



Disclosing Student Data: FERPA and the School Officials Exception

One of the most common ways in which you may disclose personally identifiable information from Education Records to your employees and Providers is by designating that party as a School Official, as that term is used in FERPA. In order to do that, the person or entity with which you are disclosing information must meet certain criteria.

To decide whether or not the criteria have been met, you must be able to answer “yes” to one or more of the following:

- Is the person a teacher or other employee within your educational agency, with a legitimate educational interest in the records you would like to disclose?**
 - In determining whether or not the person has a legitimate educational interest, consider whether or not the intended use for the information is **consistent with what has been disclosed to parents** in your legally required annual notice defining a legitimate educational interest, as well as any School System policies on this matter.

— OR —

- Is the person or entity a contractor, consultant, volunteer or other party to whom you have outsourced institutional services or functions?**
 - If so, does the contractor, consultant, volunteer or other party meet **ALL** of the following criteria:
 1. They perform an institutional service or function for which you would otherwise use employees
 2. They are under your direct control with respect to the use and maintenance of Education Records;
 - In determining whether or not you have “direct control” of how the Provider may use and maintain the Education Records, consider whether or not you have a contract with the Provider that details—in the words of ED—“all of the necessary legal provisions governing access, use and protection of the data.” For more on contract fundamentals, see **Contracts and Terms of Service**.
 3. They may use the personally identifiable information in the Education Records only for the purpose for which you disclosed it, and for no other purpose unless they first obtain the written consent of the parent or eligible student.*

** Please keep in mind that your state laws may have additional requirements around redisclosure of personally identifiable information, and you should become familiar with those restrictions to be sure you understand the extent of the legislative landscape.*