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# EDUCATION DAILY<sup>®</sup>

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## **Key points:**

- In 2018, 17 school shootings have occurred, according to expert
- Observers say more technical assistance is needed on FERPA
- Complicating privacy efforts is a shakeup at Education Department

## **White House proposes FERPA review, but experts say more technical aid needed**

Seventeen school shootings in 2018 to date, including the Feb. 14 shooting at Marjory Stoneman Douglas High School in Parkland, Fla., and a March 20 shooting at Great Mills High School in Maryland, is motivating the Trump administration to consider a review of the Family Educational Rights and Privacy Act.

The White House recently recommended several school safety measures that included a call to review FERPA to "determine if any changes or clarifications are needed to improve coordination between mental health and other healthcare professionals, school officials, and law enforcement personnel."

This is the second time FERPA has come under review after an act of school violence.

In 2009, FERPA regulations were amended after the Virginia Tech shooting to clarify what disclosures are allowed if educators or administrators have safety concerns. The final regulations gave greater deference to school officials' discretion in disclosing information from education records when there is a threat to student health and safety.

Although previous language had required that the determination of an emergency must be "strictly construed," the U.S. Education Department applied a less stringent "rational basis" standard in the 2009 amendments, allowing school staff to use their best judgment to disclose information from the student's education record, without consent, to appropriate parties.

Carolyn Reinach Wolf, former president of the National Behavioral Intervention Team Association and a mental health family attorney, said the recent spate of school shootings warrant increased training on FERPA, but not changes to the law itself.

"I don't think it's a matter of changing the law, so much as it is about educating people about the law," she said. "In 2009, after Virginia Tech, it was expanded, and it clarified the exceptions of the law so that people couldn't use it as a shield."

"There were always health and safety exceptions in these laws," she added. "The law always provided for people in the system to share information."

School officials should take advantage of these exceptions and share any "red flags" with educators and stakeholders from across disciplines in order to identify students at risk and put in place interventions, she said.

"Teachers and school counselors are on the front lines," Wolf said. "They see a student change, become more withdrawn, and they read their writings talking about violence. They hear from other students if they talk about 'Columbine killings' or 'wanting to buy a gun.' You can train lay people to pick up on mental health issues and red flag behavior."

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## Federal role

Concerns about FERPA in regard to reporting and threat assessment comes at a time when the U.S. Education Department is undergoing an agencywide reorganization that could impact the technical assistance and guidance issued by the Office of the Chief Privacy Officer.

ED recently disclosed that it reassigned former Chief Privacy Officer, Kathleen Styles, replacing her with the deputy officer on an interim basis effective April 1.

Michael Hawes, the director of student privacy policy in the Office of the Chief Privacy Officer, offered assurances, saying the office will maintain its level of productivity in responding to FERPA questions and technical requests.

But the sentiment was not widely shared among some privacy advocates.

Amelia Vance, director of education privacy and policy counsel for the Future of Privacy Forum, said she believes the Trump administration's school safety proposal "highlights the importance of the Chief Privacy Officer role and the need for the provision of clear technical assistance to states and districts."

"The current FERPA health and safety exceptions are likely sufficient and do a good job balancing student privacy with student safety, but the federal government needs to provide more technical assistance to ensure that school personnel know those exemptions exist," she said.

*--Emily Ann Brown covers education technology and STEM education issues for LRP Publications.*

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