

Student Records and the Oregon Sanctuary Promise Act: Frequently Asked Questions



Under state and federal law, all students, regardless of their immigration or documentation status, have an equal right to an education. Oregon educators have both the opportunity and responsibility to create and maintain safe, welcoming, and peaceful learning environments for all students. The purpose of this document is to respond to frequently asked questions from schools, districts, families, and community members about practices around collecting and disclosing student information in Oregon schools consistent with the [Oregon Sanctuary Promise Act](#). **This FAQ is not legal advice, nor should it be relied on as legal advice. Districts should discuss this information with their legal counsel.**

Q-1: Can districts request birth certificates or other citizenship and immigration status information during enrollment?

A-1: Districts may not request information on birthplace, citizenship, or immigration status upon enrollment.¹ This includes questions about whether a student was born in the United States and questions about when a student first enrolled in a school in the United States. Districts cannot require birth certificates at enrollment; however, districts may request birth certificates at enrollment as one of a list of possible options to verify a student's age.

Q-2: What documents can be used to verify student age other than a birth certificate?²

A-2: Examples of documents that have **been used by schools and districts** to verify age include:³

- Certified copies of birth records
- Statements by the local registrar or county recorder certifying the date of birth
- Baptism certificates or entries in a family bible
- Adoption records

¹ ORS 180.805(3). *See also* Title VI of the Civil Rights Act of 1964, 42 USC § 2000d. *See also* [Plyler v. Doe Fact Sheet](#).

² Please note that homeless children and youth often do not have the documents ordinarily required for school enrollment such as proof of residency or birth certificates. A school selected for a homeless child must immediately enroll the homeless child, even if the child or the child's parent or guardian is unable to produce the records normally required for enrollment. *See* 42 USC § 11432(g)(3)(C)(1).

³ [Plyler v. Doe Fact Sheet](#). *See also* ORS 339.115 (requiring districts to enroll eligible students within the district geographical boundaries).

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- Passports
- Medical records showing date of birth
- Previously verified school records
- Affidavit of the parent or guardian

Q-3: Are districts required to delete existing place of birth information from their student information systems?

A-3: If a district has on file or receives information concerning a student's citizenship or immigration status, including obtaining or possessing copies of a student's birth certificate, it is not required to destroy or purge that information.

Q-4: Can districts ask about parent employment on enrollment forms?

A-4: Districts should refrain from asking about parent employment on enrollment forms. Parent employment is unnecessary for enrolling a student or determining parent contact information and may have a chilling effect on enrollment for immigrant and other families.

Q-5: What were the recent revisions to Oregon rules concerning student records and privacy?

A-5: The Oregon State Board of Education recently passed rules that modified requirements related to student rights and privacy. These revisions affected the definition of Permanent Record and Directory Information and clarified what information districts may provide in response to a non-judicial subpoena. Questions 6, 7, and 12 explain the changes from the revised rule in more detail.

Q-6: What do the changes to "Permanent Record" in the revised rule mean for districts?

A-6: Permanent Records are student education records that must be maintained in a minimum one-hour fire-safe place in a school or district building or have duplicate records stored in a safe depository outside the building.⁴ Permanent Records are subject to record retention rules dependent upon the type of permanent record that is being retained. The Oregon

⁴ OAR 581-021-0250(k)

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Administrative Rules provide guidance about the different types of record retention rules for all types of student education records.⁵

The revised rule removes the following items from the definition of a Permanent Record⁶:

- Student's place of birth
- Social Security number
- Such additional information as the educational agency or institution may prescribe

Q-7: What is "Directory Information" and what are the changes to it in the revised rule?

A-7: Directory Information is a term used in student records laws to describe items of personally identifiable information contained in an education record of a student which would not generally be considered harmful or an invasion of privacy if disclosed.⁷ Districts have certain obligations under FERPA in regards to notifying the public about Directory Information.

The revised OAR 581-021-0220 defines Directory Information as: student name, photograph, major field of study, participation in officially recognized activities and sports, dates of attendance, and degrees and awards received. Districts may not include additional items in Directory Information under the rule.

The rule removes the following from the definition of Directory Information: a student's address, telephone listing, email address, date and place of birth, and the most recent previous educational agency or institution attended. Districts may not share this information unless an exception applies (see Q-8) or a parent/guardian or an eligible student has consented to the disclosure.

School districts may also implement a limited Directory Information policy that allows an educational agency "to limit its directory designation to specific parties, for specific purposes, or both."⁸

⁵ See OAR 166-400-0060(28).

⁶ OAR 581-021.0220.

⁷ 34 CFR § 99.3; OAR 581-021-0220(2).

⁸ 34 CFR § 99.7; OAR 581-021-0220 through OAR 581-021-0440.

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Q-8: What is the district's obligation to inform students and families about district policies related to Directory Information?

A-8: Parents of a currently enrolled student must be provided an annual Notification of Rights (see [Appendix B](#)).⁹ The notice must inform parents/guardians and eligible students, in a language the parents/guardians and students can understand, of:

- What is included in the district's definition of Directory Information
- The conditions under which Directory Information will be shared
- Their right to inspect and review education records, request amendments, and provide consent as to whether the information can be shared, as well as the right to restrict the disclosure of such information
- The process, including period of time, for parents/guardians or eligible students to opt out of certain Directory Information disclosures

Q-9: When can districts share student information with third parties?

A-9: When student information cannot be shared under the district's Directory Information policies, Oregon state law and FERPA allow districts to share information with third parties without parental consent under certain conditions, explained below:

1. Military recruiters

Military recruiters can receive the names, addresses, telephone numbers, and student email addresses of students in 11th and 12th grades unless the parent or student notifies the school otherwise.¹⁰

- ### **2. Bus/transportation companies, school photographers, school parent groups, volunteers supporting extracurricular activities like athletics, band and clubs, or school volunteers who support extracurricular activities like athletics, band, and clubs, who routinely contact students.**

⁹ 34 CFR § 99.7; OAR 581-021-0220 through OAR 581-021-0440.

¹⁰ 20 USC § 7908(a)(1). For more information, see [Dear Colleague Letter Regarding Military Recruiter Provisions of ESEA](#).

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Oregon state law and FERPA allow an exception for sharing personally identifiable information (PII) with certain school officials who have legitimate educational interests. This exception allows schools to function internally and use necessary external services. In this context, the term “school official” includes teachers, administrators, counselors, school board members, registrars, support staff, and health staff. It also extends beyond employees to contractors, consultants, volunteers, and third parties to whom the school has outsourced institutional services or functions. Examples include providers of learning platforms, cloud storage, student information systems, legal counsel, auditors, and parent volunteers under specific conditions.

For an outside party to qualify as a “school official,” **FERPA states that** these conditions must be met:

- The party must perform a function the school would otherwise use its own employees for
- The party must be under the school’s direct control regarding use and maintenance of education records
- The party must follow FERPA’s requirements about use and redisclosure of PII
- The party must meet criteria in the school’s annual FERPA notification for school officials with legitimate educational interests

The “direct control” requirement is crucial when working with vendors, especially for educational technology. Schools must retain authority over how vendors handle student data through carefully negotiated contracts limiting data use, requiring security measures, prohibiting unauthorized sharing or advertising use, and potentially requiring data return or destruction.

3. Other parties

While the general rule under FERPA is that personally identifiable information from education records cannot be disclosed without written consent, FERPA includes exceptions that permit data sharing under certain conditions with agencies, vendors, or individuals to conduct studies,¹¹ audit or evaluate programs,¹² enforce or comply with related Federal legal

¹¹ 34 CFR § 99.31(a)(6); OAR 581-021-0340(5).

¹² 34 CFR § 99.31(a)(3).

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requirements,¹³ or respond to health or safety emergencies.¹⁴ Districts should consult with their legal counsel when making these determinations.

Q-10: Can a district share a parent or guardian's address, email address or phone number?

A-10: Oregon state law and FERPA generally prohibit a district's disclosure of personally identifiable information, which includes the address of the student or student's family and other information which can be used to distinguish or trace an individual's identity either directly or indirectly through linkages with other information.¹⁵ As such, districts should be careful to ensure that disclosure of parent information is not disclosure of a student's personally identifiable information, unless an exception applies.

Q-11: What if an exception does not apply?

A-11: Districts may share information about a student that parents/guardians have consented to sharing.¹⁶ If an exception does not apply and a parent/guardian has not consented to its disclosure, it may not be disclosed.

Q-12: What should districts know about responding to subpoenas under the revised rule and the Oregon Sanctuary Promise Act?

A-12: The amended OAR 581-021-0371 clarifies district obligations under Oregon records laws and the Oregon Sanctuary Promise Act, but does not change any existing district obligations. The Oregon Sanctuary Promise Act requires public bodies to decline all requests from federal immigration authorities unless it's a judicial subpoena.¹⁷ Districts should consult with their attorney if they have questions about how to respond to a subpoena and whether the subpoena is issued for the purpose of enforcement of federal immigration laws.

¹³ 34 CFR § 99.31(a)(3).

¹⁴ 34 CFR § 99.31(a)(10); OAR 581-021-0380.

¹⁵ 34 CFR § 99.3.

¹⁶ 34 CFR § 99.30; OAR 581-021-0330.

¹⁷ ORS 181A.826(3).

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Q-13: What is the expected timeline for districts' implementation of policies aligned with the Sanctuary Promise Act?

A-13: The permanent rules took effect on August 1, 2025. Districts should review and make any necessary changes to current policies about Directory Information, Permanent Records, and how student information is disclosed to align with the revised rule and to ensure that they are not disclosing information that may inadvertently reveal a student's immigration status. This will most likely include technical assistance and training of staff. Districts should also consult with their own legal counsel and work with their IT/student information system (SIS) vendors to remove birthplace-related fields, including birth country, birth city, and/or birth verification document type, from their SIS.

If districts are not able to make immediate changes to enrollment forms, districts may want to consider interim measures while continuing to implement the rules in as timely a manner as possible. This could be making birthplace-related fields optional and informing families that the information is not required. Districts should also consult with their legal counsel to ensure any proposed changes to their systems are in compliance with state and federal laws.

Q-14: How can a parent respond if they believe a district is not compliant with Oregon law or FERPA?

A-14: A parent may file a written complaint to the U.S. Department of Education regarding alleged violations of student records privacy laws under FERPA, though Oregon-specific student records policies may not be covered.¹⁸ If Oregon's sanctuary laws are being violated by a district or district employee, parents can report the violation to the Sanctuary Promise Hotline.¹⁹ Additionally, any person may bring a civil action against a district that discloses certain student information for the purpose of enforcement of federal immigration laws or that requests information concerning a student or parent's citizenship or immigration status to halt the disclosure or request.²⁰

¹⁸ 34 CFR §§ 99.63 and 99.64.

¹⁹ [Sanctuary Promise Violation Hotline](#).

²⁰ ORS 180.805(6).

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Q-15: What languages must districts provide to students and families when communicating about student records rights?

A-15: Any communication to families regarding student records must be provided to them in a language they understand.²¹

²¹ [Information for Limited English Proficient \(LEP\) Parents and Guardians and for Schools and School Districts that Communicate with Them.](#)

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Appendix A: Helpful Resources

[ODE - Student Records and Privacy](#)

[U.S. Department of Education - FERPA](#)

[U.S. Department of Education - A Parent Guide to FERPA](#)

[Oregon Department of Justice - Sanctuary Promise Guidance](#)

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Appendix B: Sample Notification of Rights under the Family Educational Rights and Privacy Act (FERPA)

This model form is offered as an example. Districts and schools can create their own documents so long as they meet the requirements discussed in the Q and A above.

The Family Educational Rights and Privacy Act (FERPA) affords parents and students who are 18 years of age or older ("eligible students") certain rights with respect to the student's education records. These rights are:

1. The right to inspect and review the student's education records within 45 days after the day the [Name of school ("School")] receives a request for access.

Parents or eligible students who wish to inspect their child's or their education records should submit to the school principal [or appropriate school official] a written request that identifies the records they wish to inspect. The school official will make arrangements for access and notify the parent or eligible student of the time and place where the records may be inspected.

2. The right to request the amendment of the student's education records that the parent or eligible student believes are inaccurate, misleading, or otherwise in violation of the student's privacy rights under FERPA.

Parents or eligible students who wish to ask the [School] to amend their child's or their education record should write the school principal [or appropriate school official], clearly identify the part of the record they want changed, and specify why it should be changed. If the school decides not to amend the record as requested by the parent or eligible student, the school will notify the parent or eligible student of the decision and of their right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the parent or eligible student when notified of the right to a hearing.

3. The right to provide written consent before the school discloses personally identifiable information (PII) from the student's education records, except to the extent that FERPA authorizes disclosure without consent.

One exception, which permits disclosure without consent, is disclosure to school officials with legitimate educational interests. The criteria for determining who

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constitutes a school official and what constitutes a legitimate educational interest must be set forth in the school's or school district's annual notification for FERPA rights. A school official typically includes a person employed by the school or school district as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel) or a person serving on the school board. A school official also may include a volunteer, contractor, or consultant who, while not employed by the school, performs an institutional service or function for which the school would otherwise use its own employees and who is under the direct control of the school with respect to the use and maintenance of PII from education records, such as an attorney, auditor, medical consultant, or therapist; a parent or student volunteering to serve on an official committee, such as a disciplinary or grievance committee; or a parent, student, or other volunteer assisting another school official in performing his or her tasks. A school official typically has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.

[Optional] Upon request, the school discloses education records without consent to officials of another school or school district in which a student seeks or intends to enroll, or is already enrolled if the disclosure is for purposes of the student's enrollment or transfer. [NOTE: FERPA requires a school or school district to make a reasonable attempt to notify the parent or student of the records request unless it states in its annual notification that it intends to forward records on request or the disclosure is initiated by the parent or eligible student.]

4. The right to file a complaint with the U.S. Department of Education concerning alleged failures by the [School] to comply with the requirements of FERPA. The name and address of the Office that administers FERPA are:

Student Privacy Policy Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

[NOTE: In addition, a school may want to include its directory information public notice, as required by § 99.37 of the regulations, with its annual notification of rights under FERPA.]

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[Optional] See the list below of the disclosures that elementary and secondary schools may make without consent.

FERPA permits the disclosure of PII from students' education records, without consent of the parent or eligible student, if the disclosure meets certain conditions found in § 99.31 of the FERPA regulations. Except for disclosures to school officials, disclosures related to some judicial orders or lawfully issued subpoenas, disclosures of directory information, and disclosures to the parent or eligible student, § 99.32 of the FERPA regulations requires the school to record the disclosure. Parents and eligible students have a right to inspect and review the record of disclosures. A school may disclose PII from the education records of a student without obtaining prior written consent of the parents or the eligible student –

- To other school officials, including teachers, within the educational agency or institution whom the school has determined to have legitimate educational interests. This includes contractors, consultants, volunteers, or other parties to whom the school has outsourced institutional services or functions, provided that the conditions listed in § 99.31(a)(1)(i)(B)(1) - (a)(1)(i)(B)(3) are met. (§ 99.31(a)(1))
- To officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll, or where the student is already enrolled if the disclosure is for purposes related to the student's enrollment or transfer, subject to the requirements of § 99.34. (§ 99.31(a)(2))
- To authorized representatives of the U. S. Comptroller General, the U. S. Attorney General, the U.S. Secretary of Education, or State and local educational authorities, such as the State educational agency (SEA) in the parent or eligible student's State. Disclosures under this provision may be made, subject to the requirements of § 99.35, in connection with an audit or evaluation of Federal- or State-supported education programs, or for the enforcement of or compliance with Federal legal requirements that relate to those programs. These entities may make further disclosures of PII to outside entities that are designated by them as their authorized representatives to conduct any audit, evaluation, or enforcement or compliance activity on their behalf, if applicable requirements are met. (§§ 99.31(a)(3) and 99.35)
- In connection with financial aid for which the student has applied or which the student has received, if the information is necessary for such purposes as to determine eligibility

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for the aid, determine the amount of the aid, determine the conditions of the aid, or enforce the terms and conditions of the aid. (§ 99.31(a)(4))

- To State and local officials or authorities to whom information is specifically allowed to be reported or disclosed by a State statute that concerns the juvenile justice system and the system's ability to effectively serve, prior to adjudication, the student whose records were released, subject to § 99.38. (§ 99.31(a)(5))
- To organizations conducting studies for, or on behalf of, the school, in order to: (a) develop, validate, or administer predictive tests; (b) administer student aid programs; or (c) improve instruction, if applicable requirements are met. (§ 99.31(a)(6))
- To accrediting organizations to carry out their accrediting functions. (§ 99.31(a)(7))
- To parents of an eligible student if the student is a dependent for IRS tax purposes. (§ 99.31(a)(8))
- To comply with a judicial order or lawfully issued subpoena if applicable requirements are met. (§ 99.31(a)(9))
- To appropriate officials in connection with a health or safety emergency, subject to § 99.36. (§ 99.31(a)(10))
- Information the school has designated as "directory information" if applicable requirements under § 99.37 are met. (§ 99.31(a)(11))
- To an agency caseworker or other representative of a State or local child welfare agency or tribal organization who is authorized to access a student's case plan when such agency or organization is legally responsible, in accordance with State or tribal law, for the care and protection of the student in foster care placement. (20 U.S.C. § 1232g(b)(1)(L))
- To the Secretary of Agriculture or authorized representatives of the Food and Nutrition Service for purposes of conducting program monitoring, evaluations, and performance measurements of programs authorized under the Richard B. Russell National School Lunch Act or the Child Nutrition Act of 1966, under certain conditions. (20 U.S.C. § 1232g(b)(1)(K))

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Appendix C: Sample Annual Notification of Directory Information

This model form is offered as an example. Districts and schools can create their own documents so long as they meet the requirements discussed in the Q and A above.

Family Educational Rights and Privacy Act (FERPA) Model Notice for Directory Information

[Note: Per 34 C.F.R. § 99.37(d), a school or school district may adopt a limited directory information policy. If a school or school district does so, the directory information notice to parents and eligible students must specify the parties who may receive directory information and/or the purposes for which directory information may be disclosed.]

The *Family Educational Rights and Privacy Act* (FERPA), a Federal law, requires that **[School or School District]**, with certain exceptions, obtain your written consent prior to the disclosure of personally identifiable information from your child's education records. However, **[School or School District]** may disclose appropriately designated "directory information" without written consent, unless you have advised the **[School or School District]** to the contrary in accordance with **[School or School District]** procedures. The primary purpose of directory information is to allow the **[School or School District]** to include information from your child's education records in certain school publications. Examples include:

- A playbill, showing your student's role in a drama production;
- The annual yearbook;
- Honor roll or other recognition lists;
- Graduation programs; and
- Sports activity sheets, such as for wrestling, showing weight and height of team members.

Directory information, which is information that is generally not considered harmful or an invasion of privacy if released, can also be disclosed to outside organizations without a parent's prior written consent. Outside organizations include, but are not limited to, companies that manufacture class rings or publish yearbooks. In addition, two federal laws require local educational agencies (LEAs) receiving assistance under the Elementary and Secondary Education Act of 1965, as amended (ESEA) to provide military recruiters, upon request, with the following information – names, addresses and telephone listings – unless parents have advised the LEA that they do not want their student's information disclosed without their prior written

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consent. [Note: These laws are Section 9528 of the ESEA (20 U.S.C. § 7908) and 10 U.S.C. § 503(c).]

If you do not want [School or School District] to disclose any or all of the types of information designated below as directory information from your child's education records without your prior written consent, you must notify the [School or School District] in writing by [insert date]. [School District] has designated the following information as directory information: [Note: an LEA may, but does not have to, include all the information listed below.]

- Student's name
- Photograph
- Major field of study
- Dates of attendance
- Grade level
- Participation in officially recognized activities and sports
- Weight and height of members of athletic teams
- Degrees, honors, and awards received

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Appendix D: Model Directory Information Opt-Out Form

This model form is offered as an example. Districts and schools can create their own documents so long as they meet the requirements discussed in the Q and A above.

First Name: _____ Last Name: _____

NOTICE OF DIRECTORY INFORMATION OPT OUT

In accordance with the Federal Educational Rights and Privacy Act of 1974 (FERPA), as amended, a student's education records are maintained as confidential and, except in a limited number of special circumstances listed in the law, will not be released to a third party without the student's prior written consent. However, the law allows schools to release student "directory information" without obtaining the prior consent of the student. If you do not want the release of certain types of directory information without your prior consent, you may choose to opt out of this FERPA exception by signing the Form below. Directory information of a student who has opted-out will remain flagged until the student requests that the flag be removed by completing and submitting a revocation of the opt out to [School or School District].

TO: [School or School District]

I request the withholding of the following personally identifiable information identified as directory information under FERPA. I understand that upon submission of this Form, the information checked cannot be released to third parties without my written consent or unless [School or School District] is required by law or permitted under FERPA to release such information without my prior written consent, and the checked directory information will not otherwise be released from the time [School or School District] receives my Form until my opt out request is rescinded. I understand that if directory information is released prior to [School or School District] receiving my opt out request, [School or School District] may not be able to stop the disclosure of my directory information. I understand that I may request and challenge how my directory information is used by contacting [School or School District].

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☐ CHECK HERE TO OPT OUT OF ALL DIRECTORY INFORMATION IDENTIFIED BELOW

or

☐ CHECK THE INDIVIDUAL BOXES BELOW TO SELECTIVELY OPT OUT OF INFORMATION SHARING

Item	✓	Item	✓
Name		Weight and height	
Photograph		Dates of Attendance	
Field of Study		Degrees	
School activities and sports		Awards	
Military Recruitment Information			

Parent/Guardian/Eligible Student Signature:

Date : _____