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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.

#### § 99.37 What conditions apply to disclosing directory information?

- (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.
- (c) A parent or eligible student may not use the right under paragraph (a)(2) of this section to opt out of directory information disclosures to—
  - (1) Prevent an educational agency or institution from disclosing or requiring a student to disclose the student's name, identifier, or institutional email address in a class in which the student is enrolled; or
  - (2) Prevent an educational agency or institution from requiring a student to wear, to display publicly, or to disclose a student ID card or badge that exhibits information that may be designated as directory information under § 99.3 and that has been properly designated by the educational agency or institution as directory information in the public notice provided under paragraph (a)(1) of this section.
- (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.

What conditions apply to disclosing directory information?

- (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.

(Authority: 20 U.S.C. 1232g(a)(5) (A) and (B))

*[53 FR 11943, Apr. 11, 1988, as amended at 73 FR 74854, Dec. 9, 2008; 76 FR 75642, Dec. 2, 2011]*