



FLORIDA DEPARTMENT OF  
**EDUCATION**  
fldoe.org

# Marjory Stoneman Douglas High School Public Safety Commission

## Overview of Florida K-12 Education Privacy Requirements

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# Family Educational Rights and Privacy Act

- Protects the privacy of student education records.
- Includes right to control disclosure of information in education records, but schools may disclose information from education records without consent:
  - To “school officials” with “legitimate educational interests”;
  - To “appropriate parties” if threat to health or safety;
  - To comply with judicial order or subpoena;
  - In other specified instances. See 34 C.F.R. § 99.31.

# Family Educational Rights and Privacy Act

- 34 C.F.R. § 99.31, Under what conditions is prior consent not required to disclose information?
- 34 C.F.R. § 99.36, What conditions apply to disclosure of information in health and safety emergencies?

# Florida Statutes

- Chapter 1002, Part II: Student and Parental Rights
- Section 1002.22, Education records and reports of K-12 students; rights of parents and students; notification; penalty
- Section 1002.221, K-12 education records; public records exemption
- Section 1002.222, Limitations on collection of information and disclosure of confidential and exempt student records

## Section 1002.22, Florida Statutes

- **Education records and reports of K-12 students; rights of parents and students; notification; penalty**
- *“The rights of students and their parents with respect to education records created, maintained, or used by public educational institutions and agencies shall be protected in accordance with [FERPA]. . . .”*

# Section 1002.22, Florida Statutes

- State Board of Education must comply with FERPA after evaluating it and determining consistency with the following principles regarding student/parent rights:
  - Access, inspect, review education records;
  - Waive access in certain circumstances;
  - Challenge content of records, including challenge asserting violation of privacy;
  - Right of privacy with respect to education records;
  - Annual notice of rights re: education records.

# Section 1002.22, Florida Statutes

- State Board of Education must adopt rules to administer the law.
- **Penalty:** If official/employee refuses to comply with this section, parent/student has “immediate right” to bring action in circuit court to enforce rights by **injunction**.
  - Aggrieved parent/student may be awarded attorney fees and costs if injunction granted.

# Section 1002.221, Florida Statutes

- **K-12 education records; public records exemption**
- Education records are confidential and exempt from disclosure as public records in Florida.
- Agency/institution cannot release a student's education records without written consent, except as authorized by FERPA.



# Section 1002.221, Florida Statutes

- Agency/institution may release a student's education records without consent to **parties to an interagency agreement** among the Department of Juvenile Justice, the school, law enforcement authorities, and other signatory agencies.
- Shared information is intended solely for use in determining appropriate programs/services for each juvenile, or for coordinating delivery of programs/services.
- See also § 985.05(1)(c), Fla. Stat., which requires: "Within each county, the sheriff, the chiefs of police, the district school superintendent, and the department shall enter into an interagency agreement for the purpose of sharing information about juvenile offenders among all parties."

# Section 1002.222, Florida Statutes

- **Limitations on collection of information and disclosure of confidential and exempt student records**
- Agency/institution may not:
  - Collect, obtain, retain info on political affiliation, voting history, religious affiliation, or biometric info of student or parent/sibling;

# Section 1002.222, Florida Statutes

- Agency/institution may not provide confidential/exempt education records to:
  - A “person” or political subdivision, except when authorized by s. 1002.221 or per lawful subpoena or court order;
  - A federal government agency except when authorized by s. 1002.221, required by federal law, or per lawful subpoena or court order.

# Section 1002.222, Florida Statutes

- Governing board of agency/institution may only designate information as “directory information” in accordance with FERPA.
- Designation must occur at regularly scheduled meeting of the board.
- Board must consider whether such designation would put students at risk of becoming targets of marketing campaigns, the media, or criminal acts.

# Florida Administrative Code

- Rules implementing §§ 1002.22, 1002.221, 1002.222, Florida Statutes:
- Rule 6A-1.0955, Education Records
- Rule 6A-1.0014, Comprehensive Management Information System

# Rule 6A-1.0955, Education Records

- Information in education records shall be classified as follows:
- Category A: Information for each student which shall be kept current while the student is enrolled and retained permanently in the manner prescribed by § 1001.52(2), Fla. Stat.
  - Includes “records of requests for access to and disclosure of personally identifiable information from the education records of the student as required by FERPA.”
- Category B: Information which is subject to periodic review and elimination when the information is no longer useful in the manner prescribed by § 1001.52(3), Fla. Stat.

# Rule 6A-1.0955, Education Records

- **Requires each school board to adopt a policy for education records which must include:**
- Provisions for disclosure of personally identifiable information where prior written consent of the parent/guardian is not required;
- Provisions for disclosure of personally identifiable information in health and safety emergencies.

# Rule 6A-1.0014, Comprehensive Management Information System

- Each district and DOE must develop and implement an automated information system component as part of the statewide comprehensive management information system.
- Component must include “procedures for the security, privacy, and retention of automated records.”
- FDOE Information Database Requirements: Volume I – Automated Student Information System, 2018  
(<http://www.flrules.org/Gateway/reference.asp?No=Ref-09261>)



# Rule 6A-1.0014, Comprehensive Management Information System

- FDOE Information Database Requirements: Volume I – Automated Student Information System, 2018 includes the following procedures implemented by FDOE:
- Privacy of Student Records: only accessible to state education officials for specified purposes.
- Data Security: access stringently controlled through technical security conventions/procedures.
- Records Retention: individual, personally identifiable student records shall be destroyed per DOS GS7 records retention schedule.