§ 1232g. Family educational and privacy rights

(a) Conditions for availability of funds to educational agencies or institutions; inspection and review of education records; specific information to be made available; procedure for access to education records; reasonableness of time for such access; hearings; written explanations by parents; definitions

(1)(A) 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. If any material or document in the education record of a student includes information on more than one student, the parents of one of such students shall have the right to inspect and review only such part of such material or document as relates to such student or to be informed of the specific information contained in such part of such material. Each educational agency or institution shall establish appropriate procedures for the granting of a request by parents for access to the education records of their children within a reasonable period of time, but in no case more than forty-five days after the request has been made.

(B) No funds under any applicable program shall be made available to any State educational agency (whether or not that agency is an educational agency or institution under this section) that has a policy of denying, or effectively prevents, the parents of students the right to inspect and review the education records maintained by the State educational agency on their children who are or have been in attendance at any school of an educational agency or institution that is subject to the provisions of this section.

(C) The first sentence of subparagraph (A) shall not operate to make available to students in institutions of postsecondary education the following materials:

(i) financial records of the parents of the student or any information contained therein;

(ii) confidential letters and statements of recommendation, which were placed in the education records prior to January 1, 1975, if such letters or statements are not used for purposes other than those for which they were specifically intended;

(iii) if the student has signed a waiver of the student’s right of access under this subsection in accordance with subparagraph (D), confidential recommendations—

(I) respecting admission to any educational agency or institution,

(II) respecting an application for employment, and

(III) respecting the receipt of an honor or honorary recognition.

(D) A student or a person applying for admission may waive his right of access to confidential statements described in clause (iii) of subparagraph (C), except that such waiver shall apply to recommendations only if (i) the student is, upon request, notified of the names of all persons making confidential recommendations and (ii) such recommendations are used solely for the purpose for which they were specifically intended. Such waivers may not be required as a condition for admission to, receipt of financial aid from, or receipt of any other services or benefits from such agency or institution.

(2) No funds shall be made available under any applicable program to any educational agency or institution unless the parents of students who are or have been in attendance at a school of such agency or at such institution are provided an opportunity for a hearing by such agency or institution, in accordance with regulations of the Secretary, to challenge the content of such student’s education records, in order to insure that the records are not inaccurate, misleading, or otherwise in violation of the privacy rights of students, and to provide an opportunity for the correction or deletion of any such inaccurate, misleading or otherwise inappropriate data contained therein and to insert into such records a written explanation of the parents respecting the content of such records.

(3) For the purposes of this section the term “educational agency or institution” means any public or private agency or institution which is the recipient of funds under any applicable program.

(4)(A) For the purposes of this section, the term “education records” means, except as may be provided otherwise in subparagraph (B), those 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.

(B) The term “education records” does not include—

(i) records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute;

(ii) records maintained by a law enforcement unit of the educational agency or institution that were created by that law enforcement unit for the purpose of law enforcement;

(iii) in the case of persons who are employed by an educational agency or institution but who are not in attendance at such agency or institution, records made and maintained in the normal course of business which relate exclusively to such person in that person’s capacity as an employee and are not available for use for any other purpose; or

(iv) records on a student who is eighteen years of age or older, or is attending an institution of postsecondary education, which are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his professional or paraprofessional capacity, or assisting in that capacity, and which are made, maintained, or used only in connection with the provision of treatment to the student, and are not available to anyone other than persons providing such treatment, except that such
records can be personally reviewed by a physician or other appropriate professional of the student's choice.

(5)(A) For the purposes of this section the term "directory information" relating to a student includes the following: the student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended by the student.

(B) Any educational agency or institution making public directory information shall give public notice of the categories of information which it has designated as such information with respect to each student attending the institution or agency and shall allow a reasonable period of time after such notice has been given for a parent to inform the institution or agency that any or all of the information designated should not be released without the parent's prior consent.

(6) For the purposes of this section, the term "student" includes any person with respect to whom an educational agency or institution maintains education records or personally identifiable information, but does not include a person who has not been in attendance at such agency or institution.

(b) Release of education records; parental consent requirement; exceptions; compliance with judicial orders and subpoenas; audit and recordkeeping

(1) 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, as defined in paragraph (5) of subsection (a) of this section) of students without the written consent of their parents to any individual, agency, or organization, other than to the following:

(A) other school officials, including teachers within the educational institution or local educational agency, who have been determined by such agency or institution to have legitimate educational interests, including the educational interests of the child for whom consent would otherwise be required;

(B) officials of other schools or school systems in which the student seeks or intends to enroll, upon condition that the student's parents be notified of the transfer, receive a copy of the record if desired, and have an opportunity for a hearing to challenge the content of the record;

(C)(i) authorized representatives of (I) the Comptroller General of the United States, (II) the Secretary, or (III) State educational authorities, under the conditions set forth in paragraph (3), or (ii) authorized representatives of the Attorney General for law enforcement purposes under the same conditions as apply to the Secretary under paragraph (3);

(D) in connection with a student's application for, or receipt of, financial aid;

(E) State and local officials or authorities to whom such information is specifically allowed to be reported or disclosed pursuant to State statute adopted—

(i) before November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and such system's ability to effectively serve the student whose records are released, or

(ii) after November 19, 1974, if—

(I) the allowed reporting or disclosure concerns the juvenile justice system and such system's ability to effectively serve, prior to adjudication, the student whose records are released; and

(II) the officials and authorities to whom such information is disclosed certify in writing to the educational agency or institution that the information will not be disclosed to any other party except as provided under State law without the prior written consent of the parent of the student.1

(F) organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students and their parents by persons other than representatives of such organizations and such information will be destroyed when no longer needed for the purpose for which it is conducted;

(G) accrediting organizations in order to carry out their accrediting functions;

(H) parents of a dependent student of such parents, as defined in section 152 of title 26;

(I) subject to regulations of the Secretary, in connection with an emergency, appropriate persons if the knowledge of such information is necessary to protect the health or safety of the student or other persons;

(J)(i) the entity or persons designated in a Federal grand jury subpoena, in which case the court shall order, for good cause shown, the educational agency or institution (and any officer, director, employee, agent, or attorney for such agency or institution) on which the subpoena is served, to not disclose to any person the existence or contents of the subpoena or any information furnished to the grand jury in response to the subpoena; and

(ii) the entity or persons designated in any other subpoena issued for a law enforcement purpose, in which case the court or other issuing agency may order, for good cause shown, the educational agency or institution (and any officer, director, employee, agent, or attorney for such agency or institution) on which the subpoena is served, to not disclose to any person the existence or contents of the subpoena or any information furnished in response to the subpoena; and

(K) the Secretary of Agriculture, or authorized representative from the Food and Nutrition Service or contractors acting on behalf of

1 So in original. The period probably should be a semicolon.
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other than directory information, or as is per-

identifiable information in education records

number or type of State or local officials who

shall prevent a State from further limiting the

unless—

will continue to have access thereunder.

Nothing in subparagraph (E) of this paragraph

portrayed education programs, or in connection

records which may be necessary in connection with

ties from having access to student or other

quirements which relate to such programs:

with the enforcement of the Federal legal re-

Comptroller General of the United States, (B)

clude authorized representatives of (A) the

officials, and such personally identifiable data

officials shall be protected in a manner which

which the results will be reported in an aggreg-

gate form that does not identify any individual,

on the conditions that—

(i) any data collected under this subpara-

graph shall be protected in a manner that

will not permit the personal identification of

students and their parents by other than the

authorized representatives of the Secretary;

and

(ii) any personally identifiable data shall

be destroyed when the data are no longer

needed for program monitoring, evaluations,

and performance measurements.

Nothing in subparagraph (E) of this paragraph

shall prevent a State from further limiting the

number or type of State or local officials who

will continue to have access thereunder.

(2) No funds shall be made available under any

applicable program to any educational agency

or institution which has a policy or practice of

releasing, or providing access to, any personally

identifiable information in education records

other than directory information, or as is per-

mitted under paragraph (1) of this subsection,

unless—

(A) there is written consent from the stu-

dent’s parents specifying records to be re-

leased, the reasons for such release, and to

whom, and with a copy of the records to be re-

leased to the student’s parents and the student

if desired by the parents, or

(B) except as provided in paragraph (1)(J),

such information is furnished in compliance

with judicial order, or pursuant to any law-

fully issued subpoena, upon condition that

parents and the students are notified of all

such orders or subpoenas in advance of the

compliance therewith by the educational in-

stitution or agency.

(3) Nothing contained in this section shall pre-

clude authorized representatives of (A) the

Comptroller General of the United States, (B)

the Secretary, or (C) State educational authori-

ties from having access to student or other

records which may be necessary in connection

with the audit and evaluation of Federally-sup-

ported education programs, or in connection

with the enforcement of the Federal legal re-

quirements which relate to such programs: Pro-

vided, That except when collection of personally

identifiable information is specifically author-

ized by Federal law, any data collected by such

officials shall be protected in a manner which

will not permit the personal identification of

students and their parents by other than those

officials, and such personally identifiable data

shall be destroyed when no longer needed for

such audit, evaluation, and enforcement of Fed-

eral legal requirements.

(4)(A) Each educational agency or institution

shall maintain a record, kept with the education

records of each student, which will indicate all

individuals (other than those specified in para-

graph (1)(A) of this subsection), agencies, or or-

ganizations which have requested or obtained

access to a student’s education records main-

tained by such educational agency or institu-

tion, and which will indicate specifically the le-

gitimate interest that each such person, agency,

or organization has in obtaining this informa-

tion. Such record of access shall be available

only to parents, to the school official and his as-

sistants who are responsible for the custody of

such records, and to persons or organizations au-

thorized in, and under the conditions of, clauses

(A) and (C) of paragraph (1) as a means of audit-

ing the operation of the system.

(B) With respect to this subsection, personal

information shall only be transferred to a third

party on the condition that such party will not

permit any other party to have access to such

information without the written consent of the

parents of the student. If a third party outside

the educational agency or institution permits

access to information in violation of paragraph

(2)(A), or fails to destroy information in viola-

tion of paragraph (1)(F), the educational agency

or institution shall be prohibited from permit-

ting access to information from education

records to that third party for a period of not

less than five years.

(5) Nothing in this section shall be construed

to prohibit State and local educational officials

from having access to student or other records

which may be necessary in connection with the

audit and evaluation of any federally or State

supported education program or in connection

with the enforcement of the Federal legal re-

quirements which relate to any such program,

subject to the conditions specified in the provi-

sion in paragraph (3).

(6)(A) Nothing in this section shall be con-

strued to prohibit an institution of postsecond-

ary education from disclosing, to an alleged vic-

tim of any crime of violence (as that term is de-

fined in section 16 of title 18), or a nonforc-

ible sex offense, the final results of any disci-

plinary proceeding conducted by such institu-

tion against the alleged perpetrator of such crime or

offense with respect to such crime or offense.

(B) Nothing in this section shall be con-

strued to prohibit an institution of postsecond-

ary education from disclosing the final results of

any disciplinary proceeding—

(i) shall include only the name of the stu-

dent, the violation committed, and any sanc-

tion imposed by the institution on that stu-

dent; and

(ii) may include the name of any other stu-

dent, such as a victim or witness, only with

the written consent of that other student.

(7)(A) Nothing in this section may be con-

strued to prohibit an educational institution

the Food and Nutrition Service, for the pur-

poses of conducting program monitoring, eval-

uations, and performance measurements of

State and local educational and other agencies

and institutions receiving funding or provid-

ing benefits of 1 or more programs authorized

under the Richard B. Russell National School

Lunch Act (42 U.S.C. 1751 et seq.) or the Child

Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) for

which the results will be reported in an aggreg-

gate form that does not identify any individual,

who are responsible for the custody of

such records, and to persons or organizations au-

thorized in, and under the conditions of, clauses

(A) and (C) of paragraph (1) as a means of audit-

ing the operation of the system.
from disclosing information provided to the institution under section 14071\textsuperscript{2} of title 42 concerning registered sex offenders who are required to register under such section.

(B) The Secretary shall take appropriate steps to notify educational institutions that disclosure of information described in subparagraph (A) is permitted.

(c) Surveys or data-gathering activities; regulations

Not later than 240 days after October 20, 1994, the Secretary shall adopt appropriate regulations or procedures, or identify existing regulations or procedures, which protect the rights of privacy of students and their families in connection with any surveys or data-gathering activities conducted, assisted, or authorized by the Secretary or an administrative head of an education agency. Regulations established under this subsection shall include provisions controlling the use, dissemination, and protection of such data. No survey or data-gathering activities shall be conducted by the Secretary, or an administrative head of an education agency under an applicable program, unless such activities are authorized by law.

(d) Students' rather than parents' permission or consent

For the purposes of this section, whenever a student has attained eighteen years of age, or is attending an institution of postsecondary education, the permission or consent required of and the rights accorded to the parents of the student shall thereafter only be required of and accorded to the student.

(e) Informing parents or students of rights under this section

No funds shall be made available under any applicable program to any educational agency or institution unless such agency or institution effectively informs the parents of students, or the students, if they are eighteen years of age or older, or are attending an institution of post-secondary education, of the rights accorded them by this section.

(f) Enforcement; termination of assistance

The Secretary shall take appropriate actions to enforce this section and to deal with violations of this section, in accordance with this chapter, except that action to terminate assistance may be taken only if the Secretary finds there has been a failure to comply with this section, and he has determined that compliance cannot be secured by voluntary means.

(g) Office and review board; creation; functions

The Secretary shall establish or designate an office and review board within the Department for the purpose of investigating, processing, reviewing, and adjudicating violations of this section and complaints which may be filed concerning alleged violations of this section. Except for the conduct of hearings, none of the functions of the Secretary under this section shall be carried out in any of the regional offices of such Department.

\textsuperscript{2}See References in Text note below.

(h) Disciplinary records; disclosure

Nothing in this section shall prohibit an educational agency or institution from—

(1) including appropriate information in the education record of any student concerning disciplinary action taken against such student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community; or

(2) disclosing such information to teachers and school officials in other schools, who have legitimate educational interests in the behavior of the student.

(i) Drug and alcohol violation disclosures

(1) In general

Nothing in this Act or the Higher Education Act of 1965 [20 U.S.C. 1001 et seq., 42 U.S.C. 2751 et seq.] shall be construed to prohibit an institution of higher education from disclosing, to a parent or legal guardian of a student, information regarding any violation of any Federal, State, or local law, or of any rule or policy of the institution, governing the use or possession of alcohol or a controlled substance, regardless of whether that information is contained in the student's education records, if—

(A) the student is under the age of 21; and

(B) the institution determines that the student has committed a disciplinary violation with respect to such use or possession.

(2) State law regarding disclosure

Nothing in paragraph (1) shall be construed to supersede any provision of State law that prohibits an institution of higher education from making the disclosure described in subsection (a) of this section.

(j) Investigation and prosecution of terrorism

(1) In general

Notwithstanding subsections (a) through (i) of this section or any provision of State law, the Attorney General (or any Federal officer or employee, in a position not lower than an Assistant Attorney General, designated by the Attorney General) may submit a written application to a court of competent jurisdiction for an ex parte order requiring an educational agency or institution to permit the Attorney General (or his designee) to—

(A) collect education records in the possession of the educational agency or institution that are relevant to an authorized investigation or prosecution of an offense listed in section 2332b(g)(5)(B) of title 18, or an act of domestic or international terrorism as defined in section 2331 of that title; and

(B) for official purposes related to the investigation or prosecution of an offense described in paragraph (1)(A), retain, disseminate, and use (including as evidence at trial or in other administrative or judicial proceedings) such records, consistent with such guidelines as the Attorney General, after consultation with the Secretary, shall issue to protect confidentiality.

(2) Application and approval

(A) IN GENERAL.—An application under paragraph (1) shall certify that there are specific...
and articulable facts giving reason to believe that the education records are likely to contain information described in paragraph (1)(A).

(B) The court shall issue an order described in paragraph (1) if the court finds that the application for the order includes the certification described in subparagraph (A).

(3) Protection of educational agency or institution

An educational agency or institution that, in good faith, produces education records in accordance with an order issued under this subsection shall not be liable to any person for that production.

(4) Record-keeping

Subsection (b)(4) of this section does not apply to education records subject to a court order under this subsection.


REFERENCES IN TEXT


AMENDMENTS

2010—Subsec. (b)(1)(K). Pub. L. 111–296, which directed that par. (1) be amended by adding subpar. (K) “at the end”, was executed by adding subpar. (K) after subpar. (J), to reflect the probable intent of Congress.


1998—Subsec. (b)(1)(C). Pub. L. 105–244, §951(1), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “authorized representatives of (i) the Comptroller General of the United States, (ii) the Secretary, or (iii) State educational authorities, under the conditions set forth in paragraph (3) of this subsection.”.

Subsec. (b)(6). Pub. L. 105–244, §951(2), designated existing provisions as subpar. (A) and (B), substituted “or a nonforcible sex offense, the final results for “the results”, substituted “such crime or offense” for “such crime” in two places, and added subpars. (B) and (C).


Subsec. (a)(1)(C). Pub. L. 103–382, §249(1)(A)(i), (iii), redesignated subpar. (B) as (C) and substituted “subparagraph (D)” for “subparagraph (C)” in cl. (iii). Former subpar. (C) redesignated (D).

Subsec. (a)(1)(D). Pub. L. 103–382, §249(1)(A)(i), (iv), redesignated subpar. (C) as (D) and substituted “subparagraph (C)” for “subparagraph (B)”.

Subsec. (a)(2). Pub. L. 103–382, §249(1)(B), substituted “privacy rights” for “privacy or other rights”.


Subsec. (b)(1)(A). Pub. L. 103–382, §249(2)(A)(i), inserted before semicolon “, including the educational interests of the child for whom consent would otherwise be required”.

Subsec. (b)(1)(C). Pub. L. 103–382, §261(b)(2)(A), substituted “or (ii)” for “(iii) an administrative head of an education agency (as defined in section 1221e–3(e) of this title), or (iv)”.

Subsec. (b)(1)(E). Pub. L. 103–382, §249(2)(A)(ii), amended subpar. (E) generally. Prior to amendment, subpar. (E) read as follows: “State and local officials or authorities to whom such information is specifically required to be reported or disclosed pursuant to State statute adopted prior to November 19, 1974.”.

Subsec. (b)(1)(H). Pub. L. 103–382, §261(b)(2)(B), substituted “the Internal Revenue Code of 1986” for “the Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.


Subsec. (b)(2). Pub. L. 103–382, §249(2)(B)(i), which directed amendment of matter preceding subpar. (A) by substituting “, unless—” for the period, was executed by substituting a comma for the period before “unless—” to reflect the probable intent of Congress.


Subsec. (b)(3). Pub. L. 103–382, §261(b)(2)(C), substituted “or (C)” for “(C) an administrative head of an education agency or (D)” and “education programs” for “education program”.

Subsec. (b)(4). Pub. L. 103–382, §249(2)(C), inserted at end “If a third party outside the educational agency or institution permits access to information in violation of paragraph (2)(A), or fails to destroy information in
violation of paragraph (1)(F), the educational agency or
institution shall be prohibited from permitting access to
information from education records to that third party for a period of not less than five years.”

Subsec. (c). Pub. L. 103–382, § 249(3), substituted “Not later than 240 days after October 29, 1994, the Secretary shall adopt appropriate regulations or procedures, or identify temporary or interim procedures, which would permit the personal identification of such students or their parents after the data so obtained has been collected”.

Subsec. (d). Pub. L. 103–382, § 249(4), struck out “on” and substituted “an administrative head of an education agency.” after “The Secretary” and substituted “enforce this section” for “enforce provisions of this section”, “in accordance with” for “according to the provisions of”, and “comply with this section” for “comply with the provisions of this section”.

Subsec. (e). Pub. L. 103–382, § 249(5), substituted “The Secretary” and substituted “enforce provisions of this section”, “in accordance with” for “according to the provisions of”, and “comply with this section” for “comply with the provisions of this section”.

Subsec. (f). Pub. L. 103–382, § 249(6), substituted provisions that except for the conduct of hearings, any data collected by such officials with respect to individual students shall not include information (including security numbers or similar identifiers) that would permit the personal identification of such students or their parents after the data so obtained has been collected”.

Subsec. (g). Pub. L. 103–382, § 249(7), struck out provisions making the availability of funds to educational agencies and institutions conditional on the granting of an opportunity for a hearing to parents of students who have been in attendance at such institution or agency to challenge the contents of the student’s education records for provisions granting the parents an opportunity for such hearing, and inserted provisions authorizing insertion into the records a written explanation of the parents respecting the content of such records.

Subsec. (h). Pub. L. 103–382, § 249(8), added par. (8) and struck out par. (5), added pars. (3) to (6).

Subsec. (i). Pub. L. 98–424, § 1232g(1), (2)(F), (5), added pars. (3) to (6).

Subsec. (j). Pub. L. 103–382, § 249(9), struck out provisions preceding subpar. (A), substituted “educational agency or institution unless such data is specifically authorized by Federal law, any data collected by such officials shall be protected in a manner which will not permit the personal identification of students and their parents by other than those officials, and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, and enforcement of Federal legal requirements” for “data is specifically authorized by Federal law, any data collected by such officials shall be protected in a manner which will not permit the personal identification of students and their parents by other than those officials, and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, and enforcement of Federal legal requirements”.

Subsec. (k). Pub. L. 103–382, § 249(10), struck out provisions that except with respect to certain noncompetitive programs or projects and competitive programs or projects, none of the functions of the Secretary under this Act or any other educational agency or institution unless such data is specifically authorized by Federal law, any data collected by such officials shall be protected in a manner which will not permit the personal identification of students and their parents by other than those officials, and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, and enforcement of Federal legal requirements”.


Subsec. (m). Pub. L. 98–424, § 1232g(a)(1), struck out provisions that except for the conduct of hearings, any data collected by such officials with respect to individual students shall not include information (including security numbers or similar identifiers) that would permit the personal identification of such students or their parents after the data so obtained has been collected”.

Subsec. (n). Pub. L. 103–382, § 249(12), struck out provisions that except for the conduct of hearings, any data collected by such officials with respect to individual students shall not include information (including security numbers or similar identifiers) that would permit the personal identification of such students or their parents after the data so obtained has been collected”.


Subsec. (p). Pub. L. 98–424, § 1232g(a)(2), struck out provisions that except for the conduct of hearings, any data collected by such officials with respect to individual students shall not include information (including security numbers or similar identifiers) that would permit the personal identification of such students or their parents after the data so obtained has been collected”.


Subsec. (r). Pub. L. 98–424, § 1232g(a)(3), struck out provisions that except for the conduct of hearings, any data collected by such officials with respect to individual students shall not include information (including security numbers or similar identifiers) that would permit the personal identification of such students or their parents after the data so obtained has been collected”.


Subsec. (t). Pub. L. 98–424, § 1232g(a)(4), struck out provisions that except for the conduct of hearings, any data collected by such officials with respect to individual students shall not include information (including security numbers or similar identifiers) that would permit the personal identification of such students or their parents after the data so obtained has been collected”.


Subsec. (v). Pub. L. 98–424, § 1232g(a)(5), struck out provisions that except for the conduct of hearings, any data collected by such officials with respect to individual students shall not include information (including security numbers or similar identifiers) that would permit the personal identification of such students or their parents after the data so obtained has been collected”.


Subsec. (x). Pub. L. 98–424, § 1232g(a)(6), struck out provisions that except for the conduct of hearings, any data collected by such officials with respect to individual students shall not include information (including security numbers or similar identifiers) that would permit the personal identification of such students or their parents after the data so obtained has been collected”.


Subsec. (z). Pub. L. 98–424, § 1232g(a)(7), (10)(B), struck out reference to sections 1232c and 1232f of this title and inserted provisions that except for the conduct of hearings, none of the functions of the Secretary under this section shall be carried out in any of the regional offices of such Department.

EFFECTIVE DATE OF 2010 AMENDMENT

EFFECTIVE DATE OF 2002 AMENDMENT
Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs or projects and competitive programs or projects, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 6301 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT
Amendment by Pub. L. 105–244 effective Oct. 1, 1998, except as otherwise provided in Pub. L. 105–244, see sec-

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§ 1232h  PROTECTION OF PUPIL RIGHTS
(a) Inspections of Instructional Materials by Parents or Guardians

All instructional materials, including teacher manuals, films, tapes, or other supplementary material which will be used in conjunction with any survey, analysis, or evaluation as part of any applicable program shall be available for inspection by the parents or guardians of the children.

(b) Limits on Survey, Analysis, or Evaluations

No student shall be required, as part of any applicable program, to submit to a survey, analysis, or evaluation that reveals information concerning—

(1) political affiliations or beliefs of the student or the student’s parent;

(2) mental or psychological problems of the student or the student’s family;

(3) sex behavior or attitudes;

(4) illegal, anti-social, self-incriminating, or demeaning behavior;

(5) critical appraisals of other individuals with whom respondents have close family relationships;

(6) legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers;

(7) religious practices, affiliations, or beliefs of the student or student’s parent; or

(8) income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program),

without the prior consent of the student (if the student is an adult or emancipated minor), or in the case of an unemancipated minor, without the prior written consent of the parent.

(c) Development of Local Policies Concerning Student Privacy, Parental Access to Information, and Administration of Certain Physical Examinations to Minors

(1) Development and Adoption of Local Policies

Except as provided in subsections (a) and (b) of this section, a local educational agency that receives funds under any applicable program shall develop and adopt policies, in consultation with parents, regarding the following:

(A)(i) The right of a parent of a student to inspect, upon the request of the parent, a survey created by a third party before the survey is administered or distributed by a school to a student; and

(ii) any applicable procedures for granting a request by a parent for reasonable access to such survey within a reasonable period of time after the request is received.

(B) Arrangements to protect student privacy that are provided by the agency in the event of the administration or distribution of a survey to a student containing one or more of the following items (including the right of a parent of a student to inspect, upon the request of the parent, any survey containing one or more of such items):

(i) Political affiliations or beliefs of the student or the student’s parent.

(ii) Mental or psychological problems of the student or the student’s family.

(iii) Sex behavior or attitudes.

(iv) Illegal, anti-social, self-incriminating, or demeaning behavior.

(v) Critical appraisals of other individuals with whom respondents have close family relationships.

(vi) Legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers.

(vii) Religious practices, affiliations, or beliefs of the student or the student’s parent.

(viii) Income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program).

(C)(i) The right of a parent of a student to inspect, upon the request of the parent, any instructional material used as part of the educational curriculum for the student; and

(ii) any applicable procedures for granting a request by a parent for reasonable access to instructional material within a reasonable period of time after the request is received.

(D) The administration of physical examinations or screenings that the school or agency may administer to a student.

(E) The collection, disclosure, or use of personal information collected from students for the purpose of marketing or for selling that information (or otherwise providing that information to others for that purpose), including arrangements to protect student privacy that are provided by the agency in the event of such collection, disclosure, or use.

(F)(i) The right of a parent of a student to inspect, upon the request of the parent, any instrument used in the collection of personal information under subparagraph (E) before the instrument is administered or distributed to a student; and

(ii) any applicable procedures for granting a request by a parent for reasonable access to such instrument within a reasonable period of time after the request is received.