

TANF Outcomes Technical Assistance and Logistics (TOTAL) Project FERPA FACT SHEET

As part of the Fiscal Responsibility Act (FRA) of 2023, all states are required to submit the **Secondary School Diploma or its Recognized Equivalent Attainment Rate** report annually, with the first report due on November 14, 2027. This outcome measure is intended to assist federal and state policymakers to better understand the effectiveness of TANF programs in promoting successful education credential attainment. States have some flexibility in determining the data sources used to create this report. However, when collecting or sharing school records, education **organizations must adhere to the Family Educational Rights and Privacy Act (FERPA) requirements and any additional state privacy laws**. This document provides an overview of FERPA, describes different options for collecting school records, and includes additional resources.

What is FERPA?

The Family Educational Rights and Privacy Act (FERPA) of 1974 is a federal law that protects the confidentiality of student education records. FERPA applies to any educational institution that receives funding from the U.S. Department of Education.

What is PII?

Personally Identifiable Information (PII) includes not just obvious details like a student's name or Social Security number but also indirect clues like their birthdate or mother's maiden name. It also covers any information that, when combined, could reasonably identify a student. Even if a record has no direct or indirect identifiers, it might still reveal a student's identity if the details are well-known in the community. (See 34 CFR § 99.3 for PII definition). To ensure FERPA compliance, the following seven elements of PII must be removed:

1. student's name;
2. the name of the student's parent or other family members;
3. the address of the student or student's family;
4. a personal ID, such as the student's Social Security Number (SSN), student number of biometric records;
5. other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name;
6. other info 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; and

7. information requested by a person who the education agency or institution reasonably believes knows the identity of the student to whom the education record relates.

FERPA Compliance Guide for Using School Records Data for FRA Reporting

TANF agencies planning to collect school records should begin by mapping out all potential data sources and determining the legal pathways for accessing the data. This early planning can help determine whether consent will be needed, or whether aggregate or de-identified data could meet reporting needs.

Identify Which Data Requires Consent vs. FERPA Exceptions

Determine whether consent is required for each type of data you plan to collect. FERPA may restrict certain data from being provided without consent.

The Disclosure of School Records Requires Consent.

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 (See 34 CFR § 99.30). The consent should:

- **Specify** records being disclosed.
- **Explain** the purpose of disclosure.
- Identify the recipient of the disclosed data.

Data That May Not Require Consent (FERPA Exceptions):

- **Directory Information:** Schools can release non-sensitive data like names, addresses, and emails unless students have opted out. (See 34 CFR § 99.31 for the definition of “Directory information.”)
- **Research Studies:** Data used solely for institutional benefits (testing, student aid, or instructional improvement) may be shared without consent if confidentiality agreements are in place. (See 34 CFR § 99.31)

Other Alternatives for Collecting School Records Without Consent

- **De-identified Data:** When feasible, use **de-identified data** to avoid FERPA implications. TANF agencies may request that educational agencies match their TANF records to school records and return data at the individual level, excluding any personally identifiable information (PII). The returned file could include fields necessary required under the Paperwork Reduction Act (PRA), for example, the date an individual exited the

program, the date of school enrollment, and the date of graduation from post-secondary education.

- **Aggregate Data:** Aggregating student data into reports reduces disclosure risk by removing direct identifiers. However, disclosure risks remain when students have unique characteristics or when observable traits correlate with reported data (e.g., all males in a grade scoring below proficient). In such cases, State and local agencies may take *disclosure avoidance measures* to protect educational records (PII) in aggregate reports.

Important: Secure written agreements with third parties for data protection and specify data destruction timelines.

Additional Resources:

FERPA Regulations: <https://studentprivacy.ed.gov/ferpa>

This document provides information on best practices for data disclosure under the studies exception and the audit or evaluation exception:

<https://studentprivacy.ed.gov/resources/guidance-reasonable-methods-and-written-agreements>

This paper helps educational agencies comply with FERPA by explaining key data de-identification terms, outlining best practices for protecting student data, and providing resources on privacy and confidentiality.

https://studentprivacy.ed.gov/sites/default/files/resource_document/file/data_deidentification_terms_0.pdf

Statewide Longitudinal Data Systems Technical Brief: Basic Concepts and Definitions for Privacy and Confidentiality in Student Education Records: <https://nces.ed.gov/pubs2011/2011601.pdf>

Statewide Longitudinal Data Systems Technical Brief: Statistical Methods for Protecting Personally Identifiable Information in Aggregate Reporting
<https://nces.ed.gov/pubs2011/2011603.pdf>