

3. School Resource Officer Asks a School Counselor to Share a Student's Grades, Attendance and Disciplinary Records, Address, and Phone Number



A School Resource Officer (SRO), who is employed by the school district's police department, is concerned about a student. He has observed the student hanging out with known gang members and has seen him out after curfew a number of times.

The SRO asks the guidance counselor if she can share with him the student's attendance and disciplinary records, grades, home address, and phone number. He explains that he plans to go to the student's home and ask one or both of his parents to talk with him about how to help the student stay out of trouble.

Who has the information?

The guidance counselor.

Who wants the information?

The SRO.

What information does the requester want?

He wants the student's attendance and disciplinary records, grades, home address, and phone number.

What does the requester want to do with the information?

The SRO plans to go to the student's home and try to talk to the student's parent about how to prevent the student from getting into trouble.

Which laws are relevant in this situation?

The school counselor's disclosure of information to the SRO is governed by FERPA.

What do the laws permit, and what do they prohibit?

A student's home address and phone number are considered "directory information" under FERPA. According to the U.S. Department of Education, directory information includes, but is not limited to, the following data about a student:

- Name
- Address and telephone number
- Date and place of birth
- Participation in school activities and sports
- Dates of attendance
- Photograph

A school may release directory information without obtaining parental consent *if* the school has already notified parents about the specific types of directory information it may disclose *and* parents have the opportunity to notify the school in writing that they do not want information about their child disclosed.

By contrast, a student's attendance and disciplinary records and grades are not directory information and require parental authorization for disclosure. However, the following exceptions to the parental authorization requirement *may* apply in this situation:

- FERPA allows disclosure without parental consent to other school officials who have a legitimate educational interest in the records. The school must include in an annual notification to parents the specific criteria for determining who is a *school official* and what constitutes a *legitimate educational interest*. Additionally, if the SRO (and any other individuals) in this case example were to receive information under this exception, they would have to be informed that they cannot re-release the information except in accordance with FERPA.
- FERPA also allows disclosure without parental consent if a court order or subpoena requires the disclosure. If the school receives such an order or subpoena, it must make a "reasonable effort" to notify the parents about the court order or subpoena before releasing the records to law enforcement.

How can school personnel proceed legally in this situation?

SHARE THE INFORMATION WITHOUT PARENTAL CONSENT

In this case example, if the school had previously notified parents that it might disclose a student's address and telephone number as directory information, and this student's parent did not request that the child's information not be disclosed, the counselor can share the student's attendance record, home address, and telephone number with the SRO.

OBTAIN PARENTAL CONSENT BEFORE SHARING THE INFORMATION

The guidance counselor could ask the student's parent to come to school to discuss the situation with the SRO and the counselor and ask the parent to sign a consent form allowing the counselor to share the student's grades and disciplinary record with the SRO. Under FERPA, written authorization to release education records must do the following:

- Specify the records to be disclosed
- State the purpose of the disclosure
- Identify the party or class of parties to whom disclosure is to be made
- Be signed and dated by the student's parent or guardian

USE THE LEGITIMATE EDUCATIONAL INTEREST EXCEPTION

In this case example, the guidance counselor may share the student's grades and attendance and disciplinary records with the SRO if the school's notification to parents specifies that the SRO is a school official with a legitimate educational interest. (If the school is permitted to release information to the SRO under this exception, the SRO may not re-disclose the information to a third party without parental consent.) If the school does not meet these requirements, the guidance counselor can only disclose the student's grades and attendance and disciplinary records to the SRO after the counselor has an authorization—signed by the parent—to do so.

RESPOND TO A SUBPOENA OR COURT ORDER TO DISCLOSE THE INFORMATION

The guidance counselor could disclose the student's grades and attendance and disciplinary records to the SRO if the school had been served with a subpoena or court order to do so. If the school receives such a subpoena, it must make a "reasonable effort" to notify the parent about the court order or subpoena before releasing the records to law enforcement.