



U.S. Department of Education provides guidance on how FERPA relates to videos and student witness statements in disciplinary context

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For several years, the U.S. Department of Education has been promising to provide formal written guidance to educational institutions on how they should handle surveillance videos as education records under the Federal Educational Rights and Privacy Act (FERPA). In a recent letter, the Department's Office of the Chief Privacy Officer (CPO) released a letter that addresses the status of such videos, as well as student witness statements, in the context of a multi-student disciplinary incident.

The question arose from a situation that involved six students hazing two other students. The video showed four of the perpetrators taking the two victims into the wrestling room, where the incident occurred, while the other two perpetrators remained in the hallway as "lookouts." The district also collected witness statements as part of its investigation. These records were kept by the district (not its "law enforcement unit") and were used to discipline the students involved in the hazing.

The district received a request from a parent of one of the disciplined students to review a copy of the video and witness statements. The district indicated that it did not have the ability to blur the images of the other students shown on the video and could not afford to purchase software to perform the task. The district asked if it could release the unredacted video and witness statements to the parent without obtaining consent from the others.

The CPO responded as follows:

- The video and witness statements are education records of all the students who were disciplined as a result of the incident.
- The video and witness statements are education records of the victims of the hazing incident.
- The parents of these students (or the students themselves, if they are eligible students) have a right to view these education records, subject to the following conditions:
 - if the videos and witness statements contain personally identifiable information (PII) about other students, that information must be redacted or segregated before the viewing if that can be accomplished “without destroying its meaning,” and
 - if the PII about other students cannot be redacted or segregated without destroying its meaning, then the parents/eligible students must be allowed to access/review the unredacted record.
- FERPA does not require that the district provide copies to the parents/eligible students unless failing to do so would effectively deny them their right to inspect and review the records.
- However, if the state records law would require the district to provide a copy of the record to the parents/eligible students, FERPA does not prevent this.

It should be noted that the CPO’s guidance letter, although helpful in the student disciplinary context, does not explicitly address the status of surveillance videos in more general, non-disciplinary settings. Nor does the letter attempt to address the impact of state student privacy laws, such as Ohio’s student confidentiality statute ([ORC 3319.321](#)), which would also need to be considered whenever Ohio school district administrators are responding to similar requests.

The full text of the letter can be accessed [here](#).

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