collects publicly available images. This collection includes publicly available images of minors. We provide collected images in a searchable format to users. We actively work to remove all images of California-resident minors from all datasets. Clearview AI, Inc. processes all opt-out requests in a manner compliant with the relevant local laws, including opt-out requests related to minors.”

88 Anna Merlan, *Here’s the file Clearview AI has been keeping on me, and probably on you too*, Vice, Feb. 28, 2020. Available at: [https://www.vice.com/en_us/article/5dmkyq/heres-the-file-clearview-ai-has-been-keeping-on-me-and-probably-on-you-too](https://www.vice.com/en_us/article/5dmkyq/heres-the-file-clearview-ai-has-been-keeping-on-me-and-probably-on-you-too). The author of this article used the California Consumer Protection Act (CCPA) to request the information that Clearview AI held on her. She found that the company had collected, or “scraped,” photos of her from MySpace, Twitter, Instagram, and other websites.

89 “Publicly released” is defined in FERPA under *disclosure*. *Disclosure* means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record.” 34 CFR Part §99.3.

90 The U.S. Government Accountability Office described web scraping in the data broker context in this way: “Federal laws generally do not govern the methods resellers may use to collect personal information for marketing or look-up purposes. Examples of such methods include ‘web scraping’—sometimes called data extraction or web data mining—in which resellers, advertisers, and other parties use software to search the web for information about an individual or individuals, and extract and download bulk information from a particular website that contains consumer information.” *Information Resellers*, U.S. Government Accountability Office, September 2013. Available at: [https://www.gao.gov/products/GAO-13-663](https://www.gao.gov/products/GAO-13-663).
Congress should consider closing this gap in privacy protections by limiting, impeding or prohibiting onward transfer (or sale) of students’ directory information by third parties.

A bright spot exists: the state of New York, in January 2020, took action on this very issue by amending its regulations to prevent the sale of student data.\footnote{Amendment to the Regulations of the Commissioner of Education, Pursuant to Education Law sections 2-d, 101, 207 and 305, a new Part 121 shall be added effective upon adoption to read as follows: Part 121, Strengthening Data Privacy and Security in NY State Educational Agencies to Protect Personally Identifiable Information. The amendment is available at: New York State Education Department, \url{http://www.nysed.gov/common/nysed/files/programs/student-data-privacy/proposed-part-121-for-pii.pdf}.} The New York State Education Department’s amended statute requires, in part the following:

§121.2 Educational Agency Data Collection Transparency and Restrictions.  
\begin{itemize}
  \item Educational agencies shall not sell personally identifiable information nor use or disclose it for any marketing or commercial purpose or facilitate its use or disclosure by any other party for any marketing or commercial purpose or permit another party to do so.
  \item Each educational agency shall take steps to minimize its collection, processing and transmission of personally identifiable information.
\end{itemize}

The new amendments that the New York State Education Department has passed are important exemplars of modern privacy approaches and help ensure students’ personal information does not become a source of income for commercial marketers. These amendments will help prevent schools, particularly postsecondary schools, from being tempted by offers for the purchase or transfer of student directory information.

New York’s approach is helpful, because parents enrolling a child in kindergarten who know enough to opt out and who actually opt out, face 13 years of filing opt out forms before the child graduates from high school. Parents who just once in all those years fail to file an opt out form on time will be unable to keep their child’s information from being released to third parties who seek to exploit directory information from schools.

As a society, we can and must do better in protecting the information of children and students. And we can start by ensuring that schools:

- Designate the \textbf{minimum necessary} school directory information.
- Do not designate photographs as directory information, and do not allow student images or detailed information to be posted publicly online.
- Ensure that all parents and all eligible students have meaningful, year-round access to FERPA notices and opt outs.
- Ensure that schools are offering an environment that is supportive of FERPA opt out, and take the necessary steps to ensure that the information of minors never ends up in the hands of data brokers.

Additionally, schools will need to develop technology that defends against web scraping of data from school websites, both images and text related to specific students. See the biometric section in this report for more information about these kinds of techniques and issues.

In conclusion, while it is not possible to know where the information of minors has been acquired...
in every instance, that we now know it is being acquired by data brokers is of great concern. Schools should do everything they can to ensure that they are not the source of students’ information “in the wild” that can be collected by third parties and then associated with those students and used for years.

**Best Practices:**

- As a best practice, States should consider additional protections for the information of minors in light of the new information that has become available that unambiguously documents the presence of the information of minors in data broker databases.
- New York State’s Education Department has adopted an amendment, which specifically prohibits the sale of personally identifiable student data. This is a policy best practice, and is the kind of structural protection from onward transfer of student data is needed as a best practice. Student directory information that parents or students did not opt out of also needs protections.
- **Schools should review all contracts with third parties, including vendors.** If a vendor is utilizing student directory information, schools should take steps to ensure that directory information is specified as restricted in its use by the vendor and restricted from onward uses. Directory information does not enjoy the same levels of protection as protected student information under FERPA. Note: All types of directory information need to be considered, including photos if a school has made them directory information. (See the discussion of risks regarding student photographs, including some yearbook photographs, in the discussion of biometrics in this report.)
- **Schools should take great care to not release directory information subject to opt out restrictions to third parties.** Schools should review contracts and procedures to ensure directory information that is subject to restrictions (opt out) is secured and only released per the regulations.
- **Because data brokers can acquire information from some school web sites through web scraping, it is a best practice for schools at all levels to utilize anti-scraping software and techniques to protect student information posted on school websites.** Student photographs, names, and other information can be and are being scraped from school websites unless schools take active steps to restrict this activity. Scraped data can be used for many years. Protections include placing all student data and photographs in a protected area of the website and only allowing authenticated access to that area.
- **Directory information should follow a minimum necessary rule.** Schools are not required to share directory information. Whenever possible, this should be the norm, not the exception.

**Further Recommendations:**

Schools, parents, and students should take steps to educate themselves about data broker activities and to protect student directory information.

We also urge the Department of Education, Congress, Attorneys Generals, and State legislatures to take steps to ensure student directory information is not being acquired from schools for unrestricted uses.
### Vermont Data Broker Registry Active Registrations

Companies that answered “Yes” to “Does the data broker have actual knowledge that it possesses the brokered personal information of minors:”

(*Active registrations as of February 2020, last checked April 2020*)

<table>
<thead>
<tr>
<th>Name</th>
<th>Provide a statement detailing the data collection practices, databases, sales activities, and opt-out policies that are applicable to the brokered personal information of minors:</th>
</tr>
</thead>
<tbody>
<tr>
<td>ACCUDATA INTEGRATED MARKETING, INC.</td>
<td>AccuData does not actively collect consumer data nor do we market consumer products and services to minors. Our third-party providers are responsible for restricting the collection and distribution of information about minors.</td>
</tr>
<tr>
<td>ACXIOM LLC</td>
<td>Acxiom will not knowingly disclose identifiable data on minors under 18 to third parties for use in marketing. We do use data such minor data to identify/remove records from our and our clients’ marketing files. We use such minor data in creating insights solely related to the minor’s adult parent, but we don’t disclose identifiable data about the minor in the insights created. Where permitted by law, we use and disclose minor data for non-marketing uses(e.g. fraud detection/prevention products)</td>
</tr>
<tr>
<td>Advertise4Sales LLC</td>
<td>Our services are intended only for those over 18 years of age</td>
</tr>
<tr>
<td>Amerilist Inc</td>
<td>We do not collect data. Only broker.</td>
</tr>
<tr>
<td>AmRent, Inc</td>
<td>AmRent may possess brokered personal information of minors where the criminal or traffic case is a matter of public record. AmRent does not possess information on juvenile cases. Information is only disclosed in accordance with the Fair Credit Reporting Act.</td>
</tr>
<tr>
<td>ASL MARKETING INC</td>
<td>We will not knowingly accept personal information from anyone under 13 years old in violation of applicable laws. If a parent believes their child under 13 gained access to our site without their permission, there is a link to contact us. We do not market products or services for purchase by children.</td>
</tr>
<tr>
<td>backgroundchecks.com LLC (“BGC”)</td>
<td>On occasion, BGC may be asked to provide background screening services in relation to a minor; for example, when a minor has applied for a job. BGC’s practices as they relate to minors are the same as those described in response to question #4.</td>
</tr>
<tr>
<td>BLACK KNIGHT DATA &amp; ANALYTICS, LLC</td>
<td>D&amp;A does not knowingly collect any personal information of minors.</td>
</tr>
<tr>
<td>Blackbaud, Inc.</td>
<td>The Cooperative Database does not include minors.</td>
</tr>
<tr>
<td>CareerBuilder Employment Screening, LLC</td>
<td>Minors follow the same data collection processes as all consumers authorizing the performance of a background check. They are subject to the same opt-out rights as all consumers.</td>
</tr>
<tr>
<td>CDK Global, LLC</td>
<td>We have not any brokered personal information of minors.</td>
</tr>
<tr>
<td>Civis Analytics, Inc.</td>
<td>We do not collect personal data from any person we know to be under the age of 13, and we will delete any personal data collected that we later know to be from a person under the age of 13. Our site and services are for general audiences and is not targeted to children under 13 years of age. If you believe a child under the age of 13 has disclosed personal data to us, please contact us at <a href="mailto:dataprotection@civisanalytics.com">dataprotection@civisanalytics.com</a>.</td>
</tr>
<tr>
<td>Name</td>
<td>Statement</td>
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</tr>
<tr>
<td>Clarity Services, Inc.</td>
<td>Clarity does not separately track or flag credit files on minors, and, thus, if Clarity receives a valid inquiry for a consumer credit file on a minor, Clarity will provide a credit report.</td>
</tr>
<tr>
<td>Clearview AI, Inc.</td>
<td>Clearview AI Inc. collects publicly available images. This collection includes publicly available images of minors. We provide collected images in a searchable format to users. We actively work to remove all images of California-resident minors from all datasets. Clearview AI, Inc. processes all opt-out requests in a manner compliant with the relevant local laws, including opt-out requests related to minors.</td>
</tr>
<tr>
<td>COMPACT INFORMATION SYSTEMS</td>
<td>We do not maintain any PII of minors.</td>
</tr>
<tr>
<td>CoreLogic Credco of Puerto Rico</td>
<td>Credco accepts requests including but not limited to consumer file disclosure, consumer report copy, disputes, opt-out, security freeze, consumer statement, content of report, extended fraud alert, inquiry trace, and identity theft blocking requests from authorized third parties on behalf of minors or emancipated minors authenticated in accordance with our procedures.</td>
</tr>
<tr>
<td>CoreLogic Credco, LLC</td>
<td>Credco accepts requests including but not limited to consumer file disclosure, consumer report copy, disputes, opt-out, security freeze, consumer statement, content of report, extended fraud alert, inquiry trace, and identity theft blocking requests from authorized third parties on behalf of minors or emancipated minors authenticated in accordance with our procedures.</td>
</tr>
<tr>
<td>CoreLogic Solutions, LLC</td>
<td>This is not applicable, as CoreLogic Solutions does not knowingly process or provide data to our clients related to minors.</td>
</tr>
<tr>
<td>Data Facts, Inc.</td>
<td>Children Under Age 13. Data Facts does not offer services to children under the age of 13, and this website is not directed to children under the age of 13. Data Facts does not knowingly collect information about children under the age of 13.</td>
</tr>
<tr>
<td>DataMentors LLC dba V12</td>
<td>V12 does not intentionally collect and is not aware of any data in its possession, custody or control that pertains to any individual under the age of 18. In the event V12 becomes aware of such data, its policy is to delete such data.</td>
</tr>
<tr>
<td>DATAAX LTD</td>
<td>DataX may receive information from its data furnishers on minors. DataX does not knowingly provide credit reports on minors under 16 to its customers, but if the minor’s age or date of birth are not accurately provided by the data furnisher, it is possible that a minor’s credit report could be created within the database. DataX will allow the parent or guardian of a minor to place a security freeze on the minor’s credit file upon receipt of a valid power of attorney or other documentation specifying guardianship as provided under the protected consumer state security freeze laws.</td>
</tr>
<tr>
<td>Drobu Media LLC</td>
<td>None.</td>
</tr>
<tr>
<td>Edvisors Network, Inc.</td>
<td>We do not collect, share or sell data on minors under the age of 13. We have processes in place for adherence to COPPA (“Children’s Online Privacy Act”).</td>
</tr>
<tr>
<td>eMerges.com, INC</td>
<td>If a public record has birth date indicating the person is less than 18 years old or an indicator such as “junior” on a hunting and fishing license, we suppress that record and do not release it except for Political, law enforcement and government identification or authentication type use.</td>
</tr>
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<td>Description</td>
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</tr>
<tr>
<td>EQUIFAX INFORMATION SERVICES LLC</td>
<td>Equifax may receive information from its data furnishers or end-users on minors. Equifax takes steps to remove any information on consumers under the age of 21, or consumers for whom no age or date of birth is available, from the Equifax Credit Marketing Database, so that no minor consumer’s credit information is accessed for purposes of prescreening. Equifax does not knowingly provide credit reports on minors under the age of 16 to its customers, but if the minor’s age or date of birth are not provided, it is possible that a minor’s credit report could be issued. Equifax does allow the parent or guardian of a minor under the age of 16 to place a security freeze on the minor’s credit file, subject to the proof of identity and proof of authority requirements of the FCRA.</td>
</tr>
<tr>
<td>Experian Data Corp</td>
<td>RentBureau does not knowingly collect minor data.</td>
</tr>
<tr>
<td>Experian Fraud Prevention Solutions, Inc.</td>
<td>Experian Fraud Prevention Solutions does not knowingly collect minor data.</td>
</tr>
<tr>
<td>Experian Information Solutions, Inc.</td>
<td>Experian collects personal information of a minor (under the age of 18) if a parent or guardian contacts Experian with a request to place a freeze on a minor file pursuant to Section 301(j) of the Economic Growth, Regulatory Relief and Consumer Protection Act. Following such a request, Experian creates a credit file and places a credit freeze for the minor consumer. It also flags the file in the database as minor file which means that the file will not be displayable until consumer reaches 18.</td>
</tr>
</tbody>
</table>
Name

Experian Marketing Solutions, LLC

Provide a statement detailing the data collection practices, databases, sales activities, and opt-out policies that are applicable to the brokered personal information of minors:

Due to character limitations within the online application, question 7 response has been provided below.

7. Where the data broker has actual knowledge that it possesses the brokered personal information of minors, provide a statement detailing the data collection practices, databases, sales activities, and opt-out policies that are applicable to the brokered personal information of minors:

- Experian acquires and maintains the following data elements as they relate to minors within our ConsumerView relational database repository:
  - Parents Name
  - Child’s name if available
  - Child’s Date of Birth (includes full date of birth, month/year, exact age, combined age) o Child’s Person ID
  - Child’s gender
  - Child’s ethnicity
  - 1st child indicator
  - Address

Experian uses this data to create a modeled probability score and data elements that indicate the presence of children within prescribed age ranges in a household. Experian licenses this presence of children indicator to third parties to market to a household or parents, with use of presence of children indicators representing children three years old or younger requires prior Experian review and approval. Experian does not release the children’s data elements listed above to any external third parties.

- Experian also collects and maintains the following data elements as they relate to minors in our Social Security Administration Death Master File:
  - Child’s name
  - Child’s Social Security Number o Child’s Date of Birth
  - Child’s Date of Death
  - Verification Code

Experian licenses the Death Master File from the Social Security Administration. We use the file for fraud prevention and for legitimate business purposes in compliance with applicable law, rule, regulation or fiduciary duty.

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FIRST ORION CORPORATION

First Orion does not knowingly collect personal information from minors. If a minor submits personal information to First Orion and it learns that the personal information is about a minor, it will delete the information as quickly as possible.

General Information Solutions LLC ("GIS")

On occasion, GIS may be asked to provide background screening services in relation to a minor; for example, when a minor has applied for a job. GIS’s practices as they relate to minors are the same as those described in response to question #4.

ID Analytics, LLC

Technical controls are in place to highlight instances when the request is determined to be on a minor.
<table>
<thead>
<tr>
<th>Name</th>
<th>Statement</th>
</tr>
</thead>
<tbody>
<tr>
<td>InCheck Inc</td>
<td>InCheck only conducts background checks on minor applicants if authorization is obtained by the minor’s parent(s) or legal guardian(s). InCheck collects personal information of minors from court documents only if the court proceeding occurred in a non-juvenile criminal court. Per the Fair Credit Reporting Act, InCheck does not collect personal information associated with any juvenile cases/sealed cases.</td>
</tr>
<tr>
<td>Inflection Risk Solutions, LLC</td>
<td>Inflection does, in limited cases, provide customers the ability to perform background checks on minors older than 13. In these rare cases, the minor’s parental consent is obtained. Juvenile records are not reported. Minors who are the subject of background checks are subject to the same collection, database, sales, and opt-out policies as those provided to adult data subjects. More information may be found at <a href="http://www.goodhire.com/privacy">www.goodhire.com/privacy</a> and <a href="https://www.inflection.com/privacy-policy">https://www.inflection.com/privacy-policy</a>.</td>
</tr>
<tr>
<td>Insurance Services Office, Inc.</td>
<td>This data is captured as part of insurance information that is provided to ISO from insurers, and other similar third-parties, and includes information concerning youthful drivers and workers/employees, as well as youthful victims of motor vehicle and homeowner accidents.</td>
</tr>
<tr>
<td>IQ Data Systems, Inc. dba Backgrounds Online</td>
<td>We do not produce consumer reports for minors unless a parent or guardian first provides written authorization. This may occur when a minor applies for part-time employment.</td>
</tr>
<tr>
<td>L2, Inc.</td>
<td>L2 does not knowingly acquire or maintain any information on minors.</td>
</tr>
<tr>
<td>LEXISNEXIS RISK SOLUTIONS INC. AND AFFILIATES</td>
<td>LexisNexis Risk Solutions does not specifically seek brokered information of minors for collection, but in the process of collecting brokered information generally, does receive such information. LexisNexis does not have specific data collection practices, databases, sales activities or opt-out policies that are applicable to the brokered personal information of minors. Many LexisNexis Risk Solutions products filter out records if the record indicates a date of birth suggesting a minor.</td>
</tr>
<tr>
<td>NATIONAL STUDENT CLEARINGHOUSE</td>
<td>There are rare cases in which the Clearinghouse has actual knowledge that it possesses such information on minors who are or who have been enrolled in postsecondary education. We collect, maintain, and protect this data with the same robust policies we apply to all student data, and respect the same FERPA directory information opt-out rights as we do for non-minors enrolled in postsecondary education. See our privacy policy at: <a href="https://www.studentclearinghouse.org/privacy-policy/">https://www.studentclearinghouse.org/privacy-policy/</a>.</td>
</tr>
<tr>
<td>NFocus Consulting, Inc.</td>
<td>While NFocus Consulting possesses BPI about a household it does not maintain PII of minors. Data elements are used to build insights concerning an adult parent, a household and even a geographical unit. This information is then used to identify target audiences for marketing efforts. Orders include records for a household or an adult residing in a household. NFocus does not maintain names or identifying numbers for minors nor can data elements present be reasonably linked to a specified minor.</td>
</tr>
<tr>
<td>Nuwber Inc</td>
<td>Nuwber does not knowingly acquire and possess the brokered personal information of minors.</td>
</tr>
<tr>
<td>Oracle America, Inc. (Oracle Data Cloud)</td>
<td>The ODC does not intentionally collect personal information from, and does not tailor any services to, children under 16 years of age. Further, we prohibit our ODC partners from providing Oracle with personal information from sites directed to children under the age of 16 or from consumers whose age these companies know to be under the age of 16. If we become aware of data on children under 16 years of age, we take steps to remove the data from our databases.</td>
</tr>
<tr>
<td>Name</td>
<td>Description</td>
</tr>
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<td>-------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Path2Response</td>
<td>We do not have any information on minors that we are aware of.</td>
</tr>
<tr>
<td>Project Applecart LLC</td>
<td>Not applicable</td>
</tr>
<tr>
<td>Refinitiv US LLC</td>
<td>Refinitiv’s products are not directed to minors. In the limited circumstances where Refinitiv obtains and uses brokered personal information of minors (for example, because they are the children of a politically exposed person), Refinitiv applies appropriate controls in accordance with industry guidelines and applicable laws.</td>
</tr>
<tr>
<td>Rental Property Solutions, LLC</td>
<td>The system will not process data requests for consumers under the age of 18.</td>
</tr>
<tr>
<td>Riv Data Corp. dba Carpe Data</td>
<td>Because Carpe Data receives requests from insurance carriers for data about individuals who could be the subject of an insurance claim, it is possible that data on minors is included at times. However, Carpe Data does not always receive DOB from its customers.</td>
</tr>
<tr>
<td>SageStream LLC</td>
<td>As discussed above, SageStream delivers credit risk scores and attributes to clients in accordance with the FCRA and VFCRA. In certain circumstances, the FCRA allows a consumer reporting agency to generate a consumer report on a minor (e.g., prescreen purposes) subject to certain requirements and limitations (see 15 U.S.C. §1681b(c)(1)(B)(iv). Technical controls are in place to highlight responses when the request is determined to be a minor.</td>
</tr>
<tr>
<td>Speedeon Data, LLC</td>
<td>Speedeon Data does not knowingly possess nor distribute any data of minors and will remove any data if it is identified as such. Speedeon requires its customers to warrant compliance with all laws, including those related to marketing to minors.</td>
</tr>
<tr>
<td>TALX CORPORATION [Author’s note: also known as The Work Number ]</td>
<td>TALX may receive information from its data furnishers on minors. TALX does allow parents or guardians to place a security freeze on a minor’s consumer report if a valid power of attorney or other documentation specifying guardianship is provided as required under the protected consumer state security freeze laws.</td>
</tr>
<tr>
<td>Teletrack, LLC</td>
<td>Teletrack does not maintain databases of personal information of consumers who are under 17 years of age.</td>
</tr>
<tr>
<td>TransUnion</td>
<td>TransUnion does not knowingly solicit or collect information from children and does not knowingly include them in its products and services. TransUnion does not use TransUnion data to target or market to children and does not provide personal information of children to any third parties.</td>
</tr>
<tr>
<td>West Publishing Corporation</td>
<td>To the extent that we can identify any minors in our databases we proactively exclude them from our collections.</td>
</tr>
<tr>
<td>WhitePages, Inc.</td>
<td>Data Broker does not display or sell information of minors when it has actual knowledge that the information belongs to minors and, to the extent possible, it identifies and suppresses this information when integrating new data sets into its products. Data Broker does not knowingly purchase brokered personal information of minors.</td>
</tr>
</tbody>
</table>
III. Student Biometric Data and FERPA Directory Information

Biometric data is included in the definition of *personally identifiable information* under FERPA. This means that biometric information held by schools is considered protected information under FERPA, and may only be released by schools with consent. FERPA defines biometrics as:

“Biometric record,” as used in the definition of “personally identifiable information,” means a record of one or more measurable biological or behavioral characteristics that can be used for automated recognition of an individual. Examples include fingerprints; retina and iris patterns; voiceprints; DNA sequence; facial characteristics; and handwriting.\(^{92}\)

Prior consent is required before a school can release the student biometric data that it holds. Most schools are cautious about the student biometric data they hold, and currently, there is a debate about whether or not schools can or should use biometrics to identify students for attendance purposes, or for identifying students in the school lunch context. This debate is important. But a major biometric threat that schools have overlooked is what is happening to student directory information.

Research for this report documents unambiguously that some facial recognition companies are “scraping” web sites to collect images from those sites, and at least one such company has scraped images of minors for use in one or more of its biometric products. It is no longer unreasonable to surmise that school web sites, which are potential sources for concentrated images of the faces of minors, can be among the sites targeted to be scraped.

Research for this report also found that some yearbook companies are using face recognition software in creating school yearbooks. The privacy policies of these companies vary widely.

**What the Research Found:**

- The research also found that even if schools do not specifically designate photographs as directory information, many of the schools studied have posted student photographs online in some form, for example, on a social media site, a school web site, or in a newsletter posted online.
- Digital photographs posted online on a school website under a directory information exemption are public data.
- WPF found face recognition test databases that include the images of children that were found in the public domain online. For example, test databases such as MegaFace contain the images of children. MegaFace images were taken from Flickr posts.\(^{93}\)
- WPF found that some companies providing yearbook services to schools now utilize face recognition on student photos. When schools designate student photographs as directory information, yearbook companies do not have to get parental or student consent before making a face recognition template of a student’s photo, because photographs that have been designated as directory information are public information.

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Educational institutions have been grappling with issues and concerns about biometrics, especially face recognition systems and fingerprinting systems.\textsuperscript{94} Much of the discussion around school biometrics to date has been focused on face recognition or fingerprinting that the schools themselves are conducting.\textsuperscript{95} The debate has led to state laws that ensure students will not be asked to provide a biometric without consent, among other protections.\textsuperscript{96} These are important aspects of the biometrics debate. But this is only one aspect of the discussion. Two major risk points exist: scraping of student photos posted online, and yearbook companies that are using face recognition on student photos.

### Risks Related to Scraped Student Photographs

An important point of risk that has been widely overlooked at schools is that students whose photographs are designated as directory information and are then posted publicly can have their images "scraped" and used in commercial biometric identification systems that students don't know about, and may have no control over.

For background, web scraping activities can collect images posted publicly on web sites.\textsuperscript{97} If students’ images were posted by schools using the directory information exemption, then those images, if scraped, were scraped without prior consent from parents or eligible students.

The reason image scraping in particular is happening is because face recognition systems need large volumes of photographic, or image, data to train face recognition algorithms and accomplish other tasks. Digital images are the “raw resource” for such systems, and this has created a demand for images of people of all ages, including minors.\textsuperscript{98} One well-known database contains 26,580 photos of 2,284 subjects, including minors, whose images were “in the wild,” i.e., in the public domain.\textsuperscript{99}

\footnotesize


\textsuperscript{97} The U.S. Government Accountability Office described web scraping in its Data Resellers report: “... Examples of such methods include ‘web scraping’—sometimes called data extraction or web data mining—in which resellers, advertisers, and other parties use software to search the web for information about an individual or individuals, and extract and download bulk information from a particular website that contains consumer information.” Information Resellers, U.S. Government Accountability Office, September 2013. Available at: \url{https://www.gao.gov/products/GAO-13-663}. Photographs of students can be scraped from school websites unless specific preventive steps are taken.

\textsuperscript{98} IBM developing huge public dataset to help eliminate bias from facial recognition, Find Biometrics, June 27, 2018. Available at: \url{https://findbiometrics.com/ibm-help-eliminate-bias-from-facial-recognition-506276/}. “Perhaps more importantly, IBM is going to release a dataset of 36,000 facial images that will be equally distributed across a range of ethnicities, genders, and ages. This will primarily be for evaluation purposes, a tool to help developers eliminate bias from their facial recognition systems.”

Additional public data sets of scraped images exist,\textsuperscript{100} and include the large \textit{Labeled Faces in the Wild} (LFW) dataset\textsuperscript{101} and the \textit{CASIA-Web Face} dataset.\textsuperscript{102} The CASIA dataset contains 494,414 images of 10,575 subjects. The LFW dataset, also public, contains 13,233 images of 5,749 subjects, some of whom are children. The VGGFace2 database has 3.31 million face images or 9131 subjects across age ranges.\textsuperscript{103} The demand for face images must not be underestimated -- some biometric companies have negotiated partnerships with the governments of countries in part to acquire the rights to use photographs of their citizenry for training face recognition systems.\textsuperscript{104}

Recently, news reports in 2020 have disclosed that even larger datasets of faces now exist from web scraping activities. One company named Clearview AI has reportedly scraped 3 billion images from websites and social media sites to acquire images for use in face recognition products.\textsuperscript{105} The scraping has been independently confirmed.\textsuperscript{106} This same company has specifically disclosed in the Vermont Data Broker registry in January of 2020 that it collects the publicly available images of minors for its use:

\begin{itemize}
\item Many such databases exist. See, for example, Cole Calistra, \textit{60 facial recognition databases}, May 7, 2015. Available at: \url{https://www.kairos.com/blog/60-facial-recognition-databases}.
\item \textit{Labeled Faces in the Wild}, University of Massachusetts. Available at: \url{http://vis-www.cs.umass.edu/lfw/#resources}.
\item The creators of the CASIA scraped dataset explain the methodology of the creation of the dataset in an academic paper: Dong Yi, Zhen Lei, Shengcai Liao and Stan Z. Li, \textit{Learning Face Representation from Scratch}, Center for Biometrics and Security Research & National Laboratory of Pattern Recognition Institute of Automation, Chinese Academy of Sciences (CASIA). Available at: \url{https://arxiv.org/pdf/1411.7923.pdf}.
\item VGGFace2, A large scale image dataset available for face recognition. Available at: \url{http://www.robots.ox.ac.uk/~vgg/data/vgg_face2/}. See: Qiong Cao, Li Shen, Weidi Xie, Omkar M. Parkhi and Andrew Zisserman, \textit{VGGFace2: A dataset for recognising faces across pose and age}, Visual Geometry Group, Department of Engineering Science, University of Oxford. Available at: \url{http://www.robots.ox.ac.uk/~vgg/publications/2018/Cao18/cao18.pdf}.
\item Anna Merlan, \textit{Here's the file Clearview AI has been keeping on me, and probably on you too}, Vice, Feb. 28, 2020. Available at: \url{https://www.vice.com/en_us/article/5dmkyg/heres-the-file-clearview-ai-has-been-keeping-on-me-and-probably-on-you-too}. The author of this article used the California Consumer Protection Act (CCPA) to request the information that Clearview AI held on her. She found that the company had collected, or “scraped,” photos of her from MySpace, Twitter, Instagram, and other websites.
\end{itemize}
“Clearview AI Inc. collects publicly available images. This collection includes publicly available images of minors. We provide collected images in a searchable format to users. We actively work to remove all images of California-resident minors from all datasets. Clearview AI, Inc. processes all opt-out requests in a manner compliant with the relevant local laws, including opt-out requests related to minors.”

Did this company scrape images on school websites? The filing does not indicate a yes or a no answer to this question. Have any other face recognition companies scraped school websites? We do not have documentation of this. Have students’ images posted by schools on school social media websites been scraped? We don’t know for certain, yet. But we do know that social media websites have been scraped. It is important that regulators, parents, students, and schools get answers to these questions and find out if student images have been scraped from school websites or school social media websites. The scraping of students’ photographs posted online for facial recognition databases and products needs to be addressed as soon as possible.

By itself, the demand for photographs of minors for use in face recognition systems should be of ample concern. An additional concern is that face recognition performed on children has been well documented to have high error rates relative to adults. This is an additional factor that can drive higher demand for images of minors -- including very young children -- in order to test and correct for age-related challenges in face recognition systems.

Biometric systems can persist for many years and be used in contexts far beyond what a school faculty or staff member ever imagined when innocently posting a photograph of an honor roll student, or the winner of a contest on the school’s public website. FERPA specifically regulates students’ biometric information that schools hold. But FERPA is silent on the risk of the use of students’ photographs designated as directory information as providing raw material for the testing, development, and use of biometric systems, including face recognition systems.

The public has become increasingly aware of the use of scraped photographs to train face recognition systems. But schools are still designating photographs as directory information, and many schools are still posting images of students online. The risk of web scraping of images is an important issue to address. Schools as a best practice should not include photographs in directory information. After

107 Filing of Clearview AI, Registration ID 367103, January 14, 2020, Vermont Data Broker Registry. Vermont Secretary of State. Available at: https://www.vtsosonline.com/online/DatabrokerInquire/DataBrokerInformation?businessID=367103. See: Response to Question 7: “Clearview AI Inc. collects publicly available images. This collection includes publicly available images of minors. We provide collected images in a searchable format to users. We actively work to remove all images of California-resident minors from all datasets. Clearview AI, Inc. processes all opt-out requests in a manner compliant with the relevant local laws, including opt-out requests related to minors.”


being designated as directory information and made public information, schools and students will have no control over how the photographic information is used or disclosed.

**Risks relating to yearbook companies using facial recognition software**

For some time now, there has been an interest in utilizing facial recognition technologies in the yearbook context. Already, school yearbooks from the “majority of U.S. schools” from 1890 to 1979 have been analyzed and have had facial recognition applied to them so they could be easily searched. But it isn’t just old yearbook photos that are being analyzed; some yearbook companies are utilizing face recognition on current student photographs.

This is an issue that is not widely known or discussed, but it needs to be. While biometric data that schools themselves hold is regulated under FERPA, face recognition performed by yearbook companies may not be covered, depending on a variety of implementation factors. To address the potential privacy impacts, all schools should conduct a careful analysis of their yearbook policies and yearbook company, and determine if any face recognition is being utilized on student photographs at any time or point in the yearbook process. If so, then schools need to conduct an analysis and understand how all of the policies interact and what it means for privacy, parents, and students.

No matter what the analysis yields, parents and students need to be informed clearly and directly of facial recognition use when it occurs in the school context, including yearbooks. Schools that do not designate student photographs as directory information may have more control over these kinds of issues. Schools, for their part, should ensure that yearbook companies only use student photographs for creating the school yearbook and do not utilize the photos for anything else. Any onward sharing or use of student data for marketing or other purposes should be restricted.

Facial recognition is a controversial technology, and with the controversy comes a divergence of views. In this situation, it is a best practice to ask for consent prior to the use of facial recognition, even if by an outside vendor. If consent is given, there should still be clear boundaries on how the photographs may be used, and for how long.

Solutions exist for schools. Not including images in directory information is a first step. Another is to reassess and refine school policy regarding images of students, including publicly posted photos and yearbook photo policies. Schools can also explore technical solutions - such as creating scrape-proof areas of school web sites where images can be responsibly posted.

Another solution is for schools to utilize “anti-scraping” tools and techniques. For example, an “image cloaking” technique that helps prevent image scraping has been developed that is promising. Schools

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111 See for example, Jostens, [https://www.jostens.com/yearbooks/ybk_lp_prospects.html](https://www.jostens.com/yearbooks/ybk_lp_prospects.html). In its privacy policy, Josten notes in its *Categories of Personal Information Collected in last 12 months*: “Identifiers; Personal Information described in the California Customer Records Statute; Characteristics of protected classifications under California or federal law; Commercial Information; Biometric data; Internet or other electronic network activity; Professional or employment information; Geolocation data; Sensory information; Non-public Education Information.” See also: App, ReplayIt.com, [https://www.replayit.com/](https://www.replayit.com/).

can explore these and other techniques as they seek ways to protect their students from unconsented face recognition being performed on student images.

If schools do not take action, and continue to publicly post student images in a way that allows scraping, or include student images and videos in directory information, one solution for parents and students is to restrict directory information sharing by opting out of such sharing. It can be a difficult choice, because students often want to participate in school yearbooks and events and have a photographic record of their time at the school. It is incumbent on schools to modernize their approaches to directory information, especially regarding images of students and the new risks they pose regarding collection for use in biometric systems.

**Best Practices:**

- **Schools should not designate photographs or images of students as directory information.** Web site scraping for the potential inclusion of student images in face recognition test databases and products has been a significantly overlooked risk by schools.

- **Schools should not post photographs of students on publicly accessible websites that can be scraped.** We recognize that it is not much fun to omit student images from communications about school activities. A balance needs to be found due to the risks involved with public posting of students’ images.
  
  o Newsletters that contain the images of students under the age of 18 can be emailed directly to parents and students instead of being publicly posted. Special awards and honors ceremonies can be posted at very low image quality, so that biometric measurements of such photographs will be rendered ineffective.
  
  o Schools can post messages that contain student photographs behind password-protected areas of the school website.
  
  o Schools can and should explore anti-web-scraping technologies and techniques. It is a best practice that any image posted publicly of a student be protected by anti-scraping technology.

- It is a best practice that schools require yearbook companies that use facial recognition in any of their process to never sell or share that information, and should require specific consent for the use of facial recognition. Further, schools should ensure that student images and/or biometric templates from the images, are not used in any further way beyond what the school expressly allows.

- **In general, it is a best practice to avoid making photographs of students under the age of 18 widely available online.**

**Further recommendations:**

There should be an express prohibition on the use of minor students’ photographs for training face recognition systems by anyone.

Schools that still decide to designate student photographs as directory information need to restrict
those photographs from becoming available to third parties to “scrape” or otherwise utilize in training databases for biometric systems.

Schools should ensure they have a clear school biometric policy in place that applies to both biometric information the school holds, and also addresses the risk that student images can potentially be utilized to create biometric templates and products by third parties known or unknown to the school, parents, or eligible students. Each school will have its own context for a biometric policy.

Lawmakers are expressing concerns about biometrics in schools. Legislatures have already passed laws that apply specifically to the use of biometrics in educational settings. For some examples, see the chart in this section that presents key examples of school-related biometric laws in the U.S. These laws may have different definitions of biometrics than FERPA, and may have additional interactions with FERPA. Most of the risks of face recognition and biometrics in schools have been articulated as coming from within the schools, and scant attention has been paid to the risk from outside the schools. For example, from web scraping of student images posted without prior consent under the directory information exemption.

It is important for educational institutions to educate themselves on the risks regarding release of student photographs as “public information” relevant to biometric systems. Biometric systems can be persistent, and many parents and students would want to know if their images had been included and analyzed in a biometric system that is in active use outside of the educational context.

The best way for schools to avoid the risks of web scraping of student images is to ensure that no student photos are posted online in a public area of the school web site. The best way for schools to ensure that there are no surprises regarding yearbook companies utilizing facial recognition on student photos is to have a discussion with the company and be very clear about how or if that would happen. There should be no biometric surprises for any student or parent.

State-Level Biometric Laws Focused on Educational Institutions

<table>
<thead>
<tr>
<th>State</th>
<th>Year enacted or status</th>
<th>Bill name</th>
<th>What the bill does</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arizona</td>
<td>2008</td>
<td>Biometric Student Information</td>
<td>Provides that a school in a school district or a charter school shall not collect biometric information from a pupil unless the pupil’s parent or guardian gives written permission.</td>
</tr>
</tbody>
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<table>
<thead>
<tr>
<th>State</th>
<th>Year enacted or status</th>
<th>Bill name</th>
<th>What the bill does</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arkansas</td>
<td>2015</td>
<td>Student Online Personal Information</td>
<td>Adopts the Student Online Personal Information Protection Act, relates to websites, includes test results, special education data, discipline records juvenile dependency records, medical or health records, Social Security number, biometric information, socioeconomic information, political affiliations, religious information, student identifiers, voice recordings and geolocation information, prohibits targeted advertising based on covered information or sale of a student’s covered information.</td>
</tr>
<tr>
<td>Colorado</td>
<td>2014</td>
<td>Student Data Privacy Act</td>
<td>Requires the Board of Education to publish an inventory and dictionary or index of the individual student-level data currently in the student data system, requires Board to develop policies and procedures to comply with the Family Educational Rights and Privacy Act and other privacy laws and policies, prohibits the collection of criminal records, medical records, social security numbers, and student biometric information, prohibits the Board from transferring student data to any entity outside of the state.</td>
</tr>
<tr>
<td>Florida</td>
<td>2014</td>
<td>Education Data Privacy</td>
<td>Relates to education data privacy, requires notice to K-12 students and parents regarding education record rights, provides a remedy in circuit court regarding education records, provides limitations on collection and disclosure of confidential and exempt student records, relates to biometric information, including fingerprints, student social security numbers and student identification numbers, prohibits information on parent or sibling biometrics, voting history, religion or political affiliation.</td>
</tr>
<tr>
<td>State</td>
<td>Year enacted or status</td>
<td>Bill name</td>
<td>What the bill does</td>
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</tr>
<tr>
<td>Illinois</td>
<td>2007</td>
<td>Student Biometric Information</td>
<td>Regarding schools with meal counting system that uses fingerprints, hand geometry, voice or facial recognition, or any other student biometric information, this law requires school districts to adopt a policy with the following items: Written permission to collect biometric information from the individual who has legal custody of the student, or from the student if he or she has reached the age of 18. Failure to provide this written consent must not be the basis for refusal of any services otherwise available to the student. The discontinuation of use of a student's biometric information when the student graduates or withdraws from the school district; or if a written request for discontinuation is provided to the school by the individual who has legal custody of the student, or by the student if he or she has reached the age of 18. The destruction of all of a student's biometric information within 30 days after the biometric information is discontinued through graduation, withdrawal, or a written request for discontinuation. The use of biometric information solely for identification or fraud prevention. A prohibition on the sale, lease, or other disclosure of biometric information to another person or entity, unless consent is obtained from the individual who has legal custody of the student, or from the student if he or she has reached the age of 18, or the disclosure is required by court order. The storage, transmittal, and protection of all biometric information from disclosure.</td>
</tr>
<tr>
<td>Kentucky</td>
<td>2014</td>
<td>Security Breach of Information Held by Public Agencies</td>
<td>Regulates security of personal information held by public agencies, counties, school districts and municipal corporations, requires public agencies and nonaffiliated third parties to implement and update security procedures, including encryption and corrective action against security breaches, includes breach investigation procedures in contracts with nonaffiliated third parties, includes biometrics, Social Security numbers, credit and debit card numbers, passport, driver license and health information.</td>
</tr>
<tr>
<td>Louisiana</td>
<td>2010</td>
<td>Acts 2010, No. 498, §1, eff. June 24, 2010</td>
<td>Regulates collection of student biometric information, requires written permission from parent, guardian, or the student if age 18 or older, prior to the collection of any biometric information, provides that such information shall only be used for identification or fraud prevention, requires written permission for disclosure to a third party unless required by a court order, provides for secure storage and transmission of such information, prohibits denial of services due to refusal to provide consent.</td>
</tr>
<tr>
<td>State</td>
<td>Year enacted or status</td>
<td>Bill name</td>
<td>What the bill does</td>
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<td>---------------------------------------------------------------------------</td>
<td>-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Nevada</td>
<td>2015</td>
<td>Provisions Governing Records of Criminal History</td>
<td>Revises provisions governing records of criminal history, provides that such information may be request of and received from the Federal Bureau of Investigation by the submission of a complete set of fingerprints, or other biometric identifier which is defined as a fingerprint, palm print, scar, bodily mark, tattoo, voiceprint, facial image, retina image or iris image of a person, requires the Central Repository to adopt regulations governing biometric identifiers and the information derived therefrom.</td>
</tr>
<tr>
<td>New York</td>
<td>Not enacted - Active as of 2020</td>
<td>§140—A</td>
<td>Directs the commissioner of education to conduct a study on the use of biometric identifying technology; prohibits the use of biometric identifying technology in schools until July 1, 2022.</td>
</tr>
<tr>
<td>Oklahoma</td>
<td>2013</td>
<td>Student Data Accessibility, Transparency and Accountability Act</td>
<td>The Student Data Accessibility, Transparency and Accountability Act, requires public reporting of which student data are collected by the state, mandates creation of a statewide student data security plan, and limits the data that can be collected on individual students and how that data can be shared. It establishes new limits on the transfer of student data to federal, state, or local agencies and organizations outside Oklahoma. It also restricts the state from requesting delinquency records, criminal records, medical and health records, social security numbers and biometric information as part of student data collected from local schools and districts.</td>
</tr>
<tr>
<td>Tennessee</td>
<td>2014</td>
<td>Parental Inspection of School Records</td>
<td>Allows parents to review all instructional materials used in the classroom of the parent’s child, mandates that a local educational agency shall allow parents access to review all teaching materials, instructional materials, handouts and other teaching aids, provides for parental review of all surveys, analyses and evaluations prior to being administered to the child, with the option to opt out of student participation, requires written consent for collection of biometric data.</td>
</tr>
</tbody>
</table>

Figure 23. This chart summarizes a selection of the key state-level biometric laws in the US pertaining to educational institutions. More laws exist; these are exemplars. As of 2020 there is increased momentum toward the creation of additional laws regulating biometrics at the state level, including more controls on the use of student biometrics.
IV. Recommendations for Private Schools, or any Educational Institution not covered under FERPA Regulations

FERPA usually does not apply to primary and secondary private schools. Private postsecondary institutions, however, are usually covered by FERPA in some way. Given that there are 34,576 private schools, as last tallied by the National Center for Education Statistics, a significant swath of students and parents lack the protections and rights that FERPA provides.

Schools not subject to FERPA should nevertheless take steps to protect student privacy. First, schools not covered by FERPA need to develop their own comprehensive modern privacy program, ideally a program that addresses the gaps in FERPA and that includes the best practices identified in this report. Second, these schools should pay particular attention to student health data. The release of this data can affect a student, the student’s family, and even the student’s children forever.

A. Creating controls for personally identifiable information and other student data that would otherwise be classified as an educational record under FERPA

States have a plethora of laws applicable to educational institutions. The National Conference of State Legislatures has identified at least 17 significant privacy laws applicable to educational institutions at the State level. The State laws range from ensuring that biometrics collected at schools for school lunches or other purposes require consent, to requiring data breach notification by schools, to setting rules around schools’ relationship with external technology vendors such as for integrated student information systems, or other technologies used for school purposes. No two states have identical privacy requirements for all educational institutions. As such, privacy protections for students at private K-12 schools may differ markedly from State to State.

To be responsive to the increasing and high profile concerns about student privacy, private schools need to understand the State privacy laws applicable to them.

Private schools can make use of a privacy tool called a Privacy Impact Assessment to conduct a

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114 Most postsecondary institutions such as colleges and universities both public and private, including medical, law, and other professional schools are covered by FERPA by virtue of how the mechanics of Federal student grant and assistance programs work under Title IV. Educational institutions that receive funding from one or more of the programs under Title IV are covered by FERPA as a whole, even if just a constituent part of the institution receives the funds. 34 CFR §99.1 (d).


118 A privacy impact assessment is a practical tool that facilitates thinking through privacy risks. There are many types of privacy impact assessments, and the PIA is typically tailored for each specific assessment. See the PIAs at the U.S. Department of Education as exemplars. Privacy Impact Assessments. U.S. Department
thorough review of school data and data practices to identify gaps and to set a sound privacy policy that complies with applicable laws. Many resources and examples of Privacy Impact Assessments (PIA) exist. In particular, see the U.S. Department of Education’s PIAs.\textsuperscript{119} Some school districts have good materials on their approach to PIAs.\textsuperscript{120} It may also be helpful for some private schools to think thorough a Data Privacy Impact Assessment (DPIA)\textsuperscript{121} to further identify gaps and risks, even though it is not a requirement.

A PIA should ideally document how non-FERPA schools can achieve privacy protections for students and parents that are the same as (or better than) protections for students in schools subject to FERPA. Students in private schools should not be second-class citizens when it comes to privacy. Parents of those students should demand privacy rights and protections.

**B. Risks related to health data held at non-FERPA-covered primary and secondary schools**

Of particular concern at non-FERPA covered schools are legal protections for student health records. At the postsecondary level, most information held by schools is covered under FERPA or in some cases, under HIPAA. But some student health data has neither HIPAA\textsuperscript{122} nor FERPA protections when held at a private K-12 educational institution that is not a FERPA-covered entity.\textsuperscript{123}

The intersection of HIPAA and FERPA is complex. The Department of Education and the Department of Health and Human Services released new joint guidance regarding the intersection of HIPAA and FERPA in 2019. It should be required reading for all school personnel, even if neither law applies.\textsuperscript{124}

**C. Resources**

Several high-quality resources are available that may be helpful, including:


\textsuperscript{121} Most DPIA templates apply to entities regulated in Europe under European privacy law. Some templates are nevertheless useful as an exercise in generally thinking through data privacy risks. One excellent template is at the UK Information Commissioner's Office. Sample DPIA Template, UK ICO. Available at: [https://ico.org.uk/media/about-the-ico/consultations/2258461/dpia-template-v04-post-comms-review-20180308.pdf](https://ico.org.uk/media/about-the-ico/consultations/2258461/dpia-template-v04-post-comms-review-20180308.pdf).


The Privacy Handbook for Student Information Online: A Toolkit for Schools and Parents, is an essential resource. Fordham University developed the Handbook under Professor Joel R. Reidenberg's direction. The toolkit includes resources for school boards, administrators, teachers, and parents. Another resource is the FerpaSherpa Resource Center.

Private schools should take into account their own activities, contexts, and applicable laws, when developing privacy rules that serve students' and parents' present and future needs. This work needs to be undertaken sooner rather than later. Private schools, particularly if they are nimble, might even compete on privacy, for example, by establishing rules that exceed the requirements of those found in public schools. We would love to see a “race to the top” for privacy standards among private schools.

Best Practices:

• It is a best practice for private schools or other non-FERPA covered entities to conduct a Privacy Impact Assessment (PIA). Pay particular attention to sensitive information such as student health data.

• It is a best practice to understand the State privacy laws that apply to your educational situation.

• Create procedural and administrative rules to manage the information that would, in other settings, be held under FERPA.

• Review the recommendations regarding student directory information, data brokers, and biometrics. Many of the concerns about implications and impacts of public dissemination of student data will apply to student information in a non-FERPA context.

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125 Joel Reidenberg et al, Privacy Handbook for Student Information Online: A toolkit for schools and parents, Fordham University. Available at: https://www.fordham.edu/info/23830/research/5916/privacy_handbook_for_student_information_online.

126 Professor Reidenberg is regarded as a privacy thought leader in student privacy and related issues.

127 FerpaSherpa, a project of the Future of Privacy Forum. Available at: https://ferpasherpa.org/about/team/.
Part IV. Conclusion: Towards Creating a Culture of Privacy in FERPA-Covered Institutions

A lesson learned from other areas of data privacy is that law on the books is one thing, but law in practice can be something else entirely. Laws are only as effective as their implementation, and the best implementation should nurture a way of thinking that embodies the needs of students, even if those needs go beyond the words of a law, whether it is out of date or not.

FERPA, with its important protections for student data, is an important cornerstone of student privacy in the U.S. When implemented properly, FERPA can give students some degree of autonomy and choice over information that can affect their lives and opportunities in meaningful ways. Understanding and exercising privacy controls can also give students an education that will serve them well as they navigate privacy issues throughout their lives.

FERPA-covered schools need to develop good, thoughtful, and useful FERPA notices, policies, and opt out forms. These are essential — but these tools operate best in an environment that fosters a “culture of privacy.” This means that privacy is a value that is respected and nurtured within the entire culture of educational institutions. One of the first steps toward creating a culture of privacy is to embrace privacy protection as a positive feature, not to treat it as a bug in the system.

In our modern era, students (and parents) may have many reasons for wanting or needing to utilize FERPA directory information opt out rights. Students may want their personal information such as home address or weight shielded from public eyes. Students who are victims of domestic violence may need enhanced privacy and “data safety,” and restricting information may be essential for them. Parents of students who are active members of law enforcement or the judiciary may also want a FERPA opt out in place.

A culture of privacy will assist and understand the many reasons (or no particular reason) that, in our incredibly complex digital environment, people want to remove personal information from public disclosures. Modern data systems collect personal information and can use it to predict and affect how individuals are treated in the educational, vocational, economic, and other marketplaces. In some cases, this information can affect individuals for the rest of their lives.

FERPA provides local educational institutions with broad discretion to implement certain aspects of the federal privacy rules. For example, a school can limit directory information beyond that allowed by FERPA. In an ideal world, the FERPA framework has the possibility of being flexible and effective, both essential qualities. But in the absence of clear, modern guidance and vigorous leadership focused on student privacy and school privacy concerns, the broad discretion that FERPA allows can and in many cases has devolved, creating significant inconsistencies in local FERPA implementations. For parents and students who are involved with more than one school during the course of a student’s academic life, the diversity in FERPA protections is an additional challenge.

The Department of Education needs to update FERPA policy to reflect the modern understanding that the release of a student’s home address represents a profound safety risk for all children, but especially for vulnerable populations, including victims of crime, survivors of domestic violence, and students who are children of members of law enforcement and the judiciary. Releasing the photographs of minors publicly online without prior consent is also problematic, and this practice needs to be curtailed. These are starting points — additional items such as rewriting model notices and asking schools to post FERPA notices and opt out forms online and without requirements for registration to see these policies would be welcome updates.
FERPA policy must be proactive and smart about ensuring that data scrapers, data brokers, data profilers, and those seeking to cull the data of a new generation cannot do so unless and until parents and eligible students who are well and truly fully aware of all FERPA directory information rules and policies at their local schools choose for the information to be public. And schools, for their part, need to assertively assist parents and students in opting out of directory information sharing when so requested. Schools that make FERPA opt outs difficult for students do not support a culture of privacy.

Solutions to the problems identified in this report exist. And the solutions in many cases are inexpensive and achievable. It is not expensive to post a FERPA policy and a FERPA opt out policy on a school web site. It is not impossible to make it easy for a student or parent to exercise opt out rights by providing a FERPA opt out form and allowing for that form to be turned in throughout the academic year.

What is going to be challenging is to find the willingness and the attention needed to make the changes that can bring modern privacy protections into the educational institutions in the United States. In the past decade, there has been little discussion of the effects of educational institutions’ directory information policies in the modern educational digital ecosystems. It is time to remedy that gap.

To do this, schools can begin by convening parents, students, and other stakeholders to discuss how to update privacy policies in a way that serves the needs of students and parents first and foremost. Schools can survey parents and ask what kind of opt outs are effective for them, and how much time they need to opt out. Schools can listen to the privacy concerns of students and parents who have been touched by crime or who have been made vulnerable in other ways, and can begin to craft FERPA policies at the local level that are sensitive to the real-world privacy problems that parents and students are facing. In doing so, educators can begin to fulfill their obligation to do no harm in the area of student privacy, and to create a safe place for student flourishing by modeling the dignity of treatment of others educators most want to see in their students.
Part V. Documents and Data Related to the Research

I. Printable Best Practices for Educational Institutions

FERPA Notice

General Best Practices

- It is a best practice for mandatory FERPA notices to be posted online in a prominent location year round.
- Although it is not a best practice for general FERPA notice, we recommend institutions provide opt out forms along with the general FERPA notices.

Best practices: Postsecondary institutions

- It is a best practice for the mandatory annual FERPA notice to be posted online in a prominent location year round.
- Although it is not mandatory, we recommend institutions provide FERPA opt out forms along with the general FERPA notices.
- Provide a permanent online repository of policies for the handling of student data, including FERPA. Ensure that all FERPA forms, including opt out, are available on the same webpage. Provide a “One Stop Shop” FERPA hub.
- Keep responsibility for similar policies in the same office, such as the registrar. There should be a list of school officials who can answer questions from students and parents. Links from the Registrar’s site could easily become a quasi-standard location for postsecondary schools to post FERPA data. This would provide helpful consistency for students.

Best Practices: Primary and Secondary institutions

- Provide parents, students, and the public with prominent online FERPA notice, and online FERPA opt out forms. In today’s digital world, all FERPA materials online must be available on a public-facing part of the school website. Parents must be able to easily find FERPA materials before they enroll their children in a school. If the school runs a non-public school platform or student portal, the school will still need to ensure that in addition to school portal activity around FERPA, that there is publicly available notice on the website.
- Prominent FERPA notice entails providing a clearly labeled link from the home page directly to the FERPA annual notice. Or, a search for FERPA in a search box should uncover the pertinent information. Parents and students should not need to click through websites and do investigative searches to find the annual FERPA notice.
- Use consistent terms: FERPA, directory information opt out, or directory information restriction are the most commonly used terms. It would be helpful for the Department of Education to standardize the terminology so that students and parents see the same terms at all schools.
- Put all relevant FERPA forms and information in one prominent location online that is publicly available.
- Notice of FERPA policies and opt out should be prominent and should remain online year-round. Many K-12 schools provide paper forms or email forms to parents. A best practice is to provide FERPA annual notice linked from a prominent place on the home page at all times in addition to the paper forms.
- Use consistent terms: FERPA, directory information opt out, or directory information
restriction are the most commonly used terms. It would be helpful for the Department of Education to standardize the terminology so that students and parents see the same terms at all schools.

- **Put all relevant FERPA forms and information in one prominent location online that is publicly available.** Parents and students who are relocating or thinking of a local move need to be able to see FERPA forms readily online.

- To serve the needs of those who are highly adapted to digital technologies, educational institutions should ensure FERPA notices are readily available online and can be read on mobile devices as well as laptop computers. School web sites are key for providing prominent links to FERPA annual notices that are accessible to the public and students.

**Information that is Shared without an Opt Out in Place**

- **Directory information should follow a minimum necessary rule.** Expansive inclusions of students’ gender, primary language, and place of birth are not necessary. Schools can use this data, but including these data fields in directory information and releasing it to third parties is unnecessary and therefore not a good practice because routinely its inclusion is not required to achieve the goal of the school through disclosure.

- **Home address of a student placed in directory information presents a safety risk for some students and parents.** Both schools and the U.S. Department of Education should recognize a modern understanding of safety considerations attached to publicly releasing home address information. Not only is the student potentially put into a dangerous situation, their family members who may also have risks associated with others knowing their home addresses may also be endangered. For example, judges, elected officials, police officers and victims of stalking or other crimes may be put at risk.

- **Photographs of students released through directory information create high risks to all students.** Photographs of students are riskier to release because of the possibility of permanent storage and use by commercial and other biometric systems. The photographs may be input for web scraping tools that can undertake biometric analysis. It is a best practice to not include student photographs in directory information.

- **All directory information, prior to being designated, needs to undergo a safety review.** Home address, date of birth, gender, and other data are questionable for inclusion in directory information.

**Example:** One sampled K-12 school district includes a minimal amount of data as directory information.

- Student’s name
- Street address
- Telephone number
- School attended
- Grade level.

This is a step in the right direction of a best practice but for the inclusion of street address and, perhaps, telephone number. What this example shows is that directory information can include just a few data elements about each student.
How Much Time Do Parents or Eligible Students Have to Opt Out?

Best Practices for Time Allowed for FERPA Opt Out at all educational institutions:

- **Directory Information Opt Outs should be allowed all year by all institutions covered under FERPA;** this is a baseline protection that needs to be updated in the FERPA guidance.
- **Expedited opt outs should be made available for vulnerable people and populations.** If in the event that a safety situation, data breach, or a toxic data leak traceable to directory information that has been disclosed, those at risk need to be provided immediate means of masking or hiding their data.

Access to FERPA Opt Out Forms

Best Practices for Access to Opt Out Forms:

- **It is a best practice for educational institutions to post a FERPA opt out form online.**
- **It is crucial that all educational institutions post FERPA opt out forms online in a way that is publicly accessible and does not require a password or registration.**
- **FERPA opt out forms should be posted prominently, and should be labeled clearly.** Parents and students should be able to access the form from the search function on the web site. If the web site does not have a search function, the FERPA opt out notices and policies should be posted with a prominent link on the home page of the school web site.
- **Ideally, the FERPA opt out forms will be posted in the context of FERPA annual notice, and other FERPA-related information.**
- **Paper opt out forms should be made available for individuals who do not have online access.**
- For postsecondary institutions, the FERPA opt out form should have a publicly available “home base,” preferably the registrar’s page.
- For primary and secondary institutions, the FERPA opt out form should be accessible to the public, even if a platform is in use at the school web site.
- **FERPA opt out processes need to specifically accommodate individuals with disabilities or limitations.**

Is the FERPA Opt Out Process Known?

Best Practices for Notification of Opt out Procedures:

- **It is a best practice for schools to provide information about how to opt out on the annual FERPA notice.**
- **It is a best practice for schools to provide a permanent online home for information about FERPA opt out procedures and make that accessible to the public.**
- **Primary and secondary schools in particular noted to WPF researchers that they communicate FERPA opt out procedures directly to parents via email.** Direct notification exceeds FERPA standards, but for school districts that are resource-scarce or in the midst of transitioning to electronic systems, direct emails to ensure notification are a good practice. The practice may not be sustainable at very large institutions, but it is a sustainable practice for very small or small institutions or districts.
  - It is a best practice to notify students regarding accommodations for opting out for individuals who may not have the capacity to write their own letter. This appears to be an
overlooked issue. Not all parents or eligible students will be comfortable figuring out what a FERPA opt out letter should say, or even where to start. Not providing an opt out form may prove to be an insurmountable opt out form for some students. This should be considered as part of the institution’s decision-making process regarding opt out procedures.

Content of FERPA Opt Outs

Best Practices

- It is a best practice to provide more choices for selecting categories of directory information on FERPA opt out notices.
- It is a best practice to revise, if possible, “all-or-nothing” FERPA opt out notices to provide granular choices (Yes / No) about individual data categories designated by the school for inclusion in directory information.
- It is a best practice to provide detailed categories that students can choose to opt out of. Our research indicated that integrated student information systems, particularly at the postsecondary level, may offer very granular and extensive opt outs compared to standard FERPA opt out forms. It is a best practice to use integrated systems and platforms to make FERPA opt out more accessible and more adaptive.

Does the FERPA opt out contain nudges?

Best Practices:

- Students should not be discouraged from utilizing their rights under FERPA by the use of subtle or overt negative language or “nudges.”
- Schools need to consider that some students want FERPA opt outs because of serious safety considerations. Schools should ensure that they present a balanced view of FERPA opt outs.

Online Student Directories:

Best Practices:

- Because of the potential risks to student safety, it is a best practice for educational institutions to publish their online student directories privately. Only authenticated users (e.g., faculty, staff, and students) should have access,
- It is a best practice to require knowledge of a student’s last name for searching, even if the directory requires authentication and is not open to the public.
- Every effort must be made to prevent “site scraping” of student contact information in online student directories. Schools need to utilize strong anti-scraping software and techniques as a preventive security measure.

Data Brokers and the Acquisition and Use of Students’ FERPA Directory Information

Best Practices:

- As a best practice, States should consider additional protections for the information of minors in light of the new information that has become available that proves the presence of
the information of minors in data broker databases.

- New York State’s Education Department has adopted an amendment, which specifically prohibits the sale of personally identifiable student data. This is a policy best practice, and is the kind of structural protection from onward transfer of student data is needed as a best practice to protect directory information that parents or students did not opt out of. Directory information does not have the same restrictions as protected student record information does under FERPA.

- **Schools should review all contracts with third parties, including vendors.** If a vendor is utilizing student directory information, schools should take steps to ensure that directory information is specified as restricted in its use by the vendor and restricted from onward uses. Directory information does not enjoy the same levels of protection as protected student information under FERPA.

- **Schools should take great care to not release directory information subject to opt out restrictions to third parties.** Schools should review contracts and procedures to ensure directory information that is subject to restrictions (opt out) is secured and only released per the regulations.

- **Because data brokers can acquire information from school websites, it is a best practice for schools at all levels to utilize anti-scraping software and techniques to protect student information posted on school websites.** Student photographs, names, and other information can be and are being scraped from school websites unless schools take active steps to restrict this activity. Scraped data can be used for many years. Protections include placing all student data and photographs in a protected area of the website and only allowing authenticated access to that area.

- **Directory information should follow a minimum necessary rule.** Schools are not required to share directory information. Whenever possible, this should be the norm, not the exception.

### Student Biometric Data and FERPA

**Best Practices:**

- **Schools should not designate photographs of students as directory information.** This has, to date, been a significantly overlooked risk by schools.

- **Schools should not post photographs of children on publicly accessible websites that can be scraped for inclusion in biometric test databases.** We recognize that it is not much fun to omit student images from communications about school activities. A balance needs to be found due to the very real risks involved with public posting of images.

  - Newsletters that contain the images of students under the age of 18 can be emailed directly to parents and students.

  - Special awards and honors ceremonies can be posted at very low image quality, so that biometric measurements of such photographs will be rendered ineffective.

  - Schools can post their messages that contain student photographs behind password-protected areas of the school website.

- **In general, it is a best practice to avoid making photographs of students under the age of 18 widely available online.**
Recommendations for Private Schools, or any Educational Institution not covered under FERPA Regulations

Best Practices:

- It is a best practice for private schools or other non-FERPA covered entities to conduct a data privacy impact assessment (DPIA). Conduct the DPIA regarding student information, and pay particular attention to sensitive information such as student health data.

- It is a best practice to understand the State privacy laws that apply to your educational situation.

- Create procedural and administrative rules to manage the information that would, in other settings, be held under FERPA.

- Review the recommendations regarding student directory information, data brokers and biometrics - the same concerns about implications and impacts of dissemination of student data will apply to student information in a non-FERPA context.
II. Printable FERPA Opt Out Form
FERPA Directory Information Opt out Form

NAME (PRINTED) ____________________________________  STUDENT ID: ___________________________

Notice of Directory Information Opt Out

In accordance with the Family Educational Rights and Privacy Act of 1974 (FERPA), as amended, a student’s education records are maintained as confidential and, except for a limited number of special circumstances listed in that law, will not be released to a third party without the parent/student’s prior written consent. The law, however, does allow schools to release student “directory information” without obtaining the prior consent of the parent/student. If you do not want the release of certain types of directory information without your prior consent, you may choose to “opt out” of this FERPA exception by signing the Form below. Directory information of a student who has opted-out from the release of directory information, in accordance with this policy/procedure for opting out, will remain flagged until the student requests that the flag be removed by completing and submitting a revocation of the opt out to the School.

TO: [SCHOOL NAME] ________________

I request the withholding of the following personally-identifiable information identified as Directory Information under FERPA. I understand that upon submission of this Form, the information checked cannot be released to third parties without my written consent or unless the School is required by law or permitted under FERPA to release such information without my prior written consent; and that the checked directory information will not otherwise be released from the time the School receives my Form until my opt-out request is rescinded. I understand that I may not opt out of use of my student ID number because it is necessary identifying information for the School. I further understand that if directory information is released prior to the School receiving my opt-out request, the School may not be able to stop the disclosure of my directory information. I understand that I may request and challenge how my directory information is used by contacting the School.

____ Check here to opt out of all directory information identified below

or Check the individual boxes below to selectively opt out of information sharing

____ Name  ____ Most recent institution attended
____ Telephone listing(s)  ____ Weight / height
____ Photograph  ____ EnrollmentStatus (e.g. full-time,part-time)
____ Date of birth  ____ Class standing (e.g. sophomore)
____ Place of birth  ____ Most recent educational agency or institution attended
____ Permanent or home address  ____ Participation in officially recognized activities and
____ E-mail address  sports
____ Dates of attendance  ____ Degree(s) received

SIGNATURE: ____________________________________  DATE: ________________________

If under 18, a parent or guardian must sign to opt the student out.
III. Examples of FERPA Web Sites and Notices

A. Postsecondary Institutions: Best practice examples.

1. Best Practice: University of Tennessee, Knoxville.

Current or Former Student WAIVER OF PRIVACY RIGHTS and
AUTHORIZATION to RELEASE DISCIPLINARY INFORMATION (FERPA form)

Current or Former Student Name:

Student Identification Number: ____________________________

Month and Year of Birth: ____________________________

Current Email Address: ____________________________

Phone Number: ____________________________

I, ____________________________, hereby waive my privacy rights (pursuant to the Family Educational Rights and Privacy Act of 1974), and authorize the office of Student Conduct & Community Standards at the University of Tennessee to release and/or discuss information regarding my student disciplinary record. This waiver shall be considered valid for one calendar year from the date noted by my signature below unless revoked, in writing, prior to such date. Such information may be released and/or discussed with the individual(s) listed below only.

The person(s) listed below must provide the current/former student name and secret word before a Student Conduct & Community Standards staff member may release and/or discuss the student disciplinary record; a Social Security Number may not be used for identification purposes.

* This form must be submitted in person by the current/former student to 409 Student Services Building, by mail to the address below, or by email to: studentconduct@utk.edu from the current/former student’s email.

Name(s) of authorized recipient(s):

Relationship (self, parent, attorney, etc.):

Secret word for third party release:

Recipient’s contact information (phone number, email, mailing address, etc.):

General purpose for release of information:

Access to complete disciplinary file

Other: ____________________________

Current/Former Student Signature: ____________________________ Date: ____________________________

Staff Signature: ____________________________ Date: ____________________________

This document/electronic communication contains personally identifiable information from a student’s educational record. It is protected by the Family Educational Rights and Privacy Act (20 U.S.C § 1232g) and may not be re-released, or used for any purpose other than that for which it was intended, without the consent of the student.

Student Conduct & Community Standards
409 Student Services Building, Knoxville, TN 37996-0245
studentconduct@utk.edu 865-974-3171 studentconduct.utk.edu

BIG ORANGE. BIG IDEAS.
Flagship Campus of the University of Tennessee System

CONSENT NOT REQUIRED 109 WORLD PRIVACY FORUM
2. Best Practice: PennState

Directory Information

Student record information is confidential and private. In accordance with both federal law (FERPA) and University policy (policy AD11), the University does not release student record information without prior written consent of the student. The one exception to this is that the University may release ‘directory information’ items without prior student consent. Directory information is defined as that information which would not generally be considered harmful or an invasion of privacy if disclosed. Designated directory information at Penn State includes the following:

1. Name
2. Address (local, permanent residence and electronic mail)
3. Telephone number
4. Class level (semester class or level: first-year, sophomore, junior, senior, etc.)
5. Major
6. Student activities
7. Weight/height (athletic teams)
8. Dates of attendance
9. Enrollment status (full-time, part-time, or not enrolled)
10. Date of graduation
11. Degrees and awards received and where received
12. Most recent educational institution attended

To Withhold Directory Information

All students may request that directory information not be released publicly. This is an important student privilege that results in the following:

- Student name/address is excluded from the Penn State Web Directory and printed telephone directories. Requests to withhold will not alter previously published directories.
- Your name will not appear in the results of an Canvas search. You will need to self-enroll or contact the Penn State Service Desk at 865-HELP or canvas@psu.edu to join teams and to participate in courses not on your semester schedule.
- Your name will not appear in the commencement program.
- Verification of enrollment, graduation, or degrees awarded will not be provided to third parties, including potential employers.
- No information will be released to any person (including the student) on the telephone or via email.
- In order to withhold directory information, the student must:
  1. Complete and sign the Request to Withhold Directory Information Form.
  2. Present or mail this signed form along with a copy of photo identification to any campus Registrar's office.
  3. If an email address is provided, the student will receive an official notification when the withholding of directory information is in effect.

- Requests to withhold directory information are in effect until removed, in writing, by the student.

To Release Directory Information

1. To reverse the action of withholding directory information, the student must complete and sign the Request to Release Directory Information Form.
2. Present or mail this signed form along with a copy of photo identification to any campus Registrar's office.
3. If an email address is provided, the student will receive an official notification when directory information will be released.
Request to Withhold Directory Information

Please print, sign, and return the completed form to:
Office of the University Registrar
112 Shields Building
University Park, PA 16802

The following items of information regarding a student's record are considered directory information. Directory information is considered as public information and may be released without the student's prior consent.

1. Name
2. Address (local, permanent residence and electronic mail)
3. Telephone number
4. Class level (semester class or level: first-year, sophomore, junior, senior, etc.)
5. Major
6. Student activities
7. Weight/height (athletic teams)
8. Dates of attendance
9. Enrollment status (full-time, part-time, or not enrolled)
10. Date of graduation
11. Degrees and awards received and where received
12. Most recent educational institution attended

Filing this form will preclude the University from releasing directory information to anyone (including yourself) without express written consent. To process this request you must present this form along with photo identification to any campus Registrar's office or mail this form along with a copy of photo identification to the address listed above.

I have read this form carefully and understand the consequences of my decision to prevent release directory information. I understand:

- this prohibits Penn State from acknowledging any information regarding my enrollment to any third party including employers, loan deferments, requests from non-institutional persons/organizations, or me unless a written request with my signature is received. No information will be released to me or any person(s) via the telephone or email.
- this does not prevent disclosure to personnel within the University or a lawfully issued subpoena.
- this suppresses my information verbally and in printed form (i.e. campus directory, Web directory, Commencement Program).
- that this is applicable until such time as I request that it be removed, that I must initiate this option by filing a request to "Release Directory information" with photo identification.

Authorization

Today's Date

Student Name

PSU ID

Phone Number

Email

Please include area code

Current/Previous Campus
B. Primary / Secondary Institutions, Best practices

1. The District of Columbia has an excellent FERPA Notice, and included in the notice package, is a granular opt out form. The District of Columbia includes its opt out form online and on its digital registration system. These are all best practices.

Notification of Rights under FERPA

The Family Educational Rights and Privacy Act (FERPA) affords parents and students age 18 or older (“eligible students”) certain rights with respect to the student’s education records.

(1) The right to inspect and review the student's education records within 45 days of the day the District of Columbia Public Schools (DCPS) receives a request for access. Parents or eligible students should submit to the school principal a written request that identifies the record(s) they wish to inspect. The school principal or other appropriate school official will make arrangements for access and notify the parent or eligible student of the time and place where the records may be inspected.

(2) The right to request amendment of the student’s education records that the parent or eligible student believes are inaccurate, misleading or otherwise in violation of the student's privacy rights under FERPA. Parents or eligible students may write the school principal, clearly identify the part of the record they want changed, and specify why it should be changed. If DCPS decides not to amend the record as requested by the parent or eligible student, the school will notify the parent or eligible student of the decision and advise them of their right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the parent or eligible student when notified of the right to a hearing.

(3) The right to consent (in writing) to disclosures of personally identifiable information contained in the student’s education records, except to the extent that FERPA authorizes disclosure without consent. For example, DCPS discloses education records without consent to officials of another school or school district in which a student seeks or intends to enroll, or is already enrolled, when such disclosure is requested for purposes of the student’s enrollment or transfer. In addition, FERPA authorizes disclosure without consent to school officials whom DCPS has determined to have legitimate educational interests. A school official is a person employed by DCPS as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel); a person or company with whom DCPS has contracted to perform a special task (such as an attorney, auditor, medical consultant, or therapist); an official of another school system where a student seeks or intends to enroll, or where the student is already enrolled; or a parent, student or other volunteer serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks. A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.

(4) The right to withhold disclosure of directory information. At its discretion, DCPS may disclose basic “directory information” that is generally not considered harmful or an invasion of privacy without the consent of parents or eligible students in accordance with the provisions of District law and FERPA. Directory information includes:

- A. Student Name
- B. Student Address
- C. Student Telephone Listing
- D. Name of School Attending
- E. Participation in Officially Recognized Activities and Sports
- F. Weight and Height of Members of Athletic Teams
- G. Diplomas and Awards Received
- H. Student’s Date and Place of Birth
- I. Names of Schools Previously Attended
- J. Dates of Attendance

Parents or eligible students may instruct DCPS to withhold any or all of the information identified above (I) by completing the attached “Release of Student Directory Information” Form also available at www.dcps.dc.gov/enroll or your local school).

(5) The right to file a complaint with the U.S. Department of Education concerning alleged failures by DCPS to comply with the requirements of FERPA. The name and address of the office that administers FERPA are: Family Policy Compliance Office, U.S. Department of Education, 400 Maryland Ave. SW, Washington, DC 20202.
Release of Student Directory Information

The Family Educational Rights and Privacy Act (FERPA) is a federal law that requires DCPS, with certain exceptions, to get your permission before disclosing personally identifiable information from education records. However, DCPS may disclose basic “directory information” that is generally not considered harmful or an invasion of privacy without your consent. The primary purpose of directory information disclosure is to allow DCPS to include this type of information in certain school publications such as pamphlets for drama productions, graduation programs, honor rolls or sports team activity sheets for football, basketball, etc. Directory information can also be disclosed to outside organizations such as federal and state agencies offering jobs and educational benefits, media sources, and companies that make class rings and publish yearbooks.

The information listed below has been designated as directory information under District of Columbia law and FERPA, and may therefore be released at the discretion of DCPS. You have the right to instruct DCPS that it may not release any or all of this information without obtaining your prior written consent by completing this form. Your decision on this form will be valid for the remainder of the current school year. **A new Release of Student Directory Information form must be completed each School Year.**

Please place a check mark on the line beside any directory information items listed below that you do not want DCPS to disclose without your consent, if any.

- Student Name
- Student Telephone Listing
- Name of School Attending
- Participation in Officially Recognized Activities and Sports
- Weight and Height of Members of Athletic Team
- Diplomas and Awards Received
- Student Address
- Student’s Date and Place of Birth
- Names of Schools Previously Attended
- Dates of Attendance

By signing below I am giving written notification to DCPS that it may not disclose the directory information items I have placed a check mark beside above unless I give prior written consent. I understand that such information may still be disclosed by DCPS if disclosure is otherwise permissible under FERPA.

Student Name (please print)

Parent/Guardian Name (please print)

Signature of Parent/Guardian or Student (if at least 18 years old) Date

*If this form is not returned by September 15, it will be assumed that the above information may be designated as directory information for the remainder of the school year.*
Parents Right-To---Know Notification

Dear Parent:

In accordance with the Every Student Succeeds Act of 2015, the District of Columbia Public Schools (DCPS) is notifying you that you have the right to request information regarding the professional qualifications of your child’s classroom teachers. DCPS is happy to provide this information to you. At any time, you may ask for the following information:

- Whether the teacher has met District of Columbia qualification and licensing criteria for the grade levels and subject areas in which the teacher provides instruction;
- Whether the teacher is teaching under emergency or other provisional status through which District of Columbia qualification or licensing criteria have been waived; and
- Whether the teacher is teaching in the field of discipline of the teacher’s certification.

You may also ask, at any time, whether your child is being provided services by paraprofessionals and, if so, their qualifications.

Please direct teacher and paraprofessional qualification requests, and any other questions related to this notice to DC Public Schools at dcps.hrdataandcompliance@dc.gov or fax (202) 535-2483.
Notification of Rights Under the
Protection of Pupil Rights Amendment (PPRA)

This notice informs parents/guardians and eligible students (emancipated minors or those 18 or older) of their rights regarding the conduct of surveys, the collection and use of information for marketing purposes, and the conduct of certain physical exams. These rights are spelled out in the Protection of Pupil Rights Amendment (20 U.S.C. § 1232h; 34 CFR Part 98). The law and regulations require educational institutions, such as the District of Columbia Public Schools (DCPS) to notify parents and eligible students of their right to—

1. Consent before students are required to submit to a survey that concerns one or more of the following protected areas ("protected information survey") if the survey is funded in whole or in part by a program of the U.S. Department of Education (USDE):
   - Political affiliations or beliefs of the student or student’s parent;
   - Mental or psychological problems of the student or student’s family;
   - Sexual behavior or attitudes;
   - Illegal, antisocial, self-incriminating, or demeaning behavior;
   - Critical appraisals of others with whom respondents have close family relationships;
   - Legally recognized privileged relationships, such as with lawyers, doctors, or ministers;
   - Religious practices, affiliations, or beliefs of the student or parents; and
   - Income, other than as required by law to determine program eligibility.

2. Receive notice and an opportunity to opt a student out of—
   - Any other protected information survey, regardless of funding;
   - Any nonemergency, invasive physical exam or screening required as a condition of attendance administered by the school or its agent and not necessary to protect the immediate health and safety of a student, except for hearing, vision, or scoliosis screening, or any physical exam or screening permitted or required under state law; and
   - Any activities involving collection, disclosure, or use of personal information collected from students for marketing or to sell or otherwise distribute the information to others. (This does not apply to the collection, disclosure, or use of personal information collected from students for the exclusive purpose of developing, evaluating, or providing educational products or services for, or to, students or educational institutions.)

3. Receive notice of a parent’s right to inspect, upon request and before administration or usage of—
   - Protected information surveys of students and surveys created by a third party;
   - Instruments used to collect personal information from students for any of the above marketing, sales, or other distribution purposes; and
   - Instructional material used as part of the educational curriculum.

DCPS has developed and adopted policies regarding these rights, as well as arrangements to protect student privacy in the administration of protected surveys and the collection, disclosure, or use of personal information for marketing, sales, or other distribution purposes. In addition, DCPS provides public access to its Survey Calendar, which notifies parents and eligible students, at the beginning of each school year and on a continuing basis, of the specific or approximate dates of the following activities (along with an opportunity to opt a student out of participating in the activity)—

- Collection, disclosure, or use of personal information for marketing, sales, or other distribution;
- Administration of any protected information survey not funded in whole or in part by USDE; and
- Any nonemergency, invasive physical examination or screening as defined above.

The DCPS policies related to PPRA rights, as well as the Survey Calendar, can be accessed by visiting the following website: http://dcps.dc.gov/page/conduct-research-or-obtain-confidential-data. In addition, parents/guardians and eligible students may also contact their neighborhood school for DCPS policies related to PPRA rights and the Survey Calendar.

Parents/guardians and eligible students who believe their rights have been violated may file a complaint with the—

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-4605
Seattle Public Schools have a PreK-8 combined FERPA annual notice and FERPA opt out form. This particular form also gives notice of other items. It’s a good example of a form designed with utility for parents in mind.

2. **Seattle Public Schools** have a PreK-8 combined FERPA annual notice and FERPA opt out form. This particular form also gives notice of other items. It’s a good example of a form designed with utility for parents in mind.

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**FERPA PreK-8**

**SEATTLE PUBLIC SCHOOLS (SPS) NOTIFICATION OF RIGHTS UNDER THE FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA) AND OPT-OUT FORM**

Under the Family Educational Rights and Privacy Act (FERPA), parents/guardians of students under age 18, and students over 18 years of age ("eligible students") have certain rights with respect to student "education records." If the student is 18 years old, even if living with the parent/guardian, the student has all the rights under this Act. These rights are:

1. The right to inspect and review their education records within 45 days of the day SPS receives a written request.

2. The right to request the amendment of an education record for a student that the parent or eligible student believes is inaccurate, misleading, or is in violation of the student’s right to privacy. If SPS decides not to amend the record, SPS will notify the parent/guardian or eligible student of the decision and advise them of their right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the parent/guardian or eligible student when notified of the right to a hearing.

3. The right to provide written consent before the school discloses personally identifiable information contained in the education records of a student, except to the extent that FERPA authorizes disclosure without consent. One exception that permits disclosure without consent is disclosure to school officials with legitimate educational interests. A “school official” is a person employed by SPS as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel). A “school official” also may include a volunteer or contractor outside of the school who performs an institutional service or function for which the school would otherwise use its own employees and who is under the direct control of the school with respect to the use and maintenance of personally identifiable information from education records, such as an attorney, auditor, medical consultant, or therapist, a parent or student volunteering to serve on an official committee, such as a disciplinary or grievance committee; or a parent, student, or other volunteer assisting another school official in performing his or her tasks. A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility. Upon request, SPS discloses education records without consent to officials of another school where a student seeks to enroll.

4. The right to file a complaint with the U.S. Department of Education concerning alleged failures by SPS to comply with the requirements of FERPA. Written complaints should be directed to Family Policy Compliance Office, U.S. Department of Education, 400 Maryland Avenue S.W., Washington, D.C. 20202.

**Directory Information:** Under FERPA, SPS may release “directory” information to anyone, including but not limited to parent-teacher organizations, the media, colleges and universities, the military, youth groups, and scholarship grantors, unless you notify SPS in writing that you do not want the information released. The following information is considered directory information: parent/guardian and student name, home address, home telephone number, home email address, student photograph, student date of birth, dates of enrollment, grade level, enrollment status, degree or award received, major field of study, participation in officially recognized activities and sports teams, height and weight of athletes, most recent school or program attended, and other information that would not generally be considered harmful or an invasion of privacy if disclosed.

**Release of Directory Information for Students in Grades Pre-Kindergarten to Eight (Pre-K to 8):** As a parent/guardian of a pre-kindergarten student, an elementary student, or a middle school student you have the right to choose between two (2) options on whether directory information concerning your student is released or not. Please check one box below and return this form to the school your student attends no later than October 1, a new form may be submitted in a given school year to change your option status for that year. If the parent/guardian does not check one of the boxes or does not return this form, SPS considers the lack of response as consent for box A. A new form may be submitted in a given school year to change your option status for that year.

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Revised July, 2019
For students in grades Pre-Kindergarten through Eight (Pre-K to 8):

Please select only one box:

☐ A. I consent to the release of the above directory information about the student named below.

OR

☐ B. I do NOT consent to the release of the above directory information about the student named below, except as authorized by law.

The following selections only need to be made if you selected Option B. If you selected Option B – No Release of Information, your child’s information will not be included in the following unless you complete the section below. If you would like your child’s information shared in any of the below places, please indicate your consent below by selecting the appropriate option.

☐ School Directory and Classroom Roster Is made available to our families, staff and PTSA. YES, Include our information (phone, address, email)

☐ Photo/Video Student photographs and video may be posted on the school and district external website, social media and district printed publications. No names will be posted. YES, my student’s photograph and video can be posted on the district channels.

☐ Yearbook/Class Photo Release YES, I give my consent for my student’s photograph and name to be included in the yearbook and class photo

Print Student’s Name               Date of Birth               Student’s school ID number

Print Signer’s Name            Parent/Guardian/Eligible Student’s Signature               Date

Notice of Right to File a Public Records Request: Pursuant to RCW 28A.320.160, school districts are required to notify parents/guardians that they have the right, under the Washington Public Records Act (RCW 42.56), to request the public records regarding school employee discipline. To file a public records request with SPS, send a written request, in writing, to: Office of the General Counsel: Attn: Public Records Request; SPS: MS 32-151; PO Box 34165: Seattle, WA 98124

PLEASE RETURN THIS FORM DIRECTLY TO THE STUDENT’S SCHOOL EITHER IN PERSON OR BY U.S. MAIL.
If you have more than one student, you must return a separate form for each student to each student’s school.
This form will be retained in your student’s folder at his or her school.

Revised July, 2019
IV. Examples of FERPA Opt Out Forms

The following forms are very good examples of quite typical forms that schools are using for their FERPA implementations.

A. Postsecondary Forms

The Arizona State University FERPA opt form is excellent. The university provides three opt out choices in its form below. ASU also gives students the option of submitting the FERPA opt out form electronically through DocuSign. These are best practices. The DocuSign forms are delivered automatically to the registrar.

REQUEST TO WITHHOLD DIRECTORY INFORMATION
ARIZONA STATE UNIVERSITY
UNIVERSITY REGISTRAR SERVICES

In accordance with my rights as an eligible student under the federal Family Educational Rights and Privacy Act of 1974, as amended, 20 U.S.C. 1232g, also known as FERPA or the Buckley Amendment (synopsis available in the University Registrar’s Office and on the ASU University Registrar’s Office website at: http://students.asu.edu/policies/ferpa), I hereby request that ASU not release directory information about me from my education record(s) without my specific written consent, as indicated below.

Arizona State University offers three options for withholding your Directory Information (Check One):

- Option 1: Withhold Only My Addresses & Telephone Number (including ASU email address)
- Option 2: Withhold All of My Directory Information
- Option 3: Withhold None of My Directory Information

I understand that directory information includes the following:

- My Full Name
- My Addresses: (e.g., Local, Home, Mailing and ASU e-mail, including directory number)
- My Local Telephone Number
- My Date of Birth
- All my Degrees and Awards Received
- My Academic Level
- My Major
- My College
- My Dates of Attendance
- My Height and Weight (if I’m a member of an athletic team)
- My Participation in Officially Recognized Activities and Sports
- The Most Recent Previous Educational Agency or Institution I Attended

This request about my directory information shall become effective immediately and shall remain in effect until revoked by me, in writing. I understand that even if I restrict access to my information, other students in classes for which I am registered may be given my name and contact information (generally e-mail address and/or telephone number) if, in the discretion of the instructor, this is appropriate to promote class discussion and/or interaction.

Student Name (Please Print) ASU ID# Telephone Number
Student Signature Date

Registrar Sites:

For Registrar Office Use Only

- Checked picture identification
- Posted to System
- Processed by __________________________ / __________________________ Date
- Audited by __________________________ / __________________________ Date

If you have any questions about the use of this form, FERPA, or Directory Holds please visit our website at http://students.asu.edu/policies/ferpa or call any Registrar Site for assistance.

CONSENT NOT REQUIRED  119  WORLD PRIVACY FORUM
Rutgers State University of New Jersey has an excellent FERPA opt out form. It is well-designed to be clear and understandable, and includes full contact information for students who need help with the form, which is a best practice.

<table>
<thead>
<tr>
<th>Name</th>
<th>Permanent (home) telephone number</th>
<th>Dates of degrees</th>
</tr>
</thead>
<tbody>
<tr>
<td>Campus address</td>
<td>School of attendance</td>
<td>Weight and height of intercollegiate athletes</td>
</tr>
<tr>
<td>Campus post office address</td>
<td>Major field of study</td>
<td>Most recent previous school attended</td>
</tr>
<tr>
<td>Campus telephone number</td>
<td>Class year</td>
<td>Honors and awards</td>
</tr>
<tr>
<td>Date of Birth</td>
<td>Dates of attendance</td>
<td>Participation in officially recognized activities</td>
</tr>
<tr>
<td>Rutgers e-mail address</td>
<td>Current credit load</td>
<td>Internships (Applies only to RBHS graduate and professional schools)</td>
</tr>
<tr>
<td>RUCS user name / NetID</td>
<td>Credit hours earned</td>
<td>Residency or other post-completion placements (Applies only to RBHS graduate and professional schools)</td>
</tr>
<tr>
<td>Permanent (home) address</td>
<td>Degrees received</td>
<td></td>
</tr>
</tbody>
</table>

Student Attestation: I have read this form carefully and understand the consequences of my decision to prevent release of my directory information. I understand this form:

- suppresses my information verbally and in printed form (i.e. campus directory, Web directory, Commencement Program);
- does not prevent disclosure to personnel within the University or a lawfully issued subpoena;
- will make information unavailable to prospective employers, insurance companies, and others to whom I may want this information known or verified; and
- is applicable until such time as I request that it be revoked that I must initiate this option by filing a request to "Release Directory information" with photo identification.

Name (Please print): ____________________________________________  
(signature) / (student ID#) / (date)

New Brunswick Campus  
Verifications Division  
Office of the Registrar  
Administrative Services Bldg  
65 Davidson Rd, 200L  
Piscatawy, NJ 08854-8096  
Phone: 848-445-2738  
Fax: 732-445-5948

Camden Campus  
Verifications Division  
Office of the Registrar  
Armitage Hall  
311 North 5th Street  
Camden, NJ 08102-1499  
Phone: 856-225-6053  
Fax: 856-225-6453

Newark Campus  
Verifications Division  
Office of the Registrar  
249 University Avenue  
Blumenthal Hall  
Newark, NJ 07102-9286  
Phone: 973-353-5324  
Fax: 973-353-5324

RBHS Office of the Registrar  
Verifications Division  
65 Bergen Street  
Suite 1441  
Newark, NJ, 07101  
Phone: 973-972-5338  
Fax: (973) 972-5329

By Registrar Staff Member: ________________________________

For questions about your directory information, this form and FERPA, please contact the Office of Enterprise Risk Management at (973) 972-8093 or at FERPARU@rutgers.edu.

Dirconf01/03/2015
Missouri State University’s FERPA opt out form has good detail and it offers some choices. The form includes specific advice for students who have safety concerns. This is a best practice.

FERPA HOLD REQUEST FORM
Revised 7/1/15
901 S. National Avenue • Carrington Hall • Room 320 • Springfield, MO 65897
Ph (417) 836-5520 • Fax (417) 836-6334

OFFICE OF THE REGISTRAR

Student Name:   BearPass #: M

LAST  FIRST  MI

In compliance with the Family Educational Rights and Privacy Act (FERPA), Missouri State University can release only selected information about a student, designated as “Directory Information,” without the student’s written consent (or as otherwise specifically allowed under FERPA). Directory information, as defined by Missouri State includes the following:

- Name
- Address*
- Telephone number*
- Campus email address
- Field of study, including majors, minors, certifications, and pre-professional areas of study
- Classification (e.g. sophomore)
- Enrollment status (full-time, part-time, or less than part-time)
- Participation in officially recognized activities and sports, including photographs of athletes
- Dates of attendance, including matriculation, drop, and withdrawal dates
- Degrees and certificates received, including date awarded
- Awards received, including dean’s list, scholastic honors, departmental honors, memberships in national honor societies, athletic letters, and University-funded scholarships (excluding those that are need based)
- Previous education institutions attended

*The University maintains a number of different address and telephone types for students. Three (residence hall, current mailing, and primary/permanent) are considered directory information. General requests for student addresses (e.g., requests for an “address directory of current students”) will be fulfilled by providing one address for each student based on availability according to the following hierarchy: 1) residence hall; 2) current mailing, and 3) primary/permanent. General requests for student telephone numbers will be generated in similar fashion. All non-University contact information provided for purposes of the emergency notification system is not considered directory information. Cell phone numbers, unless provided as a residence hall, current, or primary/permanent telephone number, are not considered directory information.

A FERPA hold may be requested by currently enrolled students. This non-disclosure option means that the University may not release any directory information about the student (except as permitted under the provisions of FERPA.) The University may not even acknowledge to third parties that the person is a student at the institution. Generally, University officials will have routine access to review the student’s information.

In accordance with the Missouri Sunshine Law, the University is required to release student directory information. To be excluded from any Sunshine Law requests, student must submit a written request for a FERPA hold by the end of the second week of the semester. Following the second week of the semester, submitting the request for a FERPA hold will exclude students only from the online directory.

In the course of daily business, the University generates a number of reports and documents (e.g., bills, grade reports, lists of majors within a given department, etc.) with student information, including address and telephone. Generally, students with a FERPA Hold are not excluded from these reports. If you feel that your personal safety is at risk should others learn your address, you are encouraged to consider obtaining a post office box for use in place of your personal address.

Additionally, in the course of daily academic activity, the University may combine class sections in-person or online to enhance the educational learning environment. If you believe your participation in this combined class jeopardizes your personal safety, you are encouraged to contact your instructor or the Office of the Registrar.

Please read and initial below to indicate that you understand the following:

When I or anyone else calls the University regarding my educational record, including verification of enrollment status or degree(s) awarded, the reply will be similar to this, “I cannot give you information on that individual.”

A FERPA hold does not apply to any past publication or release of information.

In making this request, I have reviewed the above information. I understand that FERPA does provide for release of information under certain conditions, even if a hold is on my record. I also understand that this request will remain in effect until I rescind it in writing with the Office of the Registrar.

Student Signature: ___________________________  Date: ___________________________
B. Primary / Secondary Forms

This is an example of a FERPA opt out form located in a handbook. It is not unusual to find FERPA information in student handbooks. This particular FERPA form was in an online handbook, integrated into the surrounding text, making parents’ practical ability to utilize the handbook form to make a readily printable FERPA opt out form challenging.

<table>
<thead>
<tr>
<th>Directory Information Refusal Form</th>
</tr>
</thead>
<tbody>
<tr>
<td>“Directory Information” as defined by Kanawha County Schools, includes the following categories: Student name, address, telephone number, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, indication of “graduate” or “non-graduate”, degrees and awards received, most recent previous school attended, and photograph. Once such information is published as Directory Information, it may be disclosed at the discretion of the school system without parent/guardian or student permission. If you so refuse, you must inform the school in writing by September 30th. Please use the following form for informing the school of the specific categories in the Directory Information that you do not want released without your written approval. I refuse to permit the designation of the following information as Directory Information:</td>
</tr>
<tr>
<td>(Specific Categories)</td>
</tr>
<tr>
<td>(Name of School)</td>
</tr>
<tr>
<td>(Student Name)</td>
</tr>
<tr>
<td>(Birth date)</td>
</tr>
<tr>
<td>(Signature Parent/Guardian/Eligible Student)</td>
</tr>
<tr>
<td>(Date)</td>
</tr>
</tbody>
</table>
PROVO CITY SCHOOL DISTRICT
FERPA (Family Education Rights and Privacy Act)
& OPT OUT FORM

Notice for Photos and Videos
Your child may be photographed or video taped at school. The pictures and videos may be displayed, used on newsletters, web sites, TV, newspapers and/or social media to honor student achievement and promote school programs. Please indicate if you would like to opt out from having your child's photo or video used in the following settings: Please be aware that signed requests are required annually

☐ Yes ☐ No Web Sites & Social Media – District, School, other
☐ Yes ☐ No Television & Newspapers
☐ Yes ☐ No Newsletters
☐ Yes ☐ No In-School Displays

Notice for Directory Information
The Family Educational Rights and Privacy Act (FERPA), a Federal law, requires that Provo School District, with certain exceptions, obtain your written consent prior to the disclosure of personally identifiable information from your child's education records. However, Provo School District may disclose appropriately designated "directory information" without written consent, unless you have advised the District to the contrary in accordance with District procedures. The primary purpose of directory information is to allow the Provo School District to include this type of information from your child's education records in certain school publications. Examples include:

- A playbill, showing the role in a drama production;
- The annual yearbook;
- Honor roll or other recognition lists;

Directory information, which is information that is generally not considered harmful or an invasion of privacy if released, can also be disclosed to outside organizations without a parent's prior written consent. Outside organizations include, but are not limited to, companies that manufacture class rings or publish yearbooks. In addition, two federal laws require local educational agencies (LEAs) receiving assistance under the Elementary and Secondary Education Act of 1965 (ESEA) to provide military recruiters, upon request, with three directory information categories - names, addresses and telephone listings - unless parents have advised the LEA that they do not want their student's information disclosed without their prior written consent. If you DO NOT want Provo School District to disclose directory information from your child's education records without your prior written consent, you must notify the District in writing NO LATER THEN SEPTEMBER 15th. Provo School District has designated the following information as directory information: Please be aware that signed requests are required annually

- Student's name
- Address
- Telephone listing
- Electronic mail address
- Date and place of birth
- Grade level
- Dates of attendance
- Photograph
- Weight and height of members of athletic teams
- Degrees, honors, and awards received
- Major field of study
- The most recent educational agency or institution attended
- Participation in officially recognized activities and sports

☐ I do not wish to have directory information released.

----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Student’s Name ___________________________ DOB ___________________________

School ___________________________ Grade ___________________________

Parent’s Name ___________________________ Signature ___________________________

Date ___________________________

Submit to: Provo City School District Attn: Student Services 280 West 940 North Provo UT 84604

This FERPA form allows for specific opt out regarding photos and videos. This is a best practice.
The Houston Independent School District privacy code offers granular FERPA opt out, which is a best practice.

**HOUSTON INDEPENDENT SCHOOL DISTRICT**

**PRIVACY CODE: STUDENT RECORDS, RIGHTS, AND RESPONSIBILITIES**

**Student Records:** State law requires the Houston Independent School District (HISD) to maintain an education record for each student attending its schools. These records contain identifying data pertaining to the student and may include information concerning demographics, grades, attendance, health, discipline, guidance, assessment, and appraisals.

**Access to Records:** In addition to HISD employees, who have a legitimate educational interest in a student’s records, parents, guardians, and the student are the only persons who have access to student records maintained by the district.

Both parents—married, separated, or divorced—have access to a student’s records until the student becomes 18 years of age and is no longer a dependent student under Section 152 of the Internal Revenue Code. A parent’s rights to access student records may be restricted by a court order. Legal guardians have the same rights of access as parents. Parents and students may review records during regular school hours by contacting their school principal.

After the student becomes 18 and is no longer a dependent, only the student has access to his or her records. However, that student may consent to others having access.

Under certain restricted conditions, other individuals may review a student’s records. These conditions include:

- Other schools to which a student is transferring.
- Specified officials for audit or evaluation purposes.
- Appropriate parties in connection with financial aid to a student.
- Accrediting organizations.
- State and local juvenile justice system authorities pursuant to state law.
- Appropriate officials in cases of health and safety emergencies.

Records may also be reviewed to comply with a judicial order or lawfully issued subpoena provided the parent and student received notice before compliance. No other persons are allowed to review a student’s records without either permission of the parent or that of the student if over 18 years of age.

**Challenge to Content of a Record:** If a parent or a student over 18 feels that the student record contains information which is misleading, incorrect, or a violation of the privacy or other rights of the student, that person may challenge the contents of the record in an informal hearing. To initiate this procedure, contact your school principal.

**Copies:** A student 18 years of age or over or a parent or guardian of a student under 18 years of age requesting copies of his or her child’s official district records for a purpose other than the transaction of the official business of the district shall pay 10 cents a page for each copy. A limit of three high-school transcripts will be provided free to post-secondary schools. Each additional copy will cost $1. The Inactive Student Records Department microfilms high-school transcripts for permanent retention.

**Special Education Records:** The district maintains Special Education records for seven years after the last date of service and then destroys the records in accordance with state law. A “Notice of Destruction of Special Education Records” is published annually through the district’s website (www.houstonisd.org) advising the parent or adult student how they may request a copy of the records before they are destroyed. It is important that the parent or adult student keep a copy of all Special Education records for use in later years.

**Complaints:** Parents or a student over the age of 18 have the right to file a complaint with the U.S. Department of Education concerning alleged failures of the district to comply with the provisions of the Family Education Rights and Privacy Act of 1974.

HISD Office Of Student Support | July 2017
PRIVACY CODE: STUDENT RECORDS, RIGHTS, AND RESPONSIBILITIES

Directory Information: Certain information about district students is considered directory information and will be released to anyone who follows the procedures for requesting the information for school-sponsored purposes.

Directory information may include the following:
- Student name
- Address
- Telephone listing
- Date and place of birth
- Photograph
- Major field of study
- Participation in officially recognized activities and sports
- Weight and height of members of athletic team
- Dates of attendance
- Awards received
- Most recent previous school attended by a student

If you DO NOT want to release directory information regarding your child, please check the appropriate box on the Privacy Code Form below and return it to your child’s school.

Military Recruitment/Higher Education: Public Law 107-110 requires school districts receiving assistance under the No Child Left Behind Act of 2002 to provide a military recruiter or an institution of higher education, on request, with the name, address, and telephone number of a secondary student unless the parent has advised the district that the parent does not want the student’s information disclosed without the parent’s prior written consent.

If you DO NOT want your child’s directory information released to military recruiters or institutions of higher education without your specific, prior, written consent, check the appropriate box on the Privacy Code Form below and return it to your child’s school.

PRIVACY CODE FORM
Please check all boxes below that apply.

______ I have received the Notice of Student Rights and Responsibilities with Respect to Student Records Maintained by the Houston Independent School District.

______ I request that Houston ISD NOT release any directory information regarding my child, except as required by law.

______ I request that Houston ISD NOT release my child’s name, address, and telephone number to a military recruiter or an institution of higher education, without my specific written approval.

Student’s Name________________________ Student’s Date of Birth________________

Students’ School________________________ Student’s Grade________

Name of Parent/Guardian________________________ Date:________________

Parent/Guardian Signature__________________________________________

HISD Office Of Student Support | July 2017

CONSENT NOT REQUIRED 125 WORLD PRIVACY FORUM
This opt out form can be completed online. This is a best practice.
V. Resources for Schools, Students, and Parents

This list of resources is for parents, students, and educators. This list includes key education-related organizations, FERPA guidance, as well as resources regarding health privacy, including in emergency situations.

Key Education-Related Agencies, Associations, Organizations, Commissions:

U.S. Department of Education
https://www.ed.gov

The Office for Civil Rights (OCR) at the U.S. Department of Education
https://www2.ed.gov/about/offices/list/ocr/index.html

National Association of State Boards of Education
See in particular NASBE resources on privacy

Council of Chief State School Officers
https://ccsso.org

National Governors Association
https://www.nga.org
and the NGA’s Best Practices for Education at: https://www.nga.org/bestpractices/divisions/education/

Individuals with Disabilities Education Act (IDEA)
IDEA is a law that makes a free and appropriate “public education available to eligible children with disabilities throughout the nation and ensures special education and related services to those children.” IDEA has a strong focus on protecting the rights of students and parents. The Department of Education maintains the IDEA web site.
https://sites.ed.gov/idea/

Federal Commission on School Safety
https://www.ed.gov/school-safety

Key Resources for Student and Parent Privacy at Schools

Privacy Technical Assistance Center (PTAC)
The Privacy Technical Assistance Center (PTAC) is part of the Department of Education. PTAC maintains numerous resources regarding FERPA and privacy, and they will also respond to questions.
https://studentprivacy.ed.gov/request-ptac-training-or-technical-assistance

Department of Education’s Student Privacy Policy Office (SPPO)
(The SPPO administers FERPA.)
Contact:
1- 855-249-3072
https://studentprivacy.ed.gov/contact
Most Requested Privacy-Related Documents of Department of Education:
https://studentprivacy.ed.gov/most-requested-documents

Where to File a Complaint / Ask a Question

General:

Filing a Complaint with the US Department of Education:
Complaints are filed at the Office of Civil Rights at the U.S. Department of Education.
https://www2.ed.gov/about/offices/list/ocr/complaintintro.html

Discrimination in Education:

Department of Education OCR's Outreach, Prevention, Education and Non-discrimination (OPEN) Center:
Contact: OPEN@ed.gov
(800) 421-3481 (TDD: 800-877-8339)
You may also fill out a complaint form online: https://www.ed.gov/ocr/complaintintro.html

Privacy:

Complaints, or Questions:
File a complaint about a problem with FERPA or ask a question about FERPA.
https://studentprivacy.ed.gov/contact

Resources for Issues Related to School Emergencies and Exceptional Circumstances, General

Schools regulated under FERPA have rules and processes in place for significant national emergencies such as major hurricanes, earthquakes, and pandemics.

Readiness and Emergency Management for Schools (REMS)
REMS is a part of the Department of Education that addresses a variety of biological hazards within K-12 schools. Issues include Coronavirus, or COVID 19, contaminated food outbreaks, other infectious diseases, toxic materials, and other biological hazards.
https://rems.ed.gov/Resources_Hazards_Threats_Biological_Hazards.aspx

Resources Specific to COVID-19 and other Health-Related Emergencies at Schools

Schools regulated under FERPA have rules and processes in place for significant national emergencies such as major hurricanes, earthquakes, and pandemics. This section is focused on health, privacy, and student and parent rights related to COVID-19.

FERPA and the Coronavirus Disease 2019 (COVID-19)

COVID-19 Emergency Fact Sheet: Addressing the Risk of COVID-19 in Schools While Protecting the Civil Rights of Students
Providing Services to Students with Disabilities During the COVID-19 Outbreak:

A Selection of additional Resources from REMS:

  https://rems.ed.gov/docs/repository/REMS_000089_0001.pdf

- *Pandemic Influenza Plan*, Lancaster City Schools (primary/secondary)
  https://rems.ed.gov/docs/repository/REMS_000093_0001.doc

- *Pandemic Influenza Response Plan*, Page County Office of Emergency Management (primary/secondary)
  https://rems.ed.gov/docs/repository/REMS_000093_0002.pdf

- *Pandemic Influenza Severity Levels and Response*, Whitman College (postsecondary)
  https://rems.ed.gov/docs/repository/REMS_000075_0001.pdf

- *Threat- and Hazard-Specific Annexes*, Iowa Department of Education (K-12)
  https://rems.ed.gov/docs/2017Toolbox/IA_Threat- and Hazard-Specific Annexes.docx
Appendix A: Research Spreadsheet Fields: Postsecondary Schools Covered Under FERPA

The fields for the research conducted for this report at the postsecondary level included the following queries:

<table>
<thead>
<tr>
<th>State Rural</th>
<th>Actual Location of Opt out Form</th>
<th>Opt out in student system?</th>
</tr>
</thead>
<tbody>
<tr>
<td>State Urban</td>
<td>FERPA Release Form URL (Chronological Data Pull for Public Universities)</td>
<td>Date URL Accessed</td>
</tr>
<tr>
<td>[Date] Contact updates re: Forms not Found</td>
<td>Phone</td>
<td>2nd Date URL Accessed</td>
</tr>
<tr>
<td>School</td>
<td>Waiver?</td>
<td>Information Shared without Opt out: [List]</td>
</tr>
<tr>
<td>First Result When Searching “FERPA”</td>
<td>Waiver print copy?</td>
<td>Public Student Directory - Yes indicates student email</td>
</tr>
<tr>
<td>FERPA Opt out on Registrar Page? Yes or No?</td>
<td>Opt out? Note if in digital system</td>
<td>Notes</td>
</tr>
<tr>
<td>Both Forms Downloadable Online Outside Student System?</td>
<td>Opt out print copy?</td>
<td></td>
</tr>
</tbody>
</table>

Appendix B: Research Spreadsheet Fields: Primary and Secondary Schools Covered Under FERPA

The following fields were included in the research for the data analyzed in this report for primary and secondary educational institutions covered under FERPA.

<table>
<thead>
<tr>
<th>State Rural</th>
<th>First Result When Searching FERPA</th>
<th>Information Shared Without Opt Out: List of elements</th>
</tr>
</thead>
<tbody>
<tr>
<td>State Urban</td>
<td>FERPA opt out Form URL</td>
<td>Called for Form: Y/N and Call Notes</td>
</tr>
<tr>
<td>School District Name and Associated Schools</td>
<td>Form on Site: Y/N</td>
<td>Notes from Site Research</td>
</tr>
<tr>
<td>Phone</td>
<td>Opt out Process Known: Y/N</td>
<td></td>
</tr>
<tr>
<td>Website</td>
<td>Date URL Accessed</td>
<td></td>
</tr>
</tbody>
</table>
Appendix C: Methodology

Initial scoping

In the initial scoping for the research, a sample of primary, secondary, and postsecondary institutions were selected to represent exemplars of urban and rural educational institutions across 50 U.S. states. Care was taken to utilize census data and data from National Center for Education Statistics to understand demographic differences and ensure there was, as much as possible, a sample set that was representative, and that the selected schools were FERPA-covered entities. 101 primary/secondary school districts were selected, half rural districts and half urban districts, with 5,145 schools +/- 15 in the dataset. At the postsecondary level, 102 schools were selected, again balancing urban and rural as much as was possible, across all states.

The number of schools within some districts at the primary/secondary level changed during the research. Some schools closed, some districts added schools, and some schools merged or changed grades served. For the fourth and final pass of the research, our data was accurate up to October 2019. Changes may have taken place since that time. The numbers at that time were accurate to +/- 15 at the primary/secondary level, +/- 5 at the postsecondary level.

Sampling

The sampling collected multiple fields, including the FERPA notice, FERPA opt out form, when available, policy for photographs, and fields relating to title of the FERPA opt out notice and location of the notice, among other fields. The final sampling methodologies are included in Appendix A and B.

Initial results

Postsecondary. The first pass of the research for postsecondary schools provided a baseline for the study, and it was approximately within expectations. Most postsecondary schools provided FERPA notice in some format. Some post FERPA forms in paper format at a registrar’s office, or in some cases an IT office. Forms that are online are usually linked from the home page of the school or the registrar’s page, and are usually prominent, to varying degrees. The fact check for the first pass of the postsecondary research required further contact of schools when FERPA forms could not be located, and this research was also within expectations.

Primary/secondary. The first pass of the research for primary and secondary schools, as well as the school district web sites for those schools presented many challenges. It was not possible, despite persistent and significant efforts over time, to collect a full and complete representative sample of all of the FERPA notices and opt out forms in our sampled schools using online methods only. While much was learned about FERPA implementation, the incomplete online information left gaps in the early data.

FERPA notices and/ or opt out forms were not always posted online at the K-12 level. When they were posted, it was not always in a consistent, clear or prominent way. Some schools gave notice by handing out printed paper FERPA notices at the beginning of the year. Other schools delivered the FERPA notice in a school handbook. The variety of allowable notice methods made it difficult to consistently locate the information across the study sample.
When FERPA notices and forms were unavailable or could not easily be found online, WPF researchers contacted schools. In this process of talking with people across multiple states, it became clear that FERPA is not just about FERPA forms. It is about a culture within educational institutions that understands, values, and promotes parents’ and eligible students’ FERPA rights.

Overall aspects of first research pass. In the process of asking for FERPA information, researchers experienced a range of responses in the first research pass.

- Some primary and secondary institutions exhibited good understanding of FERPA, and took many steps to notify parents and educate staff.
- Some primary and secondary institutions did not appear to know what directory information was, nor what a directory information or FERPA opt out was.
- When contacted, most institutions worked very hard to help locate the relevant information. However, it was not unusual for the process of inquiring at the schools to require multiple phone calls and take several days to weeks to complete as the right person was located. At the end of some of these interchanges, the form that was sent was, in the end, not the proper form, despite the well-intentioned efforts of the school.

Not all institutions would cooperate with questions about FERPA forms. Some institutions would not give a copy of the FERPA form or notice to researchers in some instances that because they were not students or parents at the school. Some school personnel hung up on researchers who asked if the institution could email a copy of the FERPA form, as researchers could not locate the form online.

Second and third research passes

For the second and third passes of the research, the methodology was streamlined and the sampling was re-evaluated to see if there were improvements that could be made. After making slight adjustments and receiving very similar results in the research and learning a great deal about FERPA implementation across the US, a final and fourth sampling was conducted.

Fourth research pass

For the fourth sampling, researchers took a different approach to the model. It became clear through the initial research passes that there were certain systemic challenges in conducting the research at the primary and secondary level. There were separate challenges that emerged from reviewing FERPA implementation at the postsecondary level. The fourth research pass built on the knowledge we gained from the first three passes.

For the fourth sampling, which is what is analyzed in this report, we designed the research by asking a different set of questions. We did not focus on compliance with FERPA, because strictly looking at baseline FERPA compliance did not uncover answers or practices that would solve the problems the research had uncovered. With understanding from earlier research passes, we focused on implementations, and what were the key risks to student privacy relative to directory information, and what practices or changes would create improved privacy outcomes for students?

- How could schools communicate best today about directory information rights and risks to students and parents, and how could parents and students genuinely assess rights and informational risks?
• How would a modern parent or student look for FERPA information?
• Given modern advances in privacy legislation and thought, how could FERPA, if written today, adapt to current issues regarding directory information?
• How would parents and students who had disabilities, were living in poverty, had limited language abilities, had safety considerations, were homeless, or who experienced other forms of marginalization, best be able to understand and effectuate their FERPA rights?

It was the fourth research pass that provided the most insight into FERPA implementation at the local level. This research, to our knowledge, has not been conducted before.

**Transparency**

We have endeavored to provide as much transparency as possible regarding our methodology while still keeping results deidentified. We will continue to do so. We understand that researchers may be interested in conducting a larger study, or a related study. If a qualified academic researcher has a question, or wants further detail regarding this research, please contact WPF at info@worldprivacyforum.org, or through our additional contact information listed on our website.
Appendix D: Exceptions to requirement of consent prior to release of personally identifiable information held in educational records

FERPA contains 16 exceptions to the rules regarding the necessity of prior consent to disclose information held in educational records. The exceptions are nuanced, and the regulations that describe the exceptions are included in full below.

Note: The full text of the FERPA regulations is available at: https://www2.ed.gov/policy/gen/guid/fpco/pdf/2012-final-regs.pdf

Family Educational Rights and Privacy Act

Subpart D-May an Educational Agency or Institution disclose Personally Identifiable Information from Education Records?

§ 99.30 Under what conditions is prior consent required to disclose information?

(a) The parent or eligible student shall provide a signed and dated written consent before an educational agency or institution discloses personally identifiable information from the student’s education records, except as provided in § 99.31.

(b) The written consent must:
(1) Specify the records that may be disclosed;
(2) State the purpose of the disclosure; and
(3) Identify the party or class of parties to whom the disclosure may be made.

(c) When a disclosure is made under paragraph (a) of this section:
(1) If a parent or eligible student so requests, the educational agency or institution shall provide him or her with a copy of the records disclosed; and
(2) If the parent of a student who is not an eligible student so requests, the agency or institution shall provide the student with a copy of the records disclosed.

(d) “Signed and dated written consent” under this part may include a record and signature in electronic form that-
(1) Identifies and authenticates a particular person as the source of the electronic consent; and
(2) Indicates such person’s approval of the information contained in the electronic consent.

(Authority: 20 U.S.C. 1232g (b)(1) and (b)(2)(A))

§ 99.31 Under what conditions is prior consent not required to disclose information?

(a) An educational agency or institution may disclose personally identifiable information from an education record of a student without the consent required by § 99.30 if the disclosure meets one or more of the following conditions:

(1)(i)(A) The disclosure is to other school officials, including teachers, within the agency or institution whom the agency or institution has determined to have legitimate educational interests.
   (B) A contractor, consultant, volunteer, or other party to whom an agency or institution has...
outsourced institutional services or functions may be considered a school official under this paragraph provided that the outside party—
(1) Performs an institutional service or function for which the agency or institution would otherwise use employees;
(2) Is under the direct control of the agency or institution with respect to the use and maintenance of education records; and
(3) Is subject to the requirements of § 99.33(a) governing the use and redisclosure of personally identifiable information from education records.

(ii) An educational agency or institution must use reasonable methods to ensure that school officials obtain access to only those education records in which they have legitimate educational interests.

An educational agency or institution that does not use physical or technological access controls must ensure that its administrative policy for controlling access to education records is effective and that it remains in compliance with the legitimate educational interest requirement in paragraph (a)(1)(i)(A) of this section.

(2) The disclosure is, subject to the requirements of § 99.34, to officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll, or where the student is already enrolled so long as the disclosure is for purposes related to the student’s enrollment or transfer.

Note: Section 4155(b) of the No Child Left Behind Act of 2001, 20 U.S.C. 7165(b), requires each State to assure the Secretary of Education that it has a procedure in place to facilitate the transfer of disciplinary records with respect to a suspension or expulsion of a student by a local educational agency to any private or public elementary or secondary school in which the student is subsequently enrolled or seeks, intends, or is instructed to enroll.

(3) The disclosure is, subject to the requirements of § 99.35, to authorized representatives of-
 (i) The Comptroller General of the United States;
 (ii) The Attorney General of the United States;
 (iii) The Secretary; or
 (iv) State and local educational authorities.

(4)(i) The disclosure is in connection with financial aid for which the student has applied or which the student has received, if the information is necessary for such purposes as to:
 (A) Determine eligibility for the aid;
 (B) Determine the amount of the aid;
 (C) Determine the conditions for the aid; or
 (D) Enforce the terms and conditions of the aid.

(ii) As used in paragraph (a)(4)(i) of this section, “financial aid” means a payment of funds provided to an individual (or a payment in kind of tangible or intangible property to the individual) that is conditioned on the individual’s attendance at an educational agency or institution.

(Authority: 20 U.S.C. 1232g(b)(1)(D))

(5)(i) The disclosure is to State and local officials or authorities to whom this information is specifically-
 (A) Allowed to be reported or disclosed pursuant to a State statute adopted before November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and the
system's ability to effectively serve the student whose records are released; or
(B) Allowed to be reported or disclosed pursuant to a State statute adopted after November 19, 1974, subject to the requirements of § 99.38.

(ii) Paragraph (a)(5)(l) of this section does not prevent a State from further limiting the number or type of State or local officials to whom disclosures may be made under that paragraph.

(6) (i) The disclosure is to organizations conducting studies for, or on behalf of, educational agencies or institutions to:
(A) Develop, validate, or administer predictive tests;
(B) Administer student aid programs; or (C) Improve instruction.

(ii) Nothing in the Act or this part prevents a State or local educational authority or agency headed by an official listed in paragraph (a)(3) of this section from entering into agreements with organizations conducting studies under paragraph (a)(6)(i) of this section and redisclosing personally identifiable information from education records on behalf of educational agencies and institutions that disclosed the information to the State or local educational authority or agency headed by an official listed in paragraph (a)(3) of this section in accordance with the requirements of § 99.33(b).

(iii) An educational agency or institution may disclose personally identifiable information under paragraph (a)(6)(i) of this section, and a State or local educational authority or agency headed by an official listed in paragraph (a)(3) of this section may redisclose personally identifiable information under paragraph (a)(6)(i) and (a)(6)(ii) of this section, only if –

(A) The study is conducted in a manner that does not permit personal identification of parents and students by individuals other than representatives of the organization that have legitimate interests in the information;

(B) The information is destroyed when no longer needed for the purposes for which the study was conducted; and

(C) The educational agency or institution or the State or local educational authority or agency headed by an official listed in paragraph (a)(3) of this section enters into a written agreement with the organization that –

(1) Specifies the purpose, scope, and duration of the study or studies and the information to be disclosed;
(2) Requires the organization to use personally identifiable information from education records only to meet the purpose or purposes of the study as stated in the written agreement;
(3) Requires the organization to conduct the study in a manner that does not permit personal identification of parents and students, as defined in this part, by anyone other than representatives of the organization with legitimate interests; and
(4) Requires the organization to destroy all personally identifiable information when the information is no longer needed for the purposes for which the study was conducted and specifies the time period in which the information must be destroyed.

(iv) An educational agency or institution or State or local educational authority or Federal agency headed by an official listed in paragraph (a)(3) of this section is not required to initiate a study or agree with or endorse the conclusions or results of the study.

(v) For the purposes of paragraph (a)(6) of this section, the term “organization” includes, but is not limited to, Federal, State, and local agencies, and independent organizations.
(7) The disclosure is to accrediting organizations to carry out their accrediting functions.

(8) The disclosure is to parents, as defined in § 99.3, of a dependent student, as defined in section 152 of the Internal Revenue Code of 1986.

(9)(i) The disclosure is to comply with a judicial order or lawfully issued subpoena.

(ii) The educational agency or institution may disclose information under paragraph (a)(9)(i) of this section only if the agency or institution makes a reasonable effort to notify the parent or eligible student of the order or subpoena in advance of compliance, so that the parent or eligible student may seek protective action, unless the disclosure is in compliance with-

(A) A Federal grand jury subpoena and the court has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed;

(B) Any other subpoena issued for a law enforcement purpose and the court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed; or

(C) An ex parte court order obtained by the United States Attorney General (or designee not lower than an Assistant Attorney General) concerning investigations or prosecutions of an offense listed in 18 U.S.C. 2332b(g)(5)(B) or an act of domestic or international terrorism as defined in 18 U.S.C. 2331.

(iii) (A) If an educational agency or institution initiates legal action against a parent or student, the educational agency or institution may disclose to the court, without a court order or subpoena, the education records of the student that are relevant for the educational agency or institution to proceed with the legal action as plaintiff.

(B) If a parent or eligible student initiates legal action against an educational agency or institution, the educational agency or institution may disclose to the court, without a court order or subpoena, the student’s education records that are relevant for the educational agency or institution to defend itself.

(10) The disclosure is in connection with a health or safety emergency, under the conditions described in § 99.36.

(11) The disclosure is information the educational agency or institution has designated as “directory information,” under the conditions described in § 99.37.

(12) The disclosure is to the parent of a student who is not an eligible student or to the student.

(13) The disclosure, subject to the requirements in § 99.39, is to a victim of an alleged perpetrator of a crime of violence or a non-forcible sex offense. The disclosure may only include the final results of the disciplinary proceeding conducted by the institution of postsecondary education with respect to that alleged crime or offense. The institution may disclose the final results of the disciplinary proceeding, regardless of whether the institution concluded a violation was committed.

(14)(i) The disclosure, subject to the requirements in § 99.39, is in connection with a disciplinary proceeding at an institution of postsecondary education. The institution must not disclose the final results of the disciplinary proceeding unless it determines that

(A) The student is an alleged perpetrator of a crime of violence or non-forcible sex offense; and

(B) With respect to the allegation made against him or her, the student has committed a violation of the institution’s rules or policies.
(ii) The institution may not disclose the name of any other student, including a victim or witness, without the prior written consent of the other student.

(iii) This section applies only to disciplinary proceedings in which the final results were reached on or after October 7, 1998.

(15)(i) The disclosure is to a parent of a student at an institution of postsecondary education regarding the student’s violation of any Federal, State, or local law, or of any rule or policy of the institution, governing the use or possession of alcohol or a controlled substance if-
   (A) The institution determines that the student has committed a disciplinary violation with respect to that use or possession; and
   (B) The student is under the age of 21 at the time of the disclosure to the parent.

(ii) Paragraph (a)(15) of this section does not supersede any provision of State law that prohibits an institution of postsecondary education from disclosing information.

(16) The disclosure concerns sex offenders and other individuals required to register under section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. 14071, and the information was provided to the educational agency or institution under 42 U.S.C. 14071 and applicable Federal guidelines.

(b)(i) De-identified records and information. An educational agency or institution, or a party that has received education records or information from education records under this part, may release the records or information without the consent required by § 99.30 after the removal of all personally identifiable information provided that the educational agency or institution or other party has made a reasonable determination that a student’s identity is not personally identifiable, whether through single or multiple releases, and taking into account other reasonably available information.

(2) An educational agency or institution, or a party that has received education records or information from education records under this part, may release de-identified student level data from education records for the purpose of education research by attaching a code to each record that may allow the recipient to match information received from the same source, provided that—
   (i) An educational agency or institution or other party that releases de-identified data under paragraph (b)(2) of this section does not disclose any information about how it generates and assigns a record code, or that would allow a recipient to identify a student based on a record code;
   (ii) The record code is used for no purpose other than identifying a de-identified record for purposes of education research and cannot be used to ascertain personally identifiable information about a student; and
   (iii) The record code is not based on a student’s social security number or other personal information.

(c) An educational agency or institution must use reasonable methods to identify and authenticate the identity of parents, students, school officials, and any other parties to whom the agency or institution discloses personally identifiable information from education records.

(d) Paragraphs (a) and (b) of this section do not require an educational agency or institution or any other party to disclose education records or information from education records to any party except for parties under paragraph (a)(12) of this section.

(Authority: 20 U.S.C. 1232g(a)(5)(A), (b), (h), (i), and (j))
Appendix E: Model Notification of Rights, Department of Education

Model Notification of Rights under FERPA for Elementary and Secondary Schools

The Family Educational Rights and Privacy Act (FERPA) affords parents and students who are 18 years of age or older (“eligible students”) certain rights with respect to the student’s education records. These rights are:

1. The right to inspect and review the student’s education records within 45 days after the day the [NAME OF SCHOOL (“SCHOOL”)] receives a request for access.

Parents or eligible students who wish to inspect their child’s or their education records should submit to the school principal [OR APPROPRIATE SCHOOL OFFICIAL] a written request that identifies the records they wish to inspect. The school official will make arrangements for access and notify the parent or eligible student of the time and place where the records may be inspected.

2. The right to request the amendment of the student’s education records that the parent or eligible student believes are inaccurate, misleading, or otherwise in violation of the student’s privacy rights under FERPA.

Parents or eligible students who wish to ask the [SCHOOL] to amend their child’s or their education record should write the school principal [OR APPROPRIATE SCHOOL OFFICIAL], clearly identify the part of the record they want changed, and specify why it should be changed. If the school decides not to amend the record as requested by the parent or eligible student, the school will notify the parent or eligible student of the decision and of their right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the parent or eligible student when notified of the right to a hearing.

3. The right to provide written consent before the school discloses personally identifiable information (PII) from the student’s education records, except to the extent that FERPA authorizes disclosure without consent.

One exception, which permits disclosure without consent, is disclosure to school officials with legitimate educational interests. The criteria for determining who constitutes a school official and what constitutes a legitimate educational interest must be set forth in the school’s or school district’s annual notification for FERPA rights. A school official typically includes a person employed by the school or school district as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel) or a person serving on the school board. A school official also may include a volunteer, contractor, or consultant who, while not employed by the school, performs an institutional service or function for which the school would otherwise use its own employees and who is under the direct control of the school with respect to the use and maintenance of PII from education records, such as an attorney, auditor, medical consultant, or therapist;
a parent or student volunteering to serve on an official committee, such as a disciplinary or grievance committee; or a parent, student, or other volunteer assisting another school official in performing his or her tasks. A school official typically has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.

[optional] Upon request, the school discloses education records without consent to officials of another school or school district in which a student seeks or intends to enroll, or is already enrolled if the disclosure is for purposes of the student’s enrollment or transfer. [NOTE: FERPA requires a school or school district to make a reasonable attempt to notify the parent or student of the records request unless it states in its annual notification that it intends to forward records on request or the disclosure is initiated by the parent or eligible student.]

4. The right to file a complaint with the U.S. Department of Education concerning alleged failures by the [school] to comply with the requirements of FERPA. The name and address of the Office that administers FERPA are:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC  20202

[NOTE: In addition, a school may want to include its directory information public notice, as required by § 99.37 of the regulations, with its annual notification of rights under FERPA.]

[optional] See the list below of the disclosures that elementary and secondary schools may make without consent.

FERPA permits the disclosure of PII from students’ education records, without consent of the parent or eligible student, if the disclosure meets certain conditions found in § 99.31 of the FERPA regulations. Except for disclosures to school officials, disclosures related to some judicial orders or lawfully issued subpoenas, disclosures of directory information, and disclosures to the parent or eligible student, § 99.32 of the FERPA regulations requires the school to record the disclosure. Parents and eligible students have a right to inspect and review the record of disclosures. A school may disclose PII from the education records of a student without obtaining prior written consent of the parents or the eligible student –

- To other school officials, including teachers, within the educational agency or institution whom the school has determined to have legitimate educational interests. This includes contractors, consultants, volunteers, or other parties to whom the school has outsourced institutional services or functions, provided that the conditions listed in § 99.31(a)(1)(i)(B)(1) - (a)(1) (i)(B)(3) are met. (§ 99.31(a)(1))
- To officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll, or where the student is already enrolled if the disclosure is for purposes related to the student’s enrollment or transfer, subject to the requirements of § 99.34. (§ 99.31(a)(2))
- To authorized representatives of the U. S. Comptroller General, the U. S. Attorney General, the U.S. Secretary of Education, or State and local educational authorities, such as the State educational agency (SEA) in the parent or eligible student’s State. Disclosures under this
provision may be made, subject to the requirements of § 99.35, in connection with an audit or evaluation of Federal- or State-supported education programs, or for the enforcement of or compliance with Federal legal requirements that relate to those programs. These entities may make further disclosures of PII to outside entities that are designated by them as their authorized representatives to conduct any audit, evaluation, or enforcement or compliance activity on their behalf, if applicable requirements are met. (§§ 99.31(a)(3) and 99.35)

- In connection with financial aid for which the student has applied or which the student has received, if the information is necessary for such purposes as to determine eligibility for the aid, determine the amount of the aid, determine the conditions of the aid, or enforce the terms and conditions of the aid. (§ 99.31(a)(4))

- To State and local officials or authorities to whom information is specifically allowed to be reported or disclosed by a State statute that concerns the juvenile justice system and the system's ability to effectively serve, prior to adjudication, the student whose records were released, subject to § 99.38. (§ 99.31(a)(5))

- To organizations conducting studies for, or on behalf of, the school, in order to: (a) develop, validate, or administer predictive tests; (b) administer student aid programs; or (c) improve instruction, if applicable requirements are met. (§ 99.31(a)(6))

- To accrediting organizations to carry out their accrediting functions. (§ 99.31(a)(7))

- To parents of an eligible student if the student is a dependent for IRS tax purposes. (§ 99.31(a)(8))

- To comply with a judicial order or lawfully issued subpoena if applicable requirements are met. (§ 99.31(a)(9))

- To appropriate officials in connection with a health or safety emergency, subject to § 99.36. (§ 99.31(a)(10))

- Information the school has designated as “directory information” if applicable requirements under § 99.37 are met. (§ 99.31(a)(11))

- To an agency caseworker or other representative of a State or local child welfare agency or tribal organization who is authorized to access a student’s case plan when such agency or organization is legally responsible, in accordance with State or tribal law, for the care and protection of the student in foster care placement. (20 U.S.C. § 1232g(b)(1)(L))

- To the Secretary of Agriculture or authorized representatives of the Food and Nutrition Service for purposes of conducting program monitoring, evaluations, and performance measurements of programs authorized under the Richard B. Russell National School Lunch Act or the Child Nutrition Act of 1966, under certain conditions. (20 U.S.C. § 1232g(b)(1)(K))

Available at: https://www2.ed.gov/policy/gen/guid/fpco/index.html
Model Notice for Directory Information

[Note: Per 34 C.F.R. § 99.37(d), a school or school district may adopt a limited directory information policy. If a school or school district does so, the directory information notice to parents and eligible students must specify the parties who may receive directory information and/or the purposes for which directory information may be disclosed.]

The Family Educational Rights and Privacy Act (FERPA), a Federal law, requires that [SCHOOL OR SCHOOL DISTRICT], with certain exceptions, obtain your written consent prior to the disclosure of personally identifiable information from your child’s education records. However, [SCHOOL OR SCHOOL DISTRICT] may disclose appropriately designated “directory information” without written consent, unless you have advised the [SCHOOL OR SCHOOL DISTRICT] to the contrary in accordance with [SCHOOL OR SCHOOL DISTRICT] procedures. The primary purpose of directory information is to allow the [SCHOOL OR SCHOOL DISTRICT] to include information from your child’s education records in certain school publications. Examples include:

- A playbill, showing your student’s role in a drama production;
- The annual yearbook;
- Honor roll or other recognition lists;
- Graduation programs; and
- Sports activity sheets, such as for wrestling, showing weight and height of team members.

Directory information, which is information that is generally not considered harmful or an invasion of privacy if released, can also be disclosed to outside organizations without a parent’s prior written consent. Outside organizations include, but are not limited to, companies that manufacture class rings or publish yearbooks. In addition, two federal laws require local educational agencies (LEAs) receiving assistance under the Elementary and Secondary Education Act of 1965, as amended (ESEA) to provide military recruiters, upon request, with the following information – names, addresses and telephone listings – unless parents have advised the LEA that they do not want their student’s information disclosed without their prior written consent. [Note: These laws are Section 9528 of the ESEA (20 U.S.C. § 7908) and 10 U.S.C. § 503(c).]

If you do not want [SCHOOL OR SCHOOL DISTRICT] to disclose any or all of the types of information designated below as directory information from your child’s education records without your prior written consent, you must notify the [SCHOOL OR SCHOOL DISTRICT] in writing by [INSERT DATE]. [SCHOOL DISTRICT] has designated the following information as directory information: [Note: an LEA may, but does not have to, include all the information listed below.]

- Student’s name
- Address
- Telephone listing
- Electronic mail address
- Photograph
- Date and place of birth
- Major field of study
- Dates of attendance
- Grade level
- Participation in officially recognized activities and sports
- Weight and height of members of athletic teams
• Degrees, honors, and awards received

• The most recent educational agency or institution attended

• Student ID number, user ID, or other unique personal identifier used to communicate in electronic systems but only if the identifier cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user’s identity, such as a PIN, password, or other factor known or possessed only by the authorized user

• A student ID number or other unique personal identifier that is displayed on a student ID badge, but only if the identifier cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user’s identity, such as a PIN, password, or other factor known or possessed only by the authorized user.

Available at: https://www2.ed.gov/policy/gen/guid/fpco/index.html

These notices are the US Department of Education model notices for FERPA.
Appendix F: Roster of Schools

This is a list of the schools studied. We were not able to include the postsecondary schools, as the sample size and nature of the research findings did not allow for sufficient deidentification. During the research period, the postsecondary schools did not change. At the primary and secondary level, there was change. Some schools were closed, some opened, some merged, and some changed grade levels. As a result, there were some adjustments we had to make to the n. We are allowing a +/-15 schools on primary/secondary non-aggregate statistics to accommodate these changes over time.

Anderson Elementary  
Anne Wien Elementary  
Arctic Light Elementary  
Crawford Elementary  
Denali Elementary  
Hunter Elementary  
Joy Elementary  
Ladd Elementary  
Midnight Sun Elementary  
Nordale Elementary  
North Pole Elementary  
Pearl Creek Elementary  
Salcha Elementary  
Ticasok Brown Elementary  
Two Rivers K-8  
University Park Elementary  
Weller Elementary  
Woodriver Elementary  
Ketchikan Charter School  
Tongass School of Arts and Sciences  
Houghtaling  
Fawn Mountain  
Point Higgins  
Ketchikan High School  
Revilla  
Schoenbar Middle School  
Baker High  
Blount High  
Alma Bryant High  
Citronelle High  
Davidson High  
LeFlore High  
Montgomery High  
Murphy High  
Rain High  
Theodore High  
Vigor High  
Williamson High  
Addison Elementary School  
Addison High School  
Lynn Elementary School  
Lynn High School  
Meek Elementary School  
Meek High School  
Double Springs Elementary School  
Double Springs Middle School  
Winston County High School  
Winston Career Academy  
Booneville High School  
Booneville Junior High School  
Booneville Elementary School  
Bethune  
Capitol  
Dunbar  
Edison  
Emerson  
Faith North Preschool  
Garfield  
Herrera  
Kenilworth  
Lowell  
Magnit Traditional School  
Shaw Montessori  
Whittier  
Globe high school, High Desert Middle School, Copper Rim Elementary School  
Canyon Ridge High School  
Career & Adult Education School  
Hesperia Community Day School  
Hesperia High School  
Mojave High School  
Oak Hills High School  
Shadow Ridge School  
Sultana High School  
Cedar Middle School  
Hesperia Jr. High School  
Ranchero Middle School  
Carmel Elementary School  
Cottonwood Elementary School  
Cypress School of the Arts  
Eucalyptus Elementary School  
Hollyvale Innovation Academy  
Joshua Circle Elementary School  
Juniper Elementary School  
Kingston Elementary School  
Krystal School  
Lime Street Elementary School  
Maple Elementary School  
Mesa Grande Elementary School  
Mesquite Trails Elementary School  
Mission Crest Elementary School  
Topaz Preparatory Academy  
Beech Street Pre-School  
Kemper Elementary School  
Lewis - Arriola Elementary School  
Manauga Elementary School  
Mesa Elementary School  
Montezuma - Cortez High School  
Montezuma-Cortez Middle School  
Pleasant View Elementary  
Battlerock Charter School  
Southwest Open School  
Children's Kiva Montessori School  
Pomeraug HS, Memorial Middle School, Rochambeau Middle School, Gainfield Elementary School, Long Meadow Elementary School, Middlebury Elementary School, Pomeraug Elementary school  
Christina Early Education Center  
Stubbs Early Education Center  
Brader Elementary School  
Brookside Elementary School  
Downes Elementary School  
Gallaher Elementary School  
Jones Elementary School  
Keeene Elementary School  
Leasoure Elementary School  
Maclary Elementary School  
Marshall Elementary School  
McVey Elementary School  
Oberle Elementary School  
Smith Elementary School  
West Park Place Elementary School  
Wilson Elementary School  
The Bancroft School  
The Bayard School  
Gauger-Cobbs Middle School  
Kirk Middle School  
Shue-Medill Middle School  
Christiana High School  
Glasgow High School  
Newark High School  
Brennen School  
Christina Adult Programs  
Delaware School for the Deaf  
Douglass School  
Middle School Honors Academy at Christiana High School  
Montessori Academies at Christina  
Networks School for Employability Skills  
REACH Program  
Sarah Pyle Academy  
Cape Henlopen High School[I]  
Beacon Middle School  
Mariner Middle School  
Joseph S. Elementary School  
H.O. Brittingham Elementary School  
Milton Elementary School  
Rehoboth Elementary School  
Richard A. Shields Elementary School  
Sussex Consortium  
Kate Smith Elementary School  
Vernon Elementary School  
Roulac Middle School  
Vernon Middle School  
ChIPLE High School  
Vernon High School (Vernon, Florida)  
Delta Innovative School  
Brooks County High School  
Brooks County Middle School  
Quitman Elementary School  
North Brooks Elementary School  
Brooks County Early Learning Center  
Highland Elementary, Highland Middle School, Highland High School  
Adams Elementary School  
Air Quality Procedures  
Amity Elementary School  
Boise Evening School  
Boise High School  
Borah High School
Kelly Miller Middle School
Kramer Middle School
MacFarland Middle School
McKinley Middle School
Sousa Middle School
Stuart-Hobson Middle School
Ida B. Wells Middle School
Aiton Elementary School
Amidon-Bowen Elementary School
Bancroft Elementary School
Barnard Elementary School
Beers Elementary School
Brent Elementary School
Bruce-Monroe Elementary School
Bunker Hill Elementary School
Burroughs Elementary School
Burwell Elementary School
Cleveland Elementary School
C.W. Harris Elementary School
Drew Elementary School
John Eaton Elementary School
Garfield Elementary School
Garrison Elementary School 253 Prekindergarten (3) 5th
H.D. Cooke Elementary School
416 Prekindergarten (3) 5th
Hearst Elementary School
Hendley Elementary School
Houston Elementary School
Van Ness Elementary School
Watkins Elementary School
Wilson Elementary School
Brightwood Education Campus
Browne Education Campus
Cardozo Education Campus
Columbia Heights Education Campus (CHEC)
LaSalle-Backus Education Campus
Leckie Education Campus
Raymond Education Campus
School Without Walls at Francis-Stevens
Takoma Education Campus
Truesdell Education Campus
Walker-Jones Education Campus
West Education Campus
Whitney Education Campus
Whittier Education Campus
Access Charter
Aloma Elementary
Aloma High Charter
Amikids Orlando
Andover Elementary
Apopka Elementary
Apopka High
Apopka Middle
Arbor Ridge K-8
Aspire Academy Charter
Auburn Park K-8
Avalon Elementary
Avalon Middle
Azalea Park Elementary
Benjamin E. Mays High School
BEST Academy High School
 Booker T. Washington High School
Coretta Scott King Young Women's Leadership Academy High School
Daniel McLaughlin Terrell High School
Frederick Douglass High School
Henry W. Grady High School
Maynard H. Jackson High School
The New Schools at Carver Early College
School of the Arts
School of Health Sciences & Research
School of Technology
North Atlanta High School
South Atlanta High School
Inman Middle School
BEST Academy Middle School
Coretta Scott King Young Women's Leadership Academy Middle School
Crawford Williamson Long Middle School
Jean Childs Young Middle School
Joseph Emerson Brown Middle School
Luther Judson Price Middle School
Martin Luther King Jr. Middle School
 Ralph Johnson Bunche Middle School
Samuel M. Inman Middle School
Sylvan Hills Middle School
Willis Sutton Middle School
Adamsville Elementary School
Barack & Michelle Obama Academy
Becher Hills Elementary School
Benten Elementary School
Bethune Elementary School
Bolton Academy
Boyd Elementary School
Brandon Elementary School
Burgess/Peterson Elementary School
Cascade Elementary School
Centennial Place Elementary School
Cleveland Avenue Elementary School
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Continental Colony Elementary School
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Dobbs Elementary School
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Fred A. Toomer Elementary School
Flat Rock Elementary School
Garden Hills Elementary School
Gideons Elementary School
Grove Park Intermediate Elementary School
Harper-Archer Elementary School
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Hope-Hill Elementary School
Humphries Elementary School
Hutchinson Elementary School
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M. Agnes Jones Elementary School
Mary Lin Elementary School
Miles Elementary School
Morningside Elementary School
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Parkside Elementary School
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Pine Ridge Elementary School
Rivers Elementary School
Sarah Smith Elementary School
Scott Elementary School
Slater Elementary School
Springdale Park Elementary School
Sycamore Elementary School
Thomasville Heights Elementary School
Towns Elementary School
Bazoline E. Usher Collier Heights Elementary School
Venetian Hills Elementary School
West Manor Elementary School
Whitefield Elementary School
Woodson Primary Elementary School
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**Consent Not Required**

For more information, please visit the [World Privacy Forum](https://worldprivacyforum.org/).
Pope Elementary
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Pu'uhala Elementary
Puukuki Elementary
Puuhale Elementary
Radford High
Red Hill Elementary
Roosevelt High
Royal School
Salt Lake Elementary
Scott Elementary
Shafer Elementary
Solomon Elementary
Stevenson Middle
Sunset Beach Elementary
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Waikoloa Elementary and Middle
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Waiako Elementary
Waipahu Elementary
Waipahu High
Waipahu Intermediate
Washington Middle
Webling Elementary
Wheeler Elementary
Wheeler Middle
Wilcox Elementary
Wilson Elementary
Alaka'i O Kau'i Connections PCS
DreamHouse Ewa Beach
Hakipu Learning Center PCS
Halau Ku Mana PCS
Hawai'i Technology Academy PCS
Hawai'i Academy of Arts and Science PCS
Innovations PCS
Ka Umeke Kaeo PCS
Ke Waihona O Ka Naaauo PCS
Kamehameha Academy PCS
Kamalani Academy PCS
Kanu O Ka Aina PCS
Kanikuapono PCS
Kapahulu Public Charter Kapolei Charter
Kawaikini NCPCS
Ke Ana Laahana PCS
Ke Kula 'o Nawahikolani/Opu'u Iki Laboratory PCS
Ke Kula 'o Samuel M. Kamakau LPCS
Ke Kula Niihau O Keaka LPCS
Kihei Charter School Kona Pacific PCS
Kula O Ka La NCPCS
Kualapuu Elementary PCS
Kula Aupuni Niihau PCS
Laupahoehoe Community PCS
Malama Honua PCS
Myron B. Thompson Academy
Na Wai Ola PCS SEEQ5 PCS
University Laboratory Volcano School of Arts and Sciences
Voyager PCS
Wailae Elementary PCS
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Perkins Elementary School
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Studebaker Elementary School
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Austin Community Academy
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Chicago Vocational Career Academy
Roberto Clemente Community Academy
Collins Academy High School
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Dunbar Vocational Career Academy
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<td>Fannie C. Williams Charter</td>
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<td>Lycée Français de la Nouvelle-Orlèans (LFNO)</td>
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<td>Mary D. Coghil Elementary School</td>
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</tbody>
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CONSENT NOT REQUIRED

WORLD PRIVACY FORUM
Angela Y. Davis Leadership Academy
Banneker Blake Academy of Arts and Sciences
Booker T. Washington Middle School Crossroads School, The Stadium School
Vanguard Collegiate Middle School
Academy for College and Career Exploration
Baltimore Design School
Baltimore Leadership School for Young Women
Bluford Drew Jemison STEM Academy
West Claremont School, Baltimore ConneXions: A Community Based Arts School
Eager Street Academy
Excel Academy at Francis M. Wood High School
Green Street Academy
Joseph C. Briscoe Academy
NACA Freedom and Democracy Academy
National Academy Foundation
School Achievement Academy/ Harbor City High School
Augusta Fells Savage Institute of Visual Arts
Baltimore City College
Baltimore Polytechnic Institute
Baltimore School for the Arts
Bard High School
Benjamin Franklin High School
Career Academy
Carver Vocational Technical High School City
Neighbors High School
Copelin Academy
Digital Harbor High School
Edmondson-Westside High School
Forest Park High School
Frederick Douglass High School
Independence School Local I High School
Mergenthaler Vocational-Technical High School
New Era Academy
P-TECH at Carver Vocational-Technical High
P-TECH at New Era Academy
P-TECH at Paul Laurence Dunbar High
Patterson High School
Paul Laurence Dunbar High School
The Reach! Partnership School
Reginald F. Lewis High School
Renaissance Academy
Success Academy
Vivien T. Thomas Medical Arts Academy
Western High School
Youth Opportunity Academy
Lakewood Elementary School
William S. Baer School
Academy of the Americas
Detroit International Academy for Young Women
Boykin Continuing Education Center
Douglass Academy for Young Men
Central High School
Frank Cody High School
Denby Technical & Preparatory High School
East English Village Preparatory Academy
Ford High School
Dr. Martin Luther King, Jr. High School
Mumford High School
Northwestern High School
Pershing High School
Southeastern High School
Western International High School
Barsamian Preparatory Center
Cass Technical High School
Communication & Media Arts High School
Crossan Alternative High School
Davies Aerospace High School
Detroit City High School
Detroit High School for Technology
Detroit School of Arts
Millennium School
Osborn High School
Renaissance High School
Trembly Alternative High School
West Side Academy-Alternative Education
Davison Elementary-Middle School
Ann Arbor Trail Magnet School
Bates Academy
Mary McLeod Bethune Elementary/Middle School
Blackwell Institute
Bow Elementary/Middle School
Mary McLeod Bethune Elementary/Middle School
Beulah Brewer Academy
Ronald Brown Academy
Ralph J. Bunche Preparatory Academy
Burns Elementary School
Burton International School
Butzel Elementary/Middle School
Cartwheels Elementary/Middle School
Carver Elementary School
Clark J.E. Preparatory Academy
Davison Elementary School
Dixon Educational Learning Academy
Earhart Elementary/Middle School
Fisher Magnet Academy
Fisher Magnet Lower Academy
Fisher Magnet Upper Academy
Fitzgerald Elementary School
Garvey Academy
Golightly Education Center
Gompers Elementary/Middle School
Greenfield Union Elementary School
Henderson Academy
A.L. Holmes Academy of Blended Learning
Hutchinson Elementary/Middle School
John R. King Academic and Performing Arts Academy
Law Elementary School
Mackenzie Elementary/Middle School
Thurgood Marshall Elementary School
Mark Twain School for Scholars
Marquette Elementary/Middle School
Neinas Dual Language Learning Academy
Noble Elementary School
Nolan Elementary/Middle School
Palmer Park Preparatory Academy
Priest Elementary/Middle School
Pulaski Elementary/Middle School
Robeson Malcolm X Academy
Sherrill Elementary School
Charles L. Spain Elementary/Middle School
Stewart Elementary School
Westside Multicultural Academy
Academy of The Americas
Breda Scott Academy
Edward 'Duke' Ellington Conservatory of Music & Art at Beckham Academy
Ann Arbor Trail Magnet Middle School
Burns Elementary/Middle School
Dossin Elementary/Middle School
Dossin Preparatory Academy
Thurgood Marshall Elementary School
Pasteur Elementary School
Schulze Academy for Technology and Arts
Vernor Elementary School
Cooke Elementary School
Pasture Elementary School
Bennett Elementary School
Carleton Elementary School
Roberto Clemente Learning Academy
Emerson Elementary School
Gompers Elementary School
Maybury Elementary School
Wayne Elementary School
Coleman A. Young Elementary School
Chrysler Elementary School
Gardner Elementary School
Harms Elementary School
Duke Ellington @Beckham
Armatage Community & Montessori School
It Takes a Village Academy
International High School at
International Arts Business
High School of
High School for Youth and
High School for Public Service:
The High School for Global
Williamsburg Preparatory School
Brooklyn Preparatory High
Harry Van Arsdale Educational
Green School: An Academy for
Gotham Professional Arts
George Westinghouse Career
The School for Human Rights
School for Democracy and
High School for Global
Prospect Heights
Technology
Telecommunication Arts and
Management
Erasmus
Community Development at
Learning at Erasmus
Heroes of Tomorrow
Architecture and Design
School
Multicultural High School
School
School
Academy
for the Sciences
Professional Careers Brooklyn
High School
John Jay Educational Campus
Millennium Brooklyn High
School
Park Slope Collegiate
Secondary School for Journalism
Secondary School for Law
Juan Morel Campus Secondary
School
Kingsborough Early College
Secondary School
Kurt Hahn Expeditionary
Learning School
Lafayette High School
Leon M. Goldstein High School
for the Sciences
Liberation Diploma Plus Life
Academy
High School for Film and Music
Lyons Community School
Magen David Yeshivah High
School
Medgar Evers College Preparatory
School
Merказ Bnoss High School
Mesivta Mkor Chaim School
Mesivta Nachlas Yakov School
Mesivta of Seagate School
Mesivta Rabbi Chaim Berlin High
School
Mesivta/Yeshiva Gedola
Manhattan Beach School
Metropolitan Corporate Academy
Metropolitan Diploma Plus High
School
Midwood High School
Mikdash Melch Bechuna School
Millennium Brooklyn High
School
Mirrer Yeshiva High School
Multicultural High School
Nazareth Regional High School
New Utrecht High School
New York Harbor School
Olympus Academy Pacific High
School
The Packer Collegiate Institute
Park Slope Collegiate
Pathways in Technology Early
College High School
Paul Robeson High School for
Business and Technology
Collocated school: Pathways in
Technology Early College High
School
Performing Arts and Technology
High School
Poly Prep Country Day School
Progress High School for
Professional Careers Brooklyn
Academy of Science and the
Environment
Brooklyn School for Music &
Theatre
The High School for Global
Citizenship
International High School at
Prospect Heights
Rachel Carson High School for
Coastal Studies
Roy Campanella Occupational
Training Center
St. Ann’s School St. Edmund
Preparatory High School
St. Joseph High School
St. Saviour High School
It Takes a Village Academy
Cultural Academy for the Arts
and Sciences
The Kurt Hahn Expeditionary
Learning School
The School for Classics: An
Academy of Thinkers, Writers
and Performers
School for Democracy and
Leadership
The School for Human Rights
School for International
Studies
School for Legal Studies
Science Skills Center High School
for Science, Technology and
the Creative Arts
Science, Technology and Research
Early College High School at
Erasmus
Secondary School for Journalism
Secondary School for Law
Secondary School for Research
Sheepshead Bay High School
Shulamith High School for Girls
Sinai Academy
Soille Bais Yaakov High School
South Brooklyn Community High
School
South Shore Educational Campus
See:
Academy for Conservation and
the Environment Brooklyn
Bridge Academy
Brooklyn Generation School
Brooklyn
Theatre Arts High School
Victory Collegiate High School
Sunset Park High School
Teachers Preparatory High School
FDNY High School for Fire and
Life Safety
High School for Civil Rights
Performing Arts and Technology
High School
World Academy for Total
Community Health High
School
Tiferes Academy
Tiferes Bais Yaakov High School
Tiferes Miriam High School
Tomer Devora High School for
Girls
Torah Academy High School
Transit Tech Career and
Technical Education High
School
United Lubavitcher Yeshiva
Urban Assembly Institute of Math
and Science for Young Women
The Urban Assembly School for
Law and Justice
The Urban Assembly School of
Music and Art
Victory Collegiate High School
Brooklyn International High
School
Science Skills Center High School
for Science, Technology and
the Creative Arts
Urban Assembly High School of
Music and Art
W.E.B. DuBois Academic High
School
West Brooklyn Community High
School
William E. Grady Career and
Technical Education High
School
William H. Maxwell Career and
Technical Education High
School
Williamsburg Charter High
School
Williamsburg High School for
Architecture and Design
Williamsburg Preparatory School
World Academy for Total
Community Health High
School
Xaverian High School
Yeshiva Chanoch
Lenaar Yeshiva
Derech HaTorah High School
Yeshiva Gedeolah of Midwood
Yeshiva Gedolah of Midwood
Yeshiva Karunas Halev
Yeshiva of Flatbush
Joel Braverman High School
Yeshiva Ohr Moleh Koson
Yeshiva Shaar Yosher
Yeshiva Tiferes Shmuel
Yeshiva Toras Hezde
Yeshiva Vyelipol School
Yeshivat Ateret Torah Yeshivat
Or Hatorah Yeshiva
Shaare Torah Boys High School
Yeshivat Shaar Torah Girls High
School
Yeshiva/Mesivta Yoel Moshe
School
Zvi Dov Roth Academy of Yeshiva
Rambam
Philip Randolph Campus High School
Aaron School Abraham Joshua Heschel School
Academy of Environmental Science Secondary High School
Academy for Social Action: A College Board School
Aichhorn School
The American Sign Language and English Secondary School
Avenues: The World School
Bard High School Early College
Ballet Tech, NYC Public School for Dance
Baruch College Campus High School
The Beacon School (Beacon High School)
The Beekman School
Bread & Roses Integrated Arts High School
Brearley School
The Browning School
The Calhoun School
Cascades High School
Cathedral High School
Central Park East High School
Chapin School
Chelsea Career and Technical Education High School
Choir Academy of Harlem City-As-School
Coalition School for Social Change
Collegiate School
Columbia Grammar & Preparatory School
Columbia Secondary School
Cristo Rey New York High School
Convent of the Sacred Heart
The Dalton School
Daytop Preparatory School
Dominican Academy
The Dwight School
East Side Community High School
Edward A. Reynolds West Side High School
Eleanor Roosevelt High School
Elisabeth Irwin High School
Essex Street Academy
The Facing History School
Fiorello H. LaGuardia High School of Music & Art and Performing Arts
Food and Finance High School
Frederick Douglass Academy See also:
Frederick Douglass Academy II Secondary School
(Manhattan) Frederick Douglass Academy III Secondary School (Bronx)
Frederick Douglass Academy IV Secondary School (Brooklyn)
Frederick Douglass Academy VI High School (Queens)
Frederick Douglass Academy VII High School (Brooklyn)
Frederick Douglass Academy II Secondary School
Friends Seminary
Fusion Academy & Learning Center
George Washington High School
High School for Health Careers and Sciences
High School for International Business and Finance
High School for Law and Public Service
High School for Media and Communications
Gramercy Arts High School
Greenwich Village High School
Gregorio Luperon High School for Math & Science
Harlem Renaissance High School
Harvey Milik High School
Henry Street School for International Studies
The Heritage School
The Hewitt School High School for Arts, Imagination and Inquiry
High School for Dual Language and Asian Studies
(Seaward Park campus)
High School For Environmental Studies
High School for Health Careers and Sciences (George Washington campus)
High School for Health Professions and Human Services
High School for Humanities Educational Campus
Bayard Rustin High School for the Humanities
Humanities Preparatory Academy
The James Baldwin School
High School for International Business and Finance
High School for Law, Advocacy, and Community Justice
High School for Law and Public Service
High School for Leadership and Public Service
High School for Math, Science and Engineering at City College
High School for Media and Communications
High School of Art and Design
High School of Arts and Technology
High School of Economics and Finance
High School of Fashion Industries
High School of Graphic Communication Arts
Collocated school: Urban Assembly Gateway School for Technology
High School of Hospitality Management
Humanities Preparatory Academy
Hunter College High School
Independence High School
Institute for Collaborative Education
Jacqueline Kennedy Onassis High School
The James Baldwin School: A School for Expeditionary Learning
John V. Lindsay Wildcat Academy Charter School
Julia Richman Education Complex
Manhattan International High School
Talent Unlimited High School
Vanguard High School
La Salle Academy
Landmark High School
Legacy School for Integrated Studies
Léman Manhattan Preparatory School
Liberty High School
Academy for Newcomers
Life Sciences Secondary School
Louis D. Brandeis High School
Lower East Side Preparatory High School
Lower Manhattan Arts Academy
Loyola School Lycée français de New York (LFNY)
Manhattan Bridges High School
Manhattan Center for Science and Mathematics
Manhattan Comprehensive High School
and Day High School
Manhattan High School for Girls
Manhattan/Hunter College High School for Sciences
Manhattan International High School
Manhattan Theatre Lab High School
Manhattan Village Academy
Marta Valle High School (Marta Valle Secondary School)
Martin Luther King High School
High School for Arts, Imagination and Inquiry
High School for Law, Advocacy and Community Justice
Hunter College High School (Manhattan/Hunter Science High School)
Manhattan Theatre Lab High School
The Urban Assembly School for Media Studies
Marymount School
Millennium High School
Mother Cabrini High School
Mott Hall High School
Murry Bergtraum High School for Business Careers
New Design High School
New Explorations into Science, Technology and Math High School (NEST+m High School)
NYC School
New York City Lab School for Collaborative Studies
New York City Museum School
Nightingale-Bamford School
Norman Thomas High School
Northeastern Academy
Notre Dame School
Pace High School
Park East High School
Park West High School
The Facing History School
Food and Finance High School
High School of Hospitality Management
Manhattan Bridges High School
The Urban Assembly School of Design and Construction
Professional Children's School
Professional Performing Arts School
Quest to Learn Ramaz School
Rebecca School Regis High School
Repertory Company
High School for Theatre Arts
Rice High School
Richard R. Green High School of Teaching
The Robert Louis Stevenson School
St. Agnes Boys High School
St. Jean Baptiste High School
St. Michael Academy
St. Vincent Ferrer High School
Sacred Heart (See Convent of the Sacred Heart)
Satellite Academy High School
School for the Physical City High School
School of the Future
Seaward Park High School
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<tr>
<th>School Name</th>
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<tr>
<td>Essex Street Academy</td>
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<td>Solomon Schechter High School of New York</td>
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<td>Thompson Marshall Academy for Learning and Social Change</td>
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<td>University Neighborhood High School</td>
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<td>Urban Academy Laboratory High School</td>
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<td>Academy of Government and Law</td>
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<td>High School of Graphic Communication Arts</td>
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<td>The Urban Assembly School of Design and Construction</td>
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<td>Yeshiva University High School for Boys</td>
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<td>Academy of American Studies</td>
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<td>Archbishop Mollay High School</td>
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<td>August Martin High School</td>
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<td>Aviation High School</td>
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<td>Baiz Yaakov Machon Academy</td>
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<td>Bard High School Early College II</td>
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<td>Bayside High School</td>
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<td>Channel View School for Research</td>
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<td>Rockaway Collegiate High School</td>
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<td>Rockaway Park High School for Environmental Sustainability</td>
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<td>Cambria Heights Academy for New Literacies</td>
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<td>Campus Magnet Educational College Collocated schools: Andrew Jackson School / Humanities and the Arts Magnet High School</td>
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<tr>
<td>Mathematics, Science Research and Technology Magnet High School</td>
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<td>Institute for Health Professions at Cambria Heights</td>
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<td>Benjamin Franklin High School for Finance &amp; Information Technology</td>
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<td>Benjamin N. Cardozo High School</td>
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<td>School Cathedral Preparatory Seminary Channel View School for Research</td>
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<td>The Child School Legacy High School, Roosevelt Island</td>
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<td>Christ The King Regional High School East-West School of International Studies Evangel Christian School</td>
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<td>Excelsior Preparatory High School (Springfield Gardens Educational Campus) Ezra Academy Far Rockaway Educational Campus</td>
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<td>Academy of Medical Technology - A College Board School</td>
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<td>Frederick Douglass Academy VI High School</td>
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<td>Queens High School for Information, Research, and Technology</td>
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<td>Flushing High School</td>
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<td>George Washington Carver High School for the Sciences</td>
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<td>Greater New York Academy of Seventh-day Adventists</td>
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<td>Grover Cleveland High School</td>
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<td>High School for Arts and Business</td>
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<td>High School for Community Leadership</td>
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<tr>
<td>High School for Construction Trades, Engineering and Architecture High School for Law Enforcement and Public Safety</td>
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<td>High School of Applied Communication</td>
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<td>Information Technology High School</td>
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<td>International High School at LaGuardia Community College</td>
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<td>Jamaica Gateway to the Sciences</td>
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<td>John Adams High School</td>
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<td>John F. Kennedy Jr. School</td>
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<td>Long Island City High School</td>
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<td>The Lowell School</td>
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<td>Martin Van Buren High School</td>
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<td>The Mary Louis Academy</td>
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<tr>
<td>Mathematics, Science Research and Technology Magnet High School</td>
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<tr>
<td>Mesivta Ohr Torah School</td>
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<td>Mesivta Yesodei Yeshurun</td>
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<tr>
<td>Metropolitan Expeditionary Learning School (Queens Metropolitan High School campus) Middle College High School at LaGuardia Community College</td>
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<tr>
<td>Monsignor McClancy Memorial High School</td>
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<td>Newcomers High School</td>
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<tr>
<td>Pan American International High School</td>
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<tr>
<td>Pathways College Preparatory School</td>
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<tr>
<td>Preparatory Academy for Writers: A College Board School</td>
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<td>Project Blend School, Jamaica</td>
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<tr>
<td>Queens Academy High School</td>
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<tr>
<td>Queens Collegiate: A College Board School</td>
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<tr>
<td>Queens Gateway to Health</td>
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<tr>
<td>Sciences High School for Information, Research, and Technology</td>
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<td>Queens High School for the Sciences at York College</td>
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<td>Queens High School of Teaching, Liberal Arts and the Sciences</td>
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<td>Queens Metropolitan High School</td>
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<tr>
<td>Metropolitan Expeditionary Learning High School</td>
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<tr>
<td>Queens Preparatory Academy</td>
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<tr>
<td>Queens Vocational and Technical High School</td>
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<td>Razi School</td>
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<tr>
<td>The Renaissance Charter School</td>
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<tr>
<td>Richmond Hill High School</td>
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<tr>
<td>Robert F. Kennedy Community High School</td>
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<tr>
<td>Robert F. Wagner, Jr. Secondary School for Arts and Technology</td>
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<tr>
<td>Robert H. Goddard High School of Communication Arts and Technology</td>
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<td>Rockaway Collegiate High School</td>
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<td>Rockaway Park High School for Environmental Sustainability</td>
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<tr>
<td>St. Agnes High School</td>
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<td>St. Demetrios School</td>
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<tr>
<td>St. Francis Preparatory School</td>
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<td>St. George Academy</td>
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<td>St. John's Preparatory School</td>
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<td>Scholars' Academy</td>
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<tr>
<td>Shevach High School</td>
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<tr>
<td>Excelsior Preparatory High School</td>
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<tr>
<td>George Washington Carver High School for the Sciences</td>
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<td>Preparatory Academy for Writers: A College Board School</td>
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<td>Queens Preparatory Academy</td>
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<tr>
<td>Summit School</td>
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<tr>
<td>Thomas A. Edison Vocational and Technical High School</td>
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<tr>
<td>Torah Academy</td>
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<tr>
<td>High School for Girls</td>
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<tr>
<td>Townsend Harris High School</td>
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<td>VOYAGES Preparatory</td>
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<tr>
<td>Whitestone Academy</td>
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<tr>
<td>William Cullen Bryant High School</td>
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<td>Windsor School</td>
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<tr>
<td>World Journalism Preparatory: A College Board School</td>
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<tr>
<td>Yeshiva Berachel David-Torah School</td>
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<tr>
<td>Yeshiva Binat Chaim - Boys School</td>
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<tr>
<td>Yeshiva of Far Rockaway</td>
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<tr>
<td>Yeshiva Shaar Hatorah Research</td>
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<tr>
<td>Yeshiva University</td>
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<tr>
<td>High School for Girls</td>
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Cane Bay High School  
Cross High School  
Goose Creek High School  
Hanahan High School  
Simmons High School  
Stratford High School  
Timberland High School  
Berkeley Alternative School  
Berkeley Middle College  
Daniel Island Elementary and Middle School  
Berkeley Middle School  
Cane Bay Middle School  
Charles B. DeBose Middle School  
College Park Middle School  
Hanahan Middle School  
Macedonia Middle School  
Marrington Middle School  
St. Stephen Middle School  
Sangaree Middle School  
Sedgefield Middle School  
Philip Simmons Middle School  
Westview Middle School  
Berkeley Elementary  
Berkeley Intermediate  
Boulder Bluff Elementary  
Cainhoy Elementary  
Cane Bay Elementary  
College Park Elementary  
Cross Elementary  
Devon Forest Elementary  
Goose Creek Primary  
H.E. Bonner Elementary  
Hanahan Elementary  
Howe Hall AIMS  
J.K. Gourdin Elementary  
Marrington Elementary  
Nexton Elementary  
Philip Simmons Elementary  
St. Stephen Elementary  
Sangaree Elementary  
Sangaree Intermediate  
Sedgefield Intermediate  
Westview Elementary  
Westview Primary  
Whitesville Elementary  
Lincoln High School  
Roosevelt High School  
Washington High School  
New Technology High School  
Edison Middle School  
George McGovern Middle School  
Memorial Middle School  
Patrick Henry Middle School  
Whittier Middle School  
Anne Sullivan  
Challenge Center

Cleveland  
Discovery  
Eugene Field A+  
FIC at Jane Addams  
Garfield  
Harvey Dunn  
Hawthorne  
Hayward  
Horace Mann  
Jefferson  
John F. Kennedy (JKF)  
John Harris  
Laura B. Anderson  
Laura Wilder  
Longfellow  
Lowell  
Mark Twain  
Oscar Howe  
Renberg  
Robert Frost  
R.F. Pettigrew  
Altruria Elementary School  
Arlington Elementary School  
Bailey Station Elementary School  
Barret’s Elementary School  
Bartlett Elementary School  
Bon Lin Elementary School  
Collierville Elementary School  
Crosswind Elementary School  
Dexter Elementary School  
Dogwood Elementary School  
Donelson Elementary School  
Ellendale Elementary School  
Farmington Elementary School  
Germantown Elementary School  
E. A. Harrold Elementary School  
Highland Oaks Primary School  
Highland Oaks Elementary School  
Jackson Elementary  
E. E. Jeter Elementary School  
Lakeland Elementary School  
Lucy Elementary School  
Macon-Hall Elementary School  
Millington Elementary School  
Northaven Elementary School  
Newberry Elementary School  
Oak Elementary School  
Rivercrest Elementary School  
Southwind Elementary School  
Sycamore Elementary School  
Tara Oaks Elementary School  
Appley Middle School  
Arlington Middle School  
Bon Lin Middle School  
Collierville Middle School  
Dexter Middle School

Elmore Park Middle School  
Germantown Middle School  
Highland Oaks Middle School  
Houston Middle School  
Millington Middle School  
Mt. Pisgah Middle School  
Schilling Farms Middle School  
Shadowlawn Middle School  
Woodstock Middle School  
Riverdale School  
Lowrance Elementary School  
Arlington High School  
Bartlett High School  
Bolton High School  
Collierville High School  
Germantown High School  
Houston High School  
Millington Central High School  
Southwind High School  
Brogden Primary  
Carver Elementary  
Carver Heights Elementary  
Eastern Wayne Elementary  
Fremont Stars Elementary  
Grantham Elementary  
Meadow Lane Elementary  
North Drive Elementary  
North East Elementary  
Northwest Elementary  
Rosewood Elementary  
Spring Creek Elementary  
Tommy’s Road Elementary  
Brogden Middle  
Dillard Middle  
Eastern Wayne Middle  
Grantham Middle  
Greenwood Middle  
Mount Olive Middle  
Norwayne Middle  
Rosewood Middle  
Spring Creek Middle  
Charles B. Aycock High  
Eastern Wayne High  
Goldboro High  
Rosewood High  
Southern Wayne High  
Spring Creek High  
Wayne Early/Middle College High School  
Wayne School of Engineering  
Edgewood Community Developmental School  
Wayne Middle/High Academy  
Thomas Horace Rogers School  
Gregory Lincoln Education Center  
Briarmeadow Charter School  
Garden Oaks K-8 School

The Rusk School  
Wharton Dual Language Academy  
Wilson Montessori School  
Billy K. Reagan K-8 Educational Center  
The Rice School  
Harper Alternative School  
Jane Long Academy  
Sharpeston International School  
Leader’s Academy High School  
for Business and Academic Success  
Bellaire High School  
César E. Chávez High School  
Heights High School  
Sam Houston High School  
Mirabeau B. Lamar High School  
Westbury High School  
Westside High School  
Stephen F. Austin High School  
James Madison High School  
Charles H. Milby High School  
Northside High School  
North Forest High School  
Ross Shaw Sterling High School  
Stephen Pool Waltrip High School  
Jack Yates High School  
Ebbert L. Furr High School  
Kashmere High School  
Sharpeston High School  
Booker T. Washington High School  
Phillis Wheatley High School  
Margaret Long Wisdom High School  
Evan E. Worthing High School  
Scarborough High School  
Carnegie Vanguard High School  
High School for the Performing and Visual Arts  
Challenge Early College High School  
Andrew Carnegie Vanguard High School  
Accelerated Learning And Transition Academy  
Challenge Early College High School  
Michael E. DeBakey High School  
for Health Professions  
East Early College High School  
Eastwood Academy  
Empowerment College  
Preparatory High School  
Energy Institute High School  
HCC Life Skills Program Houston  
Night High  
School Houston Academy for International Studies  
Barbara Jordan High School High School

CONSENT NOT REQUIRED  
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WORLD PRIVACY FORUM