



**WEBINAR**

— WEDNESDAY, APRIL 22, 2020, 2:00 – 3:15PM ET



# **FERPA** AND STUDENTS EXPERIENCING HOMELESSNESS



# Hello!

**I'm Patricia Julianelle.**

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# About SchoolHouse Connection

SchoolHouse Connection works to **overcome homelessness through education**. We provide strategic advocacy and practical assistance in partnership with schools, early childhood programs, institutions of higher education, service providers, families, and youth.



- Website
- [Facebook Group](#)
- Newsletter
- Federal and state policy advocacy
- Q&A from our inbox
- Webinars and implementation tools
- Youth leadership and scholarships

# Housekeeping

## HAVE A QUESTION?

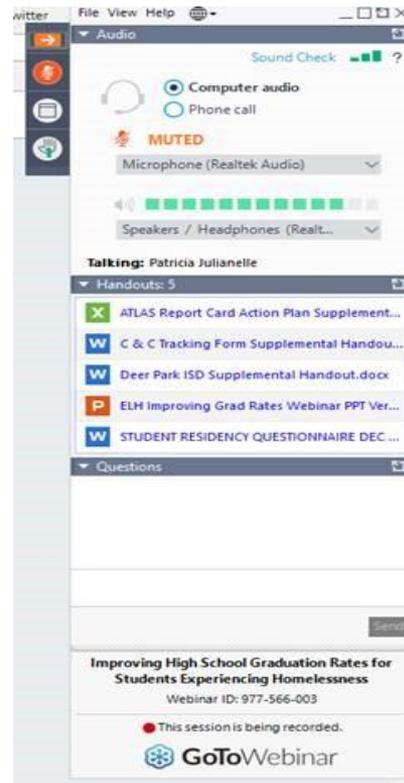
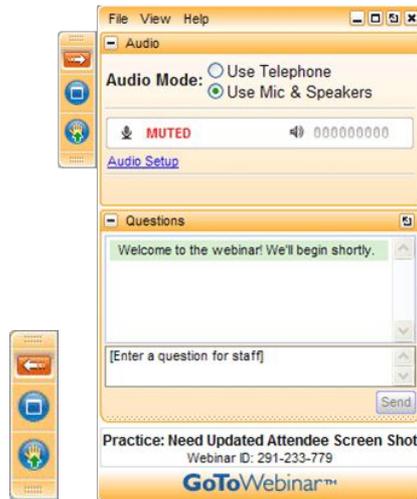
This webinar is for you. Enter your questions in the questions pane and click 'Send'.

## RECORDING & HANDOUTS

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# Today's Agenda

#1

**FERPA Overview**

#2

**FERPA and  
homelessness scenarios**

# FERPA Overview

- Family Educational Rights and Privacy Act
- Ensures parents and students 18 or over access to, and protects privacy of, student education records.



# Who is a “Parent”?

- Both natural parents,
- Legal guardian, and/or
- Individual acting as a parent in the absence of a parent or a guardian

**34 CFR §§99.3; 99.4**

# Who About Students?

- Once students **turn 18 years old**, all FERPA rights transfer to them.
- Schools may give FERPA rights to unaccompanied youth under age 18.
  - Cannot supersede the rights of their parents
  - Student must be **“responsible enough to exercise certain privileges.”**

**34 CFR §§99.3; 99.4**

# What are “Education Records”?

- Records directly related to a student, and
- Maintained by a covered institution.  
34 CFR §99.3
- **“Directory information”**  
(information in an education record that would not generally be considered harmful or an invasion of privacy if disclosed)
  - Name, address, telephone, email, date and place of birth, major field of study, dates of attendance, grade level, participation in extracurriculars, honors and awards.

## NOT:

- Personal notes, not shared with others
- Private medical or mental health records on a student 18 years old or older, or at a postsecondary institution

# Directory Information (DI)

Directory information can be disclosed as long as:

- School has informed parents of what DI is and that it can be released, and
- School has given parents a chance to refuse the release of any DI.  
34 CFR §§99.3; 99.37

## BUT:

- Information about a McKinney-Vento student's living situation is NOT directory information.  
42 USC §11432(g)(3)(G)

# What is “Access”?

- Right to inspect and review,
  - Copies if on-site review is impossible, and
- Right to request that a school correct records which a parent believes to be inaccurate or misleading.

**34 CFR §99.10**

# What is “Privacy”?

- Generally, schools must have written permission to release any information from a student's education record.

**Does an interagency agreement or MOU with another agency enable a school to disclose education records without parental consent?**

No. Interagency agreements do not supersede the consent requirements under FERPA.

# You don't need permission to release records when:

1

Releasing to other school officials, including teachers, within the agency or institution whom the agency or institution has determined to have legitimate educational interests.

- The district or school must use reasonable methods to ensure that school officials obtain access only to those education records in which they have legitimate educational interests. 34 CFR §99.31(a)(1).

2

Releasing to officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll.

- School must attempt to notify parent, or
- School must provide annual notice of policy.

34 CFR §99.34

# You don't need permission to release records when:

3

Releasing to USED, USDOJ, state or local education authorities for audits, evaluations, or enforcement.

34 CFR §99.35

4

Releasing records in connection with financial aid for which the student has applied.

34 CFR §99.31(a)(4)

5

Releasing to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals.

34 CFR §99.36

**Now, Let's Get Serious.**

**FERPA and Homelessness Scenarios**

# FERPA Brainteaser

- What is an education record?
- What is a disclosure of personally identifiable information?

I am a liaison, and I would like to bring my McKinney-Vento case notes from my office to my home. They are in binders, and I have a locked file cabinet where I can store them.

**Can I bring my McKinney-Vento case notes home?**

# FERPA Brainteaser

<http://bit.ly/FERPA1>

I am working with a 17-year old unaccompanied homeless youth. The student has been staying between the youth shelter and his sister's home for several months. The sister was previously listed as a guardian until this week when the parent asked that her name be removed and that she not be allowed to be involved in any way.

**Can the parent prevent the school from sharing education records with the student's sister/caretaker?**

**Can the school provide the youth with access to his own records?**

# FERPA Brainteaser

<https://bit.ly/FERPA8>

We have a student who has been verified as an unaccompanied youth. She is over 18 and has requested that her parent does not have access to her academic record.

**Can the student prevent the parent from accessing education records?**

# FERPA Brainteaser

<https://www.schoolhouseconnection.org/6-things-to-know-about-ferpa/>

My school district has a MOU with a local homeless services consortium, stating that we will provide them with a by-name list of all our McKinney-Vento students in January.

- **Don't we need to get parental consent to provide that information?**
- **Can the by-name list be considered directory information?**

# FERPA Brainteaser

<http://bit.ly/FERPA3>

We received a grant to pilot a program where McKinney-Vento students are provided with a one-to-one mentor, who are teachers or other school staff. All meetings will be at the school, and the program will be voluntary. Most participants are minors.

**Do we need parent permission to reveal to the mentors that these students are McKinney-Vento eligible?**

# FERPA Brainteaser

<http://bit.ly/FERPA4>

I give students the FAFSA letter that states they are unaccompanied and homeless, or unaccompanied, self-supporting and at-risk for homelessness, for financial aid purposes; but what about for scholarship applications or college entrance applications?

**Can I provide the verification to those programs without parental consent?**

# FERPA Brainteaser

<http://bit.ly/FERPA6>

Some of our school nurses are hesitant to share health information for students transferring to a new school, for fear of losing their license for breaking privacy laws under HIPAA.

**Does HIPAA apply to health information that is part of a student's educational records?**

# FERPA Takeaways

FERPA always must be interpreted in light of the McKinney-Vento Act when considering privacy for students experiencing homelessness.

- Schools must remove barriers to identification, enrollment, and retention of McKinney-Vento students.
- If students and families believe that information about their homelessness will be shared widely with school staff or outside agencies, they may avoid disclosing their homelessness. This would create a barrier to identification and enrollment.
- Therefore, the McKinney-Vento Act requires heightened protection of information about homelessness.

42 USC §11432(g)(1)(I)

# FERPA Takeaways

- Information about a McKinney-Vento student's living situation is fully protected as an education record under FERPA.

42 USC §11432(g)(3)(G)

- **Ask parents/students for their permission** prior to sharing homelessness information with teachers or other school staff.
- Train teachers, counselors, and other staff to employ trauma-informed strategies with all students.
- Give FERPA rights to **unaccompanied youth under age 18** (although this cannot supersede the rights of their parents).

# USED Resources

**Webinar on FERPA and Virtual Learning**  
March 30, 2020

<https://studentprivacy.ed.gov/?src=fpc>

**FERPA regulations**

<https://studentprivacy.ed.gov/node/548/>

**General information**

[www.ed.gov/policy/gen/guid/fpco/ferpa/index.html](http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html)

# Contact Information



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