

ANCHORAGE SCHOOL DISTRICT  
ANCHORAGE, ALASKA

MEMORANDUM

JANUARY 16, 2009

TO: CAROL COMEAU, SUPERINTENDENT  
RHONDA GARDNER, ASSISTANT SUPERINTENDENT, INSTRUCTION  
MIKE HENRY, EXECUTIVE DIRECTOR, HIGH SCHOOL EDUCATION  
ED GRAFF, EXECUTIVE DIRECTOR, ELEMENTARY EDUCATION  
LESLIE VANDERGAW, EXECUTIVE DIRECTOR, MIDDLE SCHOOL ED  
REGINA ROLLINS, DIRECTOR, E.C.E. SPECIAL EDUCATION  
CINDY ANDERSON, DIRECTOR SECONDARY SPECIAL EDUCATION  
DIANE POAGE, DIRECTOR, RELATED SERVICES  
SCHOOL PRINCIPALS

FROM: JERRY SJOLANDER, EXECUTIVE DIRECTOR, SPECIAL EDUCATION

SUBJECT: Summary of Recent Changes to FERPA, effective December 9, 2008

The intent of this guidance is to provide a summary of those changes to the FERPA regulations that would relate to school personnel.

*1. Health or Safety Emergencies*

Although FERPA does not permit disclosures of personally identifiable information on a routine, non-emergency basis, the final regulations afford greater flexibility and deference to administrators so that they can bring appropriate resources to bear when there is a threat to the health or safety of students. Section 99.36 in the final regulations makes clear that educational agencies and institutions **may** disclose information from education records to appropriate parties, including parents, whose knowledge of the information is necessary to protect the health or safety of a student or another individual if there is a significant and articulable threat to the health or safety of a student or other individual, considering the totality of the circumstances.

**A building level administrator and/or his/her designee is the proper person to determine whether there is a significant and articulable threat to the health or safety of a student. The administrator certainly is in the best position to consult with nursing staff, certificated staff and law enforcement personnel to whether such a threat exists.**

The final regulations add a requirement that the educational agency or institution

record in the student's education records the basis for its decision that a health or safety emergency existed.

## *2. Disclosures to Parents*

The Department of Education was concerned that some educational agencies and institutions are under the mistaken impression that FERPA prevents them from providing parents with information about most "eligible students" (students who are at least 18 years of age or attending a postsecondary institution).

The final regulations clarify that even after the rights under FERPA have transferred from parents to an eligible student, an educational agency or institution **may generally disclose** education records to the student's parents without consent under several existing provisions of FERPA. For example, the final regulations clarify that under §§ 99.5 and 99.36 an educational agency or institution may disclose information to an eligible student's parents in a health or safety emergency, regardless of whether the student is a dependent for Federal income tax purposes, and may disclose information to parents under any circumstances if the eligible student is a dependent for Federal income tax purposes.

## *3. Transfer of Education Records*

The Department of Education affirms that schools are permitted to disclose a student's education records to officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll.

## *4. Recordkeeping – A Reminder*

Section 99.32 requires an educational agency or institution to maintain with each student's education records a record of each request for access to and each disclosure of personally identifiable information from the student's records, including the names of the additional parties to which the receiving party may redisclose the information on behalf of the agency or institution.