available to persons other than law enforcement officials of the same jurisdiction.”


1997—Subsec. (b)(6)–(8). Pub. L. 104–193 substituted 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 are or 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. (b)(1). Pub. L. 104–193, § 2(a)(1)(D), (2)(D), (6), (8)(A)–(C), (10)(A), in provisions preceding subpar. (A), substituted “educational agency or institution which has a policy 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)” for “state or local educational agency, any institution of higher education, any community college, any school, agency offering a preschool program, or any other educational institution which has a policy or practice of permitting the release of personally identifiable information contained therein”, in subpar. (A), substituted “educational agency, who have been determined by such agency or institution to have” for “educational agency who have”, in subpar. (B), substituted “the student seeks or intends to” for “the student who”, in subpar. (C), substituted reference to “section 408(c)” for reference to “section 408 of this Act”, which for purposes of codification has been translated as “section 122F–3(c) of this title”, and added subpars. (E) to (I).

Subsec. (b)(2). Pub. L. 104–193, § 2(a)(1)(E), (2)(E), substituted “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 permitted under paragraph (1) of this subsection” for “state or local educational agency, any institution of higher education, any community college, any school, agency offering a preschool program, or any other educational institution which has a policy or practice of furnishing, in any form, any personally identifiable information contained in personal school records, to any persons other than those listed in subsection (b)(1) of this section”.

Subsec. (b)(3). Pub. L. 104–193, § 2(a)(3)(D), substituted “information 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 with respect to individual students shall not include information (including social security numbers) which would permit the personal identification of such students or their parents after the data so obtained has been collected”.

Subsec. (b)(4). Pub. L. 104–193, § 2(a)(9), substituted provisions that each educational agency or institution maintain a record, kept with the education records of each student, indicating individuals, agencies, or organizations who obtained access to the student’s record and the legitimate interest in obtaining such information, that such record of access shall be available only to parents, school officials, and their assistants having responsibility for the custody of such records, and as a means of auditing the operation of the system, for provisions that with respect to subsecs. (c)(1), (c)(2), and (c)(3) of this section, all persons, agencies, or organizations desiring access to the records of a student shall be required to sign forms to be kept with the records of the student, but only for inspection by the parents or the student, indicating specifically the legitimate educational or other interest of the person seeking such information, and that the form shall be available to parents and school officials having responsibility for record maintenance as a means of auditing the operation of the system.

Subsec. (e). Pub. L. 104–193, § 2(a)(1)(F), substituted “to any educational agency or institution unless such agency or institution for ‘unless the recipient of such funds’.

Subsec. (g). Pub. L. 104–193, § 2(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 and competitive programs, 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**


**Effective Date of 1992 Amendment**

Section 1555(b) of Pub. L. 102–325 provided that: “The amendment made by this section [amending this section] shall take effect on the date of enactment of this Act [July 23, 1992].”

**Effective Date of 1979 Amendment**


**Effective Date of 1974 Amendment**

Section 2(b) of Pub. L. 93–568 provided that: “The amendments made by subsection (a) [amending this section] shall be effective, and retroactive to, November 19, 1974.”

**Effective Date**

Section 513(b)(1) of Pub. L. 93–380 provided that: "The provisions of this section [enacting this section and provisions set out as a note under section 1221 of this title] shall become effective ninety days after the date of enactment [Aug. 21, 1974] of section 438 [now 444] of the General Education Provisions Act [this section]."

§ 1232h. Protection of pupil rights

(a) Inspection of instructional materials by parents or guardians

All instructional materials, including teacher manuals, films, tapes, or other supple-
mentary material which will be used in connection 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 such collection, disclosure, or use.

(2) Parental notification

(A) Notification of policies

The policies developed by a local educational agency under paragraph (1) shall provide for reasonable notice of the adoption or continued use of such policies directly to the parents of students enrolled in schools served by that agency. At a minimum, the agency shall—

(i) provide such notice at least annually, at the beginning of the school year, and within a reasonable period of time after any substantive change in such policies; and
(ii) offer an opportunity for the parent (and for purposes of an activity described in subparagraph (C)(i), in the case of a student of an appropriate age, the student) to opt the student out of participation in an activity described in subparagraph (C).

(B) Notification of specific events

The local educational agency shall directly notify the parent of a student, at least annually at the beginning of the school year, of the specific or approximate dates during the school year when activities described in subparagraph (C) are scheduled, or expected to be scheduled.
(C) Activities requiring notification
The following activities require notification under this paragraph:

(i) Activities involving 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).

(ii) The administration of any survey containing one or more items described in clauses (i) through (viii) of paragraph (1)(B).

(iii) Any nonemergency, invasive physical examination or screening that is—

(I) required as a condition of attendance;

(II) administered by the school and scheduled by the school in advance; and

(III) not necessary to protect the immediate health and safety of the student, or of other students.

(3) Existing policies
A local educational agency need not develop and adopt new policies if the State educational agency or local educational agency has in place, on January 8, 2002, policies covering the requirements of paragraph (1). The agency shall provide reasonable notice of such existing policies to parents and guardians of students, in accordance with paragraph (2).

(4) Exceptions

(A) Educational products or services
Paragraph (1)(E) does not apply to the collection, disclosure, or use of personal information collected from students for the exclusive purpose of developing, evaluating, or providing educational products or services for, or to, students or educational institutions, such as the following:

(i) College or other postsecondary education recruitment, or military recruitment.

(ii) Book clubs, magazines, and programs providing access to low-cost literary products.

(iii) Curriculum and instructional materials used by elementary schools and secondary schools.

(iv) Tests and assessments used by elementary schools and secondary schools to provide cognitive, evaluative, diagnostic, clinical, aptitude, or achievement information about students (or to generate other statistically useful data for the purpose of securing such tests and assessments) and the subsequent analysis and public release of the aggregate data from such tests and assessments.

(v) The sale by students of products or services to raise funds for school-related or education-related activities.

(vi) Student recognition programs.

(B) State law exception
The provisions of this subsection—

(i) shall not be construed to preempt applicable provisions of State law that require parental notification; and

(ii) do not apply to any physical examination or screening that is permitted or required by an applicable State law, including physical examinations or screenings that are permitted without parental notification.

(5) General provisions

(A) Rules of construction

(i) This section does not supersede section 1232g of this title.

(ii) Paragraph (1)(D) does not apply to a survey administered to a student in accordance with the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(B) Student rights
The rights provided to parents under this section transfer to the student when the student turns 18 years old, or is an emancipated minor (under an applicable State law) at any age.

(C) Information activities
The Secretary shall annually inform each State educational agency and each local educational agency of the educational agency’s obligations under this section and section 1232g of this title.

(D) Funding
A State educational agency or local educational agency may use funds provided under part A of title V of the Elementary and Secondary Education Act of 1965 [20 U.S.C. 7201 et seq.] to enhance parental involvement in areas affecting the in-school privacy of students.

(6) Definitions
As used in this subsection:

(A) Instructional material
The term “instructional material” means instructional content that is provided to a student, regardless of its format, including printed or representational materials, audiovisual materials, and materials in electronic or digital formats (such as materials accessible through the Internet). The term does not include academic tests or academic assessments.

(B) Invasive physical examination
The term “invasive physical examination” means any medical examination that involves the exposure of private body parts, or any act during such examination that includes incision, insertion, or injection into the body, but does not include a hearing, vision, or scoliosis screening.

(C) Local educational agency
The term “local educational agency” means an elementary school, secondary school, school district, or local board of education that is the recipient of funds under an applicable program, but does not include a postsecondary institution.

(D) Parent
The term “parent” includes a legal guardian or other person standing in loco parentis (such as a grandparent or stepparent with
whom the child lives, or a person who is legally responsible for the welfare of the child).

(E) Personal information
The term “personal information” means individually identifiable information including—

(i) a student or parent’s first and last name;
(ii) a home or other physical address (including street name and the name of the city or town);
(iii) a telephone number; or
(iv) a Social Security identification number.

(F) Student
The term “student” means any elementary school or secondary school student.

(G) Survey
The term “survey” includes an evaluation.

(d) Notice
Educational agencies and institutions shall give parents and students effective notice of their rights under this section.

(e) Enforcement
The Secretary shall take such action as the Secretary determines appropriate to enforce this section, except that action to terminate assistance provided under an applicable program shall be taken only if the Secretary determines that—

(1) there has been a failure to comply with such section; and
(2) compliance with such section cannot be secured by voluntary means.

(f) Office and review board
The Secretary shall establish or designate an office and review board within the Department of Education to investigate, process, review, and adjudicate violations of the rights established under this section.


1994—Pub. L. 103–227 amended section generally, substituting in subsec. (a), provisions relating to inspection of instructional materials by parents or guardians for similar provisions, in subsec. (b), provisions relating to limits on survey, analysis, or evaluations for provisions relating to psychiatric or psychological examinations, testing, or treatment, and adding subsecs. (c) to (e).

1978—Pub. L. 95–561 designated existing provisions as subsec. (a) and added subsec. (b).

(EFFECTIVE DATE OF 2002 AMENDMENT)
Amendment by Pub. L. 107–110 effective Jan. 8, 2002, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 107–110, set out as an Effective Date note under section 636 of this title.

(EFFECTIVE DATE OF 1978 AMENDMENT)

(EFFECTIVE DATE)
Section 514(b) of Pub. L. 93–380 provided that: ‘‘The amendment made by subsection (a) [enacting this section] shall be effective upon enactment of this Act [Aug. 21, 1974].’’

§ 1232i. Limitations on withholding of Federal assistance

(a) Refusal to supply personal data on students or families

Except as provided in section 1232g(b)(1)(D) of this title, the refusal of a State or local educational agency or institution of higher education, community college, school, agency offering a preschool program, or other educational institution to provide personally identifiable data on students or their families, as a part of any applicable program, to any Federal office, agency, department, or other third party, on the grounds that it constitutes a violation of the right to privacy and confidentiality of students or their parents, shall not constitute sufficient grounds for the suspension or termination of Federal assistance. Such a refusal shall also not constitute sufficient grounds for a denial of, a refusal to consider, or a delay in the consideration of, funding for such a recipient in succeeding fiscal years. In the case of any dispute arising under this section, reasonable notice and opportunity for a hearing shall be afforded the applicant.