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## Department of Education Offers Guidance on Balancing Campus Safety and Student Privacy Rights

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Alexandria, Va.

The U.S. Department of Education released new guidance on Tuesday to parents and educators about the circumstances under which information about troubled students can be disclosed under the Family Educational Rights and Privacy Act of 1974, a federal law governing student records that is often criticized for being too complicated.

The guidance— in a series of pamphlets for parents, elementary and secondary-school officials, and college administrators— is meant to provide some "rules of the road" regarding the law in the wake of the shootings at Virginia Tech, Secretary of Education Margaret Spellings said at a news conference during a visit to a high school in a Washington suburb.

Specifically, the guides state that the law, which is known as Ferpa, permits educators to share confidential information with law-enforcement officers, medical personnel, and others without student consent when necessary to protect the health or safety of students or other individuals. In addition, institutions can disclose education records to parents if a health or safety emergency involves their son or daughter, according to the department's interpretation of the privacy law.

Providing greater clarity about Ferpa was a key recommendation of a June fact-finding report to President Bush by Secretary Spellings and two other top administration officials. The report concluded that educators, mental-health providers, and law-enforcement officials often do not exchange information about troubled students because of differing, and sometimes overly narrow, interpretations of Ferpa ([The Chronicle](#), June 14).

Indeed, Virginia Tech officials have said they had not shared information about Seung-Hui Cho, the university senior who was the gunman in last April's massacre, because of privacy concerns.

Tuesday's announcement is one of the first signs of action on the federal level, six months after Mr. Cho killed 32 students and professors on the Blacksburg campus. (The House of Representatives has passed gun-control legislation calling for better communication between the states and the National Instant Criminal Background Check System, but the Senate has not acted on the measure.)

### Going Over Well-Trodden Ground

The new brochures lay out what types of information can be disclosed, and with whom and when it can be shared. The pamphlet for college and university officials, for example, notes that colleges may release education records to parents if the student is a dependent for income-tax purposes or has committed an offense related to drugs or drinking. It also states that schools and colleges are permitted to share all records, including disciplinary information, with other institutions in which a student seeks to enroll.

In crafting the guides, the department does not appear to be staking out new territory, in terms of policy, but rather seems to be hewing to its long-standing reading of the law.

The department had the opportunity to reinterpret Ferpa in light of recent events but chose not to, said Peter F. Lake, a professor of law at Stetson University College of Law and director of its Center for Excellence in Higher Education Law and Policy.

"It was a big swing and a miss," Mr. Lake said.

U.S. Rep. Tim Murphy, a Republican from Pennsylvania, said he had no quarrel with the Department of Education's latest guidance but said there was a "void" in the current law: While colleges cannot be sued in federal court for releasing records under Ferpa, cases can still move forward in state court. Mr. Murphy has introduced legislation that would shield colleges from legal action in response to such disclosures, as long as they consulted a mental-health professional before releasing the information ([The Chronicle](#), October 5).

"We need to take this unreasonable and inappropriate burden off faculty and administrators," he said.

The June report to President Bush also called on federal agencies to review whether Ferpa and other laws should be changed to better balance students' privacy with safety concerns, but Secretary Spellings said at Tuesday's news conference that she was not ready to endorse new legislation.

"First things first," she said, arguing that the clarified policy should be given time to work before "we leap into changes."

She also said Michael O. Leavitt, secretary of health and human services, was reviewing the Health Insurance Portability and Accountability Act of 1996, which covers the use and disclosure of private health information, and would probably offer similar guidance on interpreting that law.

The brochures have been sent to colleges and schools across the country and are available on the Department of Education's [Web site](#).

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