

FERPA and Biometric Records

First and foremost, FERPA is not a data collection statute. It is a parental access and privacy protection statute.

“No funds shall be made available under any applicable program to any educational agency or institution which has a policy of denying, or which effectively prevents, the parents of students who are or have been in attendance at a school of such agency or at such institution, as the case may be, the right to inspect and review the education records of their children.”

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

“No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of permitting the release of education records (***or personally identifiable information*** contained therein other than directory information . . . of students without the written consent of their parents to any individual, agency, or organization,” unless a particular exception applies.

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

FERPA serves to protect education records and “personally identifiable information.”

The definition of “personally identifiable information” under the FERPA regulations:

“Personally Identifiable Information” The term includes, but is not limited to--

(a) The student’s name; (b) The name of the student’s parent or other family members; (c) The address of the student or student’s family; (d) A personal identifier, such as the student’s social security number, student number, ***or biometric record***; (e) Other indirect identifiers, such as the student’s date of birth, place of birth, and mother’s maiden name; (f) Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or (g) Information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates.

(Authority: 20 U.S.C. 1232g; 34 CFR Part 99.3)

The FERPA regulations included biometric records in the list of personally identifiable information that must be protected.

The definition of “biometric record” under the FERPA regulations:

“Biometric record,” as used in the definition of “personally identifiable information,” means a record of one or more measurable biological or behavioral characteristics that can be used for automated recognition of an individual. Examples include fingerprints; retina and iris patterns; voiceprints; DNA sequence; facial characteristics; and handwriting.

(Authority: 20 U.S.C. 1232g; 34 CFR Part 99.3)