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Title 34 – Education

Subtitle A – Office of the Secretary, Department of Education

Part 99 – Family Educational Rights and Privacy

Subpart D – May an Educational Agency or Institution Disclose Personally Identifiable

Information From Education Records?

Authority: 20 U.S.C. 1232g, unless otherwise noted.

Source: 53 FR 11943, Apr. 11, 1988, unless otherwise noted.

§ 99.36 What conditions apply to disclosure of information in health and safety emergencies?

- (a) An educational agency or institution may disclose personally identifiable information from an education record to appropriate parties, including parents of an eligible student, in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals.
- (b) Nothing in this Act or this part shall prevent an educational agency or institution from—
 - (1) Including in the education records of a student appropriate information concerning disciplinary action taken against the student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community;
 - (2) Disclosing appropriate information maintained under paragraph (b)(1) of this section to teachers and school officials within the agency or institution who the agency or institution has determined have legitimate educational interests in the behavior of the student; or
 - (3) Disclosing appropriate information maintained under paragraph (b)(1) of this section to teachers and school officials in other schools who have been determined to have legitimate educational interests in the behavior of the student.
- (c) In making a determination under paragraph (a) of this section, an educational agency or institution may take into account the totality of the circumstances pertaining to a threat to the health or safety of a student or other individuals. If the educational agency or institution determines that there is an articulable and significant threat to the health or safety of a student or other individuals, it may disclose information from education records to any person whose knowledge of the information is necessary to protect the health or safety of the student or other individuals. If, based on the information available at the time of the determination, there is a rational basis for the determination, the Department will not substitute its judgment for that of the educational agency or institution in evaluating the circumstances and making its determination.

(Authority: 20 U.S.C. 1232g (b)(1)(I) and (h))

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