



# Oregon Department of Education

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HB 2712: Civil Penalties  
House Education Committee  
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Chair Doherty, members of the committee, for the record I am Ben Tate, Chief Information Officer at the Oregon Department of Education. I am here today to testify on HB 2712 which directs the State Board of Education to adopt a schedule of civil penalties for violations of student education records laws.

### Background:

The federal Family Educational Rights and Privacy Act protects the privacy of student education records. The law applies to all schools that receive federal funds. From the web page:

FERPA gives parents certain rights with respect to their children's education records. These rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level.

Parents or eligible students have the right to inspect and review the student's education records maintained by the school. Schools are not required to provide copies of records unless, for reasons such as great distance, it is impossible for parents or eligible students to review the records. Schools may charge a fee for copies.

Parents or eligible students have the right to request that a school correct records which they believe to be inaccurate or misleading. If the school decides not to amend the record, the parent or eligible student then has the right to a formal hearing. After the hearing, if the school still decides not to amend the record, the parent or eligible student has the right to place a statement with the record setting forth his or her view about the contested information.

Generally, schools must have written permission from the parent or eligible student in order to release any information from a student's education record. However, FERPA allows schools to disclose those records, without consent, to the following parties or under the following conditions (34 CFR § 99.31):

- School officials with legitimate educational interest;
- Other schools to which a student is transferring;
- Specified officials for audit or evaluation purposes;
- Appropriate parties in connection with financial aid to a student;
- Organizations conducting certain studies for or on behalf of the school;
- Accrediting organizations;
- To comply with a judicial order or lawfully issued subpoena;
- Appropriate officials in cases of health and safety emergencies; and
- State and local authorities, within a juvenile justice system, pursuant to specific state law.

Schools may disclose, without consent, "directory" information such as a student's name, address, telephone number, date and place of birth, honors and awards, and dates of attendance. However, schools must tell parents and eligible students about directory information and allow parents and eligible students a reasonable amount of time to request that the school not disclose directory information about them. Schools must notify parents and eligible students annually of their rights under FERPA. The actual means of notification (special letter, inclusion in a PTA bulletin, student handbook, or newspaper article) is left to the discretion of each school.

Issue:

Currently, the US Department of Education enforces the Family Educational Rights and Privacy Act. HB 2712 would expand that to the state level, as well.

Legislation:

HB 2712 directs the State Board of Education to adopt a schedule of civil penalties for violations of student education records laws. ODE does not currently impose civil penalties for the violation of any other statute.

Concerns:

- The bill is unclear as to who would investigate FERPA violations. If the intent is ODE, it should probably be more explicit.
- Does the Legislature wish to provide more guidance on the penalty amount? Currently there is no minimum or maximum in the bill.
- Does the Legislature desire an appeals process?
- If the intent is to give ODE the authority to impose a civil penalty on a school district, it would be best if the statute gave it that authority explicitly.
- Would Department of Justice be a more appropriate agency?