



Risk Research Bulletin

When to Alert Parents of Self-Harming Students: Share Concerns When It's in the Student's Best Interest

Colleges and universities continue to face challenges related to students with mental health issues. Deciding whether and when to notify parents that a student is not coping well with campus life or is engaging in self-harming or suicidal behavior can be difficult. Establishing practices to guide administrators through these tough decisions is critical. United Educator's (UE) claims show that colleges are more likely to be sued for not notifying parents about a student's psychological or self-injurious condition than for alerting parents about potential problems.

This publication focuses on situations in which the student's own health or safety is jeopardized—rather than when a student poses a threat to another—and provides a framework to assist administrators in making notification decisions under FERPA, the Family Educational Rights and Privacy Act. This statute protects the confidentiality of student “education records” or any information directly related to a student and maintained by an educational institution. FERPA provides great flexibility in protecting the health and safety of students. However, when mental health or other medical professionals are involved, state laws and professional rules are often more restrictive than FERPA.

Mental Health on Campus

National Research Findings

General trends indicate an increase in reported student mental health issues on campus. In 2015, the Center for Collegiate Mental Health compiled data from 100,000 students treated in campus counseling centers for mental health issues and found a significant increase in student need for mental health resources over five years. Findings included:

- The average demand for counseling center services grew five times faster than student institutional enrollment.
- Twenty-five percent of students receiving on-campus mental health treatment reported behaviors indicative of self-harm, such as cutting, hitting, or burning.
- For the academic year 2014–15, 32.9 percent of students who were in mental health treatment had seriously contemplated suicide, and 9.5 percent had attempted suicide—up from 8.9 percent the year before.

UE Claims

From 2011 to 2015, UE received 171 claims—nearly three per month—involving student mental health issues. More than 90 percent of the claims involved students who had attempted or committed suicide. In many of these cases, the students had shown signs of troubling behavior and were receiving treatment from the campus counseling center. Frequently, however, the parents of these students were unaware of their child's struggles.

In these claims, the institutions often felt at odds with student privacy laws, which they perceived as restricting information sharing with parents. However, an examination of legal and practical considerations for parental notification of student mental health issues reveals that a student's best interests and the law are rarely at odds. In most circumstances, the law allows parental notification of student information when that disclosure is motivated by a reasonable belief that it will help the student.

Other Privacy Considerations

FERPA vs. HIPAA

A common misconception is that the Health Information Portability and Accountability Act (HIPAA) restricts the disclosure of student health records maintained by educational institutions. In fact, the privacy protections of HIPAA do not apply to student health records maintained on campus. Rather, student health information is subject to FERPA's privacy and disclosure rules.

Campus medical professionals

Significantly, however, campus medical professionals, such as counseling center staff, are also guided and bound by state licensing and ethics requirements, which are typically more restrictive than FERPA. These professionals must inform students, in writing—usually through an intake or informed consent form—and orally, about the confidentiality of the patient information so that the student understands how decisions about disclosures are made.

For example, when a student discusses suicidal ideation during a counseling session he or she should not worry that the counselor will freely disclose this discussion to the student's parents.

However, a psychologist or counselor may request a student's written consent to disclose treatment information to parents—or others—if warranted. If the student agrees, he or she would sign a release authorizing the disclosure of specific information. To ensure these releases comply with applicable state laws, involve your institution's legal counsel in the drafting.



FERPA's Privacy Protections

FERPA protects “education records,” which are broadly defined and include most records created by educational institutions, including transcripts, disciplinary records, and notes about a student’s status. Under the statute, records that relate directly to a student may not be disclosed to parents and other individuals without the student’s consent or unless an exception applies. FERPA has many exceptions, including those outlined below, that permit the sharing of student education records.

Personal observations are not subject to FERPA

Importantly, personal observations by institution employees, such as personal knowledge or information heard from others regarding a student’s physical or mental state are not subject to FERPA. If the school official is not required to document the observation in the normal course of their job duties, they are free to disclose that observation without restriction, but are not required to do so.¹

For example, if a student’s academic advisor observes cuts or burns on a student, the advisor may share that information with the student’s parent even if someone else in the institution documented the same observations in an official incident response report. However, the advisor should carefully consider whether to notify the parents directly, rather than taking the matter to the dean of students or the school’s behavioral intervention team, consistent with the guidance below.

Another example would be a professor who notices a student crying alone and appearing despondent. While these observations are subject to FERPA when placed in a student record, such as an investigation report, the professor’s independent personal observations are not protected and may be freely shared with the student’s parents or others concerned about the student. Again, even though the disclosure is permitted by FERPA, that does not mean it aligns with the institution’s policy or the student’s best interest; that requires separate analysis.

¹ Note, however, someone who has a duty to create an education record consisting of observations as part of their job requirements cannot simultaneously rely on “personal observation” as a means of disclosing that same information.



Important exceptions to FERPA's record sharing restrictions

When a record or information is subject to FERPA's protections, the institution must then decide if disclosures to parents or other individuals without the student's consent are permitted under specified exceptions. FERPA allows education records to be disclosed to parents when (among other exceptions):

- The student is a dependent under the Internal Revenue Code. A dependent is a student whom either parent has claimed as a dependent on the parent's most recent federal income tax return. Dependent status may become known through financial aid applications or parents can disclose it to the school. When the student is a dependent, under this exception, an institution may disclose to parents any information related to the student. For example, the school may release not only health information, but also records such as the student's transcript, disciplinary record, and financial records.

- The information pertains to a student's use or possession of alcohol or a controlled substance, if the student is under 21 at the time of the disclosure and has been found to have committed a related disciplinary violation. This is a narrow exception and applies only after a disciplinary violation determination has been made.
- A student has been found responsible for violating the institution's policy if he or she was determined to be a perpetrator of a crime of violence or non-forcible sex offense.
- The information shared may help address a threat to health or safety.



The Health or Safety Exception

An institution can disclose otherwise protected information if doing so seems likely to help protect the health or safety of the student involved or others. In relying on this exception, institutions are required to document the “articulable and significant threat” that provided the rational basis for the disclosure using the information known at the time, and the parties to whom the disclosures were made.

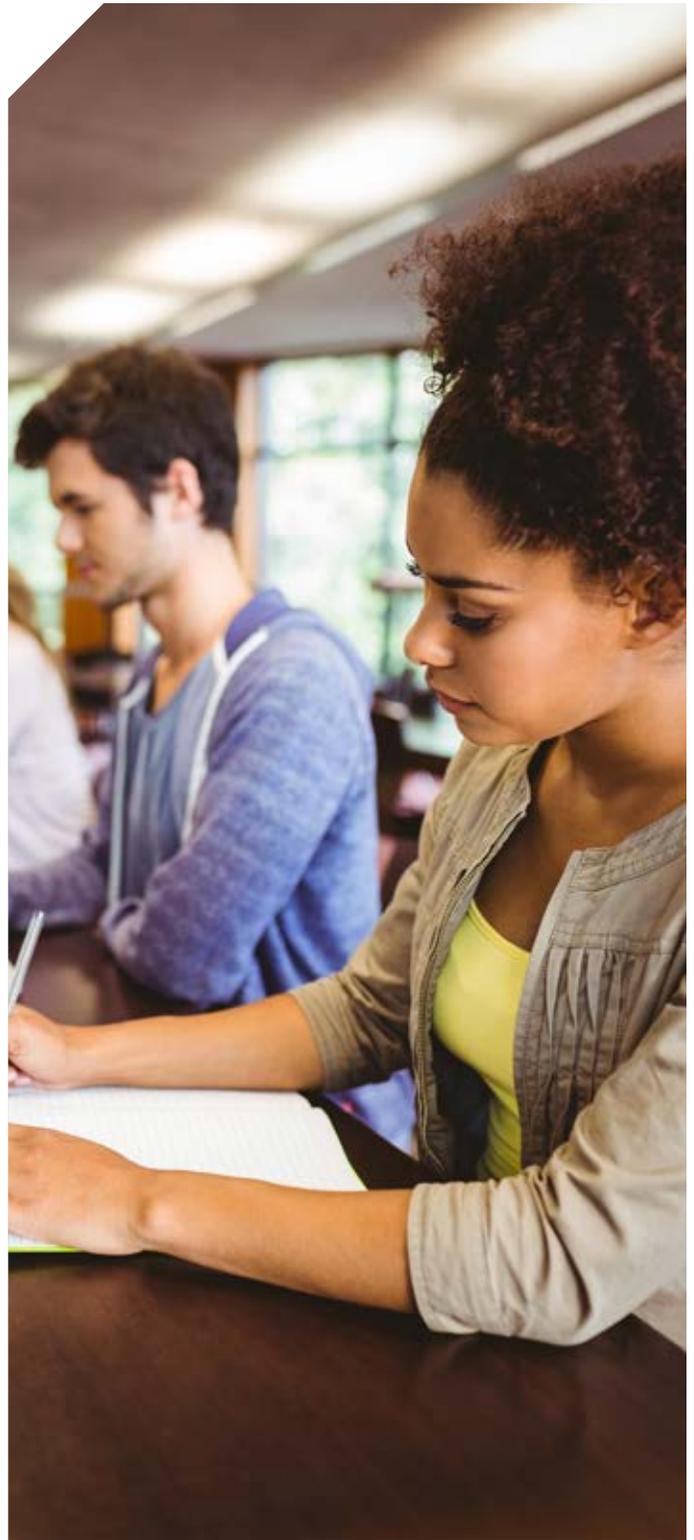
For example, if a student has made a threat of suicide to the dean of students and the dean believes the student’s parents need this information to assist the student to seek help, the school may, after reviewing all of the circumstances, release that information to the parents.

Or, if a student is hospitalized due to an eating disorder and fainting in class, a campus administrator may determine that it is best to notify that student’s parents to help obtain long-term care for the disorder.

The institution in each of these examples must then document, in the student’s education record, the:

- Threat to the student’s health or safety
- Circumstances leading to the determination that disclosure is an appropriate option at the time
- Person making the decision to disclose
- Parties to whom the disclosure was made

Decisions regarding disclosure should not be made lightly nor without consultation. If someone believes disclosure of student information should be made under the health or safety exception, it is best to consult with someone in a position of authority (such as a dean or legal counsel) before making a final decision.



Institutional Policies on Confidentiality and Parental Disclosure

To comply with FERPA when alerting parents about concerning student behavior, institutions should consider a two-pronged approach of using student waivers and a sound confidentiality policy. Many colleges request that students sign a FERPA waiver each academic year allowing the institution to share otherwise-protected information with parents. If a school does not require blanket waivers, or if it cannot obtain signed waivers, a policy on the confidentiality of student mental or physical health information and parental notification should be in place. Policies establish standards and clarify the institution's approach for students, their parents or guardians, faculty, and staff.

An institution should consider addressing the following in its policy on confidentiality:

- The circumstances under which students are requested to voluntarily disclose information to parents, such as when they are placed on academic probation.
- A list of campus officials, often a dean of students or residence life director, who are responsible for making nonconsensual disclosures to parents. Consider a broad policy that will allow the institution to contact parents when a situation meets the health and safety exception to FERPA.
- Examples of situations when the institution will notify parents, including life-threatening or serious illnesses, such as hospital visits for alcohol poisoning or drug overdoses; misconduct that may result in a loss of housing, suspension, or expulsion; and serious behavioral issues.
- Examples of when the institution will not notify parents, such as a student's routine visit to the health or counseling center.

Also, consider requiring that two or more campus officials in separate functional areas concur on any disclosure made without a student's consent. Make those disclosures in a manner consistent with the designated officials' experience and the institution's interpretation of FERPA's requirements and exceptions. Decisions requiring a legal review should be listed in the policy. Consider documenting in writing the reasons either to notify or not notify parents in each case.

Widely communicate the institutional policy as appropriate, and incorporate it into student, faculty, staff, and parent handbooks, and campus websites. Send a copy of the policy with the required annual notices explaining students' and parents' rights under FERPA. Share the policy with campus health and counseling professionals, and train all employees on the policy so that it is consistently applied.



Other Helpful Practices

Beyond establishing a policy on confidentiality and parental notification, consider these additional practices to ensure students receive timely care or treatment:

- Set up behavioral intervention teams to review concerning student behavior and suicide threats. These interdisciplinary teams may include staff members from residential life, judicial affairs, student affairs, public safety, legal office, counseling center, and others to ensure that appropriate referrals and interventions, including parental notification, are made with troubled students. These individuals may have a “job-related need to know” that permits sharing information under FERPA. Remember counselors in a therapeutic relationship with a student will be restricted in their disclosures (see [Other Privacy Considerations](#)), but can learn from the team and provide the team with general guidance.
- Share information with parents about typical developmental and adjustment issues affecting students on campus, such as articles on the warning signs of various emotional problems and suggestions for how to talk to college-age children. Disseminate information at orientation or through an appointed parent ombudsperson, parent website, or newsletter.
- Provide parents with campus contact information, including counseling staff, in case they wish to raise questions and concerns about a student. Health professionals and college staff likely cannot tell parents about a student’s particular condition, but the parent can share valuable information that will help the institution deal with a troubled student.

The best practice is to encourage voluntary disclosures between students and parents whenever possible. When students resist voluntary disclosures, institution policies should guide administrators through these difficult decisions. Keep in mind the best interest of the student when determining whether FERPA prohibits the institution from disclosing information to parents.

Resources

[NC State University Student Confidentiality and FERPA](#)

[NC State University Student Records Policy](#)

[Cornell College Confidentiality of Student Records \(FERPA\) Information](#)

[University of Maryland Student Counseling Center Confidentiality Information](#)

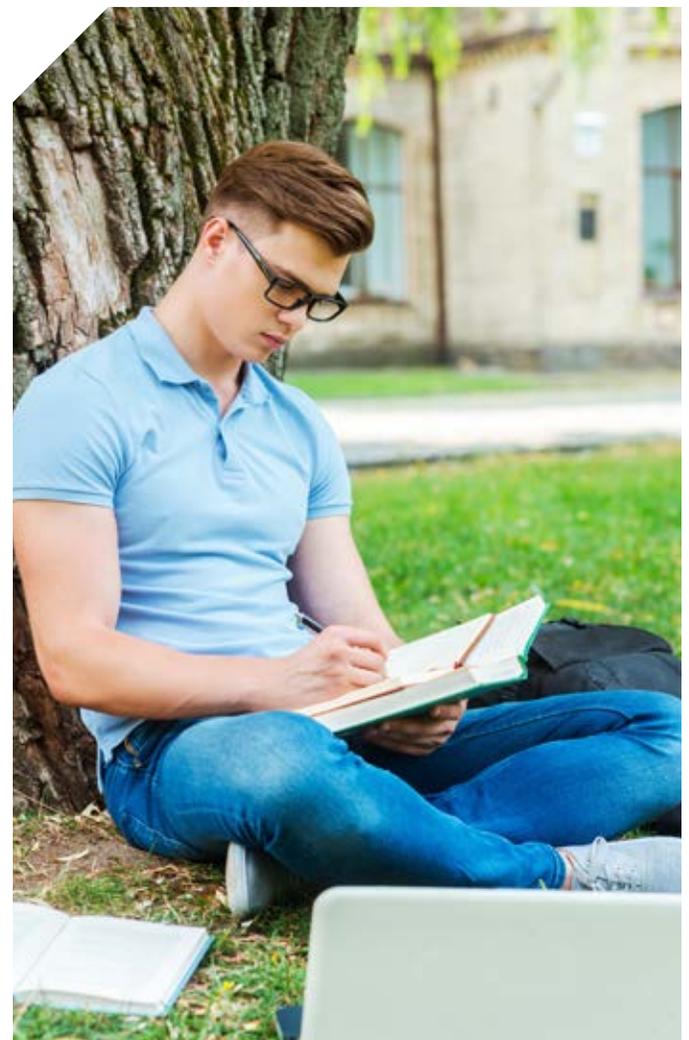
[Tennessee Board of Regents Confidentiality of Student Records Policy](#)

[Dominican College Confidentiality Policies](#)

[Michigan State University Counseling Center Confidentiality Statement](#)

[FERPA regulations \(2008\)](#)

[University of South Florida FERPA Waiver Form](#)



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