

Privacy and Data

AACRAO is deeply committed to promotion of privacy policies that maintain the confidentiality of the highly sensitive data that students willingly entrust to educational institutions. In 1974, the passage of the Family Educational Rights and Privacy Act (FERPA) ushered in a new era for educational privacy rights through its application of fair information practices to educational records. The culture of privacy is so deep-rooted within the education community that there have been few violations of FERPA over the past four decades.

FERPA has provided individuals, or their parents in the case of minors prior to enrollment at postsecondary institutions, with the right to inspect and review their educational records, exercise significant control over the disclosure of information from those records, and correct or amend erroneous information in the records. The regulations included several “fair information practices” to provide for these rights.

With this background, AACRAO views the amendments to FERPA regulations published by the Department of Education in December 2011 as an abdication by the Department of its historical role as a protector of Americans' educational privacy rights. In fact, in some critical instances, the amended regulations run counter to legislative intent and plain language of the law.

Although the amendments purport to address the need to improve data on student outcomes by enabling student-level tracking, which is unavailable through the aggregated data on the IPEDS system, they in fact compromise basic fair information practices such as consent, choice, inspection, amendment, control or data minimization. They compromise the ability of families and students to control the collection, warehousing, and data-mining of their educational records for unspecified and open-ended purposes. AACRAO will work with Congress to rescind these amendments.

State Longitudinal Data Systems (SLDS) –

AACRAO is also concerned about the extent of legitimate individual privacy concerns manifested in another data-driven initiative, the federally-funded State Longitudinal Data Systems (SLDS). These state-based data systems are designed to serve as data repositories of individual unit-level student records. As a result of regulatory modifications to FERPA in 2009 and 2012, the SLDS currently under development do not incorporate basic fair information practices—such as notice and choice, right of review, correction and amendment, and the right to control re-disclosure of unit-level data records—in their policies and operating procedures. AACRAO will work with its members and federal and state policymakers to ensure that the states engage in and encourage the development and adherence to best practices to protect student privacy while meeting their data needs.