

Section 9. Evaluation, Monitoring and Record Keeping

9.1 Evaluation

The Wyoming Community College Commission will annually evaluate all adult education and Literacy programs receiving funds under the Adult Education and Family Literacy Act, including programs receiving English Literacy and Civics Education funds.

1. The program evaluation is designed to help in the program improvement process. This process may take from one to two days. In Wyoming, the process is as follows:
 - i. A self-assessment form is sent to the Adult Learning Center in advance so that a self-evaluation may be conducted prior to the site visit. The completed form is returned to the state after visit and may include additional items indicated at the time of the review as supportive information.
 - ii. An evaluator or team consisting of one or more members will visit the program on an agreed upon date.
 - iii. Upon completion of the on-site visit, the member(s) make recommendations for improvement. These recommendations are reviewed by state office.
 - iv. A report of recommendations and findings is mailed to the ABE director for review, comment, and clarification.
 - v. The local program is expected to follow up on the recommendations and develop a plan for implementation within 30 days.
2. Three levels of evaluation are used. The first method is the local program review of their own data to determine accuracy, trends, and to identify areas of concern within the local LACES system.

The second method is the quarter progress report which describes enrollment, successes and challenges to the local program which is reported to the state, and the follow-up on the core follow-up goals. These include obtain and retain employment, postsecondary education, and obtain a GED. This involves a self-evaluation of the local program by local staff.

The third is program monitoring which may be completed in a two-prong approach 1) an onsite reviews through site visits by state staff or its designee with knowledge of WIA and an understanding of the evidence needed to confirm the data entered into LACES. This would include local forms, assessments and results, progress notes, intake forms with signatures, Release of Information forms, and evidence of

goal setting. 2) desk reviews which will include responding to questions, a review of data, and local program report cards. See attached WY ABE State Desk Review Process, Desk NRS Review Worksheet, Local Report Card template.

9.2 Monitoring

WCCC is responsible for monitoring local program activities to ensure compliance with applicable state and federal requirements, and achievement of performance goals and fiscal accountability. To accomplish this, monitoring must occur at the local program level. Federal requirements are described in Code of Federal Regulations, Title 34 Section 80.4 requires WCCC to monitor and report on program performance.

General information:

1. Programs shall be monitored by the state office staff or a designee. The grantee is obligated to provide all information requested by the person monitoring the program.
2. Monitoring may require the inspection of fiscal/programmatic documents related to the current or previous program year(s). Monitoring may also involve a random sampling of student records and visits with the staff and/or students.
3. Monitoring may include comparing hard copy data to the information entered into the LACES data collection system.
4. Financial Monitoring is a process by which it is determined whether financial management requirements and cost category limitations are being met. If deficiencies are found during the review, the local program may need to develop a corrective action plan.
4. Monitoring visits may take from one to two days. Advanced planning and preparation generally helps expedite the process.
5. Monitoring results are used to determine statewide as well as local program technical assistance needs. State level planning for professional development is also heavily dependent on monitoring reports.

[Code of Federal Regulations]

[Title 34, Volume 1, Parts 1 to 299]

[Revised as of July 1, 2000]

From the U.S. Government Printing Office via GPO Access

[CITE: 34CFR80.40]

[Federal Register Page 212-213]

TITLE 34—EDUCATION

PART 80--UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS--Table of Contents

Subpart C--Post-Award Requirements

Sec. 80.40 Monitoring and reporting program performance.

(a) Monitoring by grantees. Grantees are responsible for managing the day-to-day operations of grant and subgrant supported activities. Grantees must monitor grant and subgrant supported activities to assure compliance with applicable Federal requirements and that performance goals are being achieved. Grantee monitoring must cover each program, function or activity.

(b) Nonconstruction performance reports. The Federal agency may, if it decides that performance information available from subsequent applications contains sufficient information to meet its programmatic needs, require the grantee to submit a performance report only upon expiration or termination of grant support. Unless waived by the Federal agency this report will be due on the same date as the final Financial Status Report.

(1) Grantees shall submit annual performance reports unless the awarding agency requires quarterly or semi-annual reports. However, performance reports will not be required more frequently than quarterly. Annual reports shall be due 90 days after the grant year, quarterly or semi-annual reports shall be due 30 days after the reporting period. The final performance report will be due 90 days after the expiration or termination of grant support. If a justified request is submitted by a Evaluation and Record Keeping 2 grantee, the Federal agency may extend the due date for any performance report. Additionally, requirements for unnecessary performance reports may be waived by the Federal agency.

(2) Performance reports will contain, for each grant, brief information on the following:

(i) A comparison of actual accomplishments to the objectives established for the period. Where the output of the project can be quantified, a computation of the cost per unit of output may be required if that information will be useful.

(ii) The reasons for slippage if established objectives were not met.

[[Federal Register, Page 213]]

- (iii) Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.
- (3) Grantees will not be required to submit more than the original and two copies of performance reports.
- (4) Grantees will adhere to the standards in this section in prescribing performance reporting requirements for subgrantees.
- (c) Construction performance reports. For the most part, on-site technical inspections and certified percentage-of-completion data are relied on heavily by Federal agencies to monitor progress under construction grants and subgrants. The Federal agency will require additional formal performance reports only when considered necessary, and never more frequently than quarterly.
- (d) Significant developments. Events may occur between the scheduled performance reporting dates which have significant impact upon the grant or subgrant supported activity. In such cases, the grantee must inform the Federal agency as soon as the following types of conditions become known:
 - (1) Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the award. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.
 - (2) Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more beneficial results than originally planned.
- (e) Federal agencies may make site visits as warranted by program needs.
- (f) Waivers, extensions.
 - (1) Federal agencies may waive any performance report required by this part if not needed.
 - (2) The grantee may waive any performance report from a subgrantee when not needed. The grantee may extend the due date for any performance report from a subgrantee if the grantee will still be able to meet its performance reporting obligations to the Federal agency.

(Approved by the Office of Management and Budget under control number 1880-0517)

(Authority: 20 U.S.C. 3474; OMB Circular A-102)

[53 FR 8071 and 8087, Mar. 11, 1988, as amended at 53 FR 49143, Dec. 6, 1988]

9.3 Record Keeping for: Student Records

1. Student records are permanent records and must be maintained in a secure place (as determined by local management).

2. Student records are confidential and require a written release of information signed by the student if 18 and older or by a parent or guardian if under 18.

Recording data

Each Adult Basic Education program is required to submit student data monthly into the LACES data collection system. Training on this system is offered three times each year.

End-of-the-year Report

At the end of the year, by August 1st, a report including performance measures and a narrative report is submitted to the state. NRS data is aggregated by local programs. The state then aggregates all local program data to submit a state report to the Office of Vocational and Adult Education (OVAE). The form and requirements are sent to each program by May each year.

Record Retention -

A local grantee will maintain records (including supporting source documentation) sufficient to detail student assessment, demographic, and goal history for a period of three (3) years after the end of the multi-year grant period. The retention period starts on the day the local grantee submits its last expenditure report for that multi-year grant.

Administrative records for each adult learner must be kept separately from any classroom records. All educational records must be stored and released in compliance with the Family Educational Rights and Privacy Act (FERPA). Administrative records include:

- Enrollment forms,
- Evidence of testing and answer sheets,
- FERPA and other releases,
- Attendance records,
- Disclaimers (if any),
- Requests for releases of information to/from another agency or individual (if any),
- And information on disability status and appropriate accommodations recommended and provided (if applicable)

Classroom records may include homework, assignment sheets/progress notes, incomplete learner projects, and other items not associated with assessments.

Original documentation of disabilities should be kept separate from the classroom record or returned to learner after noting the diagnosis and recommended accommodations in the classroom record. In case of a valid reason to keep a copy of the documentation of disabilities, the

documentation needs to be kept separately from other learner records or returned to the learner when no longer needed.

No part of a learner's educational record may be released to any outside agency or individual without the written consent of the learner or learner's parent or guardian if the learner is under the age of eighteen. The consent must state with whom the information is shared, the reason for the release of information, its purpose, signatures, and have an expiration date. A record must be kept of when information was shared and with whom it was shared. (See sample release form at the end of this section.)

[Code of Federal Regulations]

[Title 34, Volume 1, Parts 1 to 299]

[Revised as of July 1, 2000]

From the U.S. Government Printing Office via GPO Access

[CITE: 34CFR80.42]

[Federal Register, Page 215-216]

TITLE 34—EDUCATION

PART 80--UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS--Table of Contents

Subpart C--Post-Award Requirements

Sec. 80.42 Retention and access requirements for records.

(a) Applicability. (1) This section applies to all financial and programmatic records, supporting documents, statistical records, and other records of grantees or subgrantees which are:

(i) Required to be maintained by the terms of this part, program regulations or the grant agreement, or

(ii) Otherwise reasonably considered as pertinent to program regulations or the grant agreement.

(2) This section does not apply to records maintained by contractors or subcontractors. For a requirement to place a provision concerning records in certain kinds of contracts, see Sec. 80.36(i)(10).

(b) Length of retention period. (1) Except as otherwise provided, records must be retained for three years from the starting date specified in paragraph (c) of this section.

(2) If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 3-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of

the regular 3-year period, whichever is later.

(3) To avoid duplicate recordkeeping, awarding agencies may make special arrangements with grantees and subgrantees to retain any records which are continuously needed for joint use. The awarding agency will request transfer of records to its custody when it determines that the records possess long-term retention value. When the records are transferred to or maintained by the Federal agency, the 3-year retention requirement is not applicable to the grantee or subgrantee.

(4) A recipient that receives funds under a program subject to 20 U.S.C. 1232f (section 437 of the General Education Provisions Act) shall retain records for a minimum of three years after the starting date specified in paragraph (c) of this section.

(c) Starting date of retention period--(1) General. When grant support is continued or renewed at annual or other intervals, the retention period for the records of each funding period starts on the day the grantee or subgrantee submits to the awarding agency its single or last expenditure report for that period. However, if grant support is continued or renewed quarterly, the retention period for each year's

Evaluation and Record Keeping 6
records starts on the day the grantee submits its expenditure report for the last quarter of the Federal fiscal year. In all other cases, the retention period starts on the day the grantee submits its final expenditure report. If an expenditure report has been waived, the retention period starts on the day the report would have been due.

(2) Real property and equipment records. The retention period for real property and equipment records starts from the date of the disposition or replacement or transfer at the direction of the awarding agency.

(3) Records for income transactions after grant or subgrant support. In some cases grantees must report income after the period of grant support. Where there is such a requirement, the retention period for the records pertaining to the earning of the income starts from the end of the grantee's fiscal year in which the income is earned.

(4) Indirect cost rate proposals, cost allocations plans, etc. This paragraph applies to the following types of documents, and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

(i) If submitted for negotiation. If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to the grantee) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.

(ii) If not submitted for negotiation. If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to the grantee) for negotiation purposes, then the 3-year

retention period for the proposal plan, or computation and its supporting records starts from end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

(d) Substitution of microfilm. Copies made by microfilming, photocopying, or similar methods may be substituted for the original records.

(e) Access to records--(1) Records of grantees and subgrantees. The awarding agency and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access to any pertinent books, documents, papers, or other records of grantees and subgrantees which are pertinent to the grant, in order to make audits, examinations, excerpts, and transcripts.

(2) Expiration of right of access. The rights of access in this section must not be limited to the required retention period but shall last as long as the records are retained.

(f) Restrictions on public access. The Federal Freedom of Information Act (5 U.S.C. 552) does not apply to records unless required by Federal, State, or local law, grantees and subgrantees are not required to permit public access to their records.

(Approved by the Office of Management and Budget under control number 1880-0517)

(Authority: 20 U.S.C. 3474; OMB Circular A-102)

[53 FR 8071 and 8087, Mar. 11, 1988, as amended at 53 FR 8072, Mar. 11, 1988; 53 FR 49143, Dec. 6, 1988; 64 FR 50392, Sept. 16, 1999]

NOTE: For additional guidance on privacy issues, refer to the Family Educational Rights and Privacy Act (FERPA) at <http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html> .

[January 18, 2001]

PROGRAM MEMORANDUM - OVAE - FY 2001 – 2

TO: Chief State School Officers
State Directors of Vocational - Technical Education
State Directors of Adult Education
State Directors of Community, Technical and Junior Colleges

FROM: Patricia W. McNeil

SUBJECT: The Family Educational Rights and Privacy Act and the Use of State Unemployment Insurance Wage Records to Report on Performance under the Carl D. Perkins Vocational and Technical Education Act and the Adult Education and Family Literacy Act

The Carl D. Perkins Vocational and Technical Education Act (P.L.105-332) (20 U.S.C. § 2301 et seq.) (Perkins III) and the Adult Education and Family Literacy Act (Title II of the Workforce Investment Act of 1998, P.L. 105-220) (20 U.S.C. § 2901 et seq.) (AEFLA) hold States accountable for reporting on, and achieving, annual performance goals for the placement and retention of students in employment, as well as a number of other student outcomes. In addition, some States have established comparable accountability requirements for State community college systems. There is growing interest among States in using State unemployment insurance (UI) wage records to determine the employment status of former students in order to fulfill these requirements. Generally, State UI wage records can provide more accurate information than mail or telephone surveys of former students.

Moreover, using State UI records is less expensive than mail or telephone surveys.

The Department supports your efforts to improve the accuracy of the information that your State collects concerning student outcomes and to reduce the burden of obtaining this information. However, preserving student privacy is also required by law. As you investigate using State UI wage records to determine the employment status of students, please note that this approach requires the use of personally identifiable information from student education records. Such personally identifiable information is protected by the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g). The purpose of this memorandum is to assist you in understanding FERPA's privacy protections and how to use State UI wage records to determine the employment status of former students in accordance with FERPA. This guidance applies solely to Perkins III and AEFLA. It was developed in consultation with the Undersecretary and the Family Policy Compliance Office, which administers FERPA.

Accountability Requirements Established by Perkins III and AEFLA

Perkins III creates a State performance accountability system for vocational and technical education through which the Secretary and each eligible agency reach agreement on annual levels of performance for a number of "core indicators" specified in the law. Student "placement in, retention, and completion of, postsecondary education or advanced training, placement in military service, or placement or retention in employment" is one of these core indicators (section 113(b)(2)(iii)). Each eligible agency must use the State adjusted levels of performance to evaluate annually the activities of eligible recipients (section 123(b)). Section 113(c) of Perkins III also requires each eligible agency to submit annually a report to the Secretary regarding "the progress of the State in achieving the State adjusted levels of performance on the core indicators of performance."

AEFLA establishes a similar performance accountability system for adult

education and literacy activities. The Secretary and each eligible agency reach agreement on annual levels of performance for a number of "core indicators" specified in the law, including "placement in, retention in, or completion of postsecondary education, training, unsubsidized employment or career advancement" (section 212(b)(2)(ii) of WIA). Each eligible agency must evaluate annually the effectiveness of local adult education and literacy activities using the core indicators of performance (section 224(b)(3)). States must report annually to the Secretary on "the progress of the eligible agency in achieving eligible agency performance measures, including information on the levels of performance achieved by the eligible agency with respect to the core indicators of performance" (section 212(c)). To fulfill these evaluation and reporting requirements, a number of States have expressed interest in using State UI wage records to determine the employment status of former students. Maintained by State labor or employment security agencies, these records consist of quarterly reports of employee earnings that are submitted by employers who are required to comply with the State's unemployment compensation law. In most cases, a wage record includes at least three data elements: (1) an employee's social security number (SSN); (2) the total amount of reportable earnings paid to the employee during the quarter; and (3) the employer's unique identifier. Although Federal and State law protects the confidentiality of this information, most States have established procedures to enable other public agencies to access the information for evaluation purposes.

The employment status of a former student can only be determined from UI wage records by using the student's SSN. A student's SSN, however, is personally identifiable information that is protected by FERPA.

Family Educational and Privacy Rights Act

As you know, FERPA is a Federal law that protects an eligible student's privacy interest in his or her "education records." In particular, FERPA affords eligible students the right to inspect and review their education records, the right to seek to have the records amended, and the right to have some control over the disclosure of information from the records. The term "education records" is broadly defined as:

"[T]hose records, files, documents, and other materials, which (i) contain information directly related to a student; and (ii) are maintained by an educational agency or institution or by a person acting for such agency or institution." (20 U.S.C. § 1232g(a)(4). See also 34 CFR § 99.3 "Education records.")

FERPA provides that education records, or personally identifiable information from such records, may be disclosed by educational agencies and institutions only after an eligible student provides prior written consent,

except in statutorily specified circumstances. (20 U.S.C. § 1232g(b)(1) and (d). See also 34 CFR § 99.30.) "Personally identifiable information" is defined by 34 CFR § 99.3 as information that "includes but is not limited to:

- (a) the student's name;
- (b) the name of the student's parent or other family member;
- (c) the address of the student or the student's family;
- (d) a personal identifier, such as the student's social security number or student number;
- (e) a list of personal characteristics that would make the student's identity easily traceable; or
- (f) other information that would make the student's identity easily traceable."

Because the vocational and adult education laws include identical provisions stipulating that "nothing in this Act shall be construed to supersede the privacy protections afforded students and parents under" FERPA (section 5 of Perkins III, section 504(a) of WIA), States must comply with FERPA in using State UI wage records.

Generally, there are three options available to State educational authorities for using State UI wage records consistent with the requirements of FERPA:

- * "Importing" State UI wage records and using them internally to determine the employment status of former students;
- * Obtaining the prior consent of eligible students to disclose their SSNs to the State UI agency (or other agency that has access to State UI wage records) in order to determine whether they secured or retained employment after they exited the program; and
- * Authorizing the State UI agency (or other State agency that has access to UI records) to obtain student SSNs directly from local education agencies and educational institutions, determine the employment status of these students, and report the aggregate results, after which students' personally-identifiable information would be destroyed by the agency authorized to match the UI data.

"Importing" State UI Wage Records to Determine Employment Outcomes

A State educational authority may obtain State UI wage record data from the State UI agency and then use this information internally to determine the employment status of students. This approach meets the requirements of FERPA because the State educational authority has not disclosed personally identifiable information from an education record to others. State law, however, may restrict the extent to which you may share personally identifiable information derived from wage records with local education agencies and educational institutions. Providing local education agencies and educational institutions with information about the earnings of

individual students, for example, may be prohibited by Federal or State law.

Obtaining Student Consent for Disclosures to the State UI Agency

FERPA permits the disclosure of protected student information if a student has consented in advance to this disclosure in writing. Thus, a State educational authority may disclose student SSNs to the State UI agency (or other agency that has access to State UI wage records) for the purpose of determining their employment status if it has secured the consent of these students for the disclosure. Requesting student consent for this disclosure, for example, may be made a regular part of the intake or admission process for vocational and adult education programs.

This written consent must be signed and dated by the eligible student and:

- (1) specify the records that may be disclosed;
- (2) state the purpose of the disclosure; and
- (3) identify the party or class of parties to whom the disclosure may be made." (34 CFR § 99.30(b))

In addition, the State educational authority or local educational agency or institution must provide the student, upon his or her request, a copy of the records that are disclosed. (34 CFR § 99.30(c)(1)). A sample consent form that you may adapt is included in Appendix A.

Authorizing a State UI Agency to Evaluate Employment Outcomes under Perkins III and AEFLA

FERPA permits the disclosure of protected student information without the prior consent of students in certain, limited circumstances. (20 U.S.C. § 1232g(b); 34 CFR § 99.31). One exception permits the disclosure of information derived from education records without prior consent to "authorized representatives of" the Comptroller General of the United States, the Secretary, the Attorney General or "State or local educational authorities." The disclosure must be "in connection with the audit and evaluation of Federally-supported education programs, or in connection with the enforcement of the Federal legal requirements which relate to such programs."

Thus, a State educational authority may authorize the State UI agency (or other agency that has access to State UI wage records) to be its representative for the purpose of evaluating whether local vocational and adult education programs have achieved the student employment goals established by the State under Perkins III or AEFLA. Typically, this authorization will be executed by a Memorandum of Agreement (MOA) between the two agencies. The MOA must contain, at a minimum, the following provisions required by FERPA:

1.) Information disclosed by a school to an authorized representative must not be redisclosed to a third party in personally identifiable form. The information only may be redisclosed in aggregate, non-personally identifiable form.

Evaluation and Record Keeping 13

2.) The information should be destroyed when no longer needed for the purpose of the disclosure.

3.) The authorized representative may have access to the records in connection only with -

- * an audit or evaluation of a Federally supported education program; or
- * for the enforcement of or compliance with Federal legal requirements that relate to those programs.

See 20 U.S.C. § 1232g(b)(3); 34 CFR § 99.35. Sample Memoranda of Agreement are included as Appendix B.

Pursuant to the MOA, the State UI or other agency may then obtain student SSNs directly from local educational agencies or educational institutions and determine the employment status of these students. It may also report the aggregate results of its evaluation to the State educational authority, but no personally identifiable information may be redisclosed in this report. FERPA also requires that each eligible recipient that discloses a student's SSN or other personally identifiable information must maintain a record of this disclosure with the education records of the student. (34 CFR § 99.32)

FERPA also allows a State UI agency to obtain a student's SSN directly from the State educational authority in order to determine the student's employment status. For the purposes of complying with the reporting requirements of Perkins III and AEFLA, a State educational authority may disclose a student SSN to the State UI agency if the UI agency has been made an "agent" of the State educational authority through a written MOA. This MOA should contain the same provisions discussed above.

We hope this memorandum is helpful to you in identifying how State UI wage records may be used to determine the employment status of students in a way that complies with FERPA. State laws concerning the privacy of student records and UI wage information also should be reviewed carefully as you consider the options available to you. If you have further questions regarding the requirements of Perkins III and AEFLA, you may contact Mr. Braden Goetz at (202) 205-3373 or Mr. Jon Weintraub at (202) 205-5602. Please direct any further questions you may have concerning FERPA to:

Family Policy Compliance Office
U.S. Department of Education

400 Maryland Avenue, SW
Washington, DC 20202-4605
Evaluation and Record Keeping 14
(202) 260-3887 (Telephone)
(202) 260 -9001 (Fax)

[Code of Federal Regulations]
[Title 34, Volume 1, Parts 1 to 299]
[Revised as of July 1, 2000]
From the U.S. Government Printing Office via GPO Access
[CITE: 34CFR99.5]

[Federal Register, Page 293]

TITLE 34--EDUCATION
PART 99--FAMILY EDUCATIONAL RIGHTS AND PRIVACY--Table of Contents

Subpart A—General

Sec. 99.5 What are the rights of students?

- (a) When a student becomes an eligible student, the rights accorded to, and consent required of, parents under this part transfer from the parents to the student.
- (b) The Act and this part do not prevent educational agencies or institutions from giving students rights in addition to those given to parents.
- (c) If an individual is or has been in attendance at one component of an educational agency or institution, that attendance does not give the individual rights as a student in other components of the agency or institution to which the individual has applied for admission, but has never been in attendance.

(Authority: 20 U.S.C. 1232g(d))

[53 FR 11943, Apr. 11, 1988, as amended at 58 FR 3188, Jan. 7, 1993]

[Code of Federal Regulations]
[Title 34, Volume 1, Parts 1 to 299]
[Revised as of July 1, 2000]
From the U.S. Government Printing Office via GPO Access
[CITE: 34CFR99.7]

[Federal Register, Page 293]

TITLE 34—EDUCATION

PART 99--FAMILY EDUCATIONAL RIGHTS AND PRIVACY--Table of Contents
Evaluation and Record Keeping 15

Subpart A—General

Sec. 99.7 What must an educational agency or institution include in its annual notification?

(a)(1) Each educational agency or institution shall annually notify parents of students currently in attendance, or eligible students currently in attendance, of their rights under the Act and this part.

(2) The notice must inform parents or eligible students that they have the right to--

(i) Inspect and review the student's education records;

(ii) Seek amendment of the student's education records that the parent or eligible student believes to be inaccurate, misleading, or otherwise in violation of the student's privacy rights;

(iii) Consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that the Act and Sec. 99.31 authorize disclosure without consent; and

(iv) File with the Department a complaint under Secs. 99.63 and 99.64 concerning alleged failures by the educational agency or institution to comply with the requirements of the Act and this part.

(3) The notice must include all of the following:

(i) The procedure for exercising the right to inspect and review education records.

(ii) The procedure for requesting amendment of records under Sec. 99.20.

(iii) If the educational agency or institution has a policy of disclosing education records under Sec. 99.31(a)(1), a specification of criteria for determining who constitutes a school official and what constitutes a legitimate educational interest.

(b) An educational agency or institution may provide this notice by any means that are reasonably likely to inform the parents or eligible students of their rights.

(1) An educational agency or institution shall effectively notify parents or eligible students who are disabled.

(2) An agency or institution of elementary or secondary education shall effectively notify parents who have a primary or home language other than English.

(Approved by the Office of Management and Budget under control number 1880-0508)

(Authority: 20 U.S.C. 1232g (e) and (f))

[61 FR 59295, Nov. 21, 1996]
[Code of Federal Regulations]
[Title 34, Volume 1, Parts 1 to 299]
[Revised as of July 1, 2000]
From the U.S. Government Printing Office via GPO Access
[CITE: 34CFR99.30]

[Federal Register, Page 297]

TITLE 34—EDUCATION

PART 99--FAMILY EDUCATIONAL RIGHTS AND PRIVACY--Table of Contents Subpart D--May an Educational Agency or Institution Disclose Personally Identifiable Information From Education Records?

Sec. 99.30 Under what conditions is prior consent required to disclose information?

- (a) 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, except as provided in Sec. 99.31.
- (b) The written consent must:
 - (1) Specify the records that may be disclosed;
 - (2) State the purpose of the disclosure; and
 - (3) Identify the party or class of parties to whom the disclosure may be made.
- (c) When a disclosure is made under paragraph (a) of this section:
 - (1) If a parent or eligible student so requests, the educational agency or institution shall provide him or her with a copy of the records disclosed; and
 - (2) If the parent of a student who is not an eligible student so requests, the agency or institution shall provide the student with a copy of the records disclosed.

(Authority: 20 U.S.C. 1232g (b)(1) and (b)(2)(A))