

Disclosure of Student Protected Information to Employee Unions

Please review this information and reinforce with your staff.

United States Department of Education (USDOE) has recently ruled that labor union officials are not considered to be school officials with whom student protected information can be shared. This prohibition extends to DOE employees who take on union duties, when they are performing union duties. This means that employees should not email unions with student protected information included or attached, nor disclose it verbally, nor include it in other documents. If student protected information is included or attached, or disclosed verbally or in other documents, this may be a violation of FERPA. Exceptions to this rule exist. For example, student protected information may be disclosed to union officials in the following scenarios:

- When doing so is necessary to comply with a federally guaranteed due process right, as may be the case in a disciplinary proceeding, which can include a disciplinary conference when an employee may bring a union representative.
- When all student/family personally identifiable information (PII) has been redacted from the materials being shared. In other words, disclosure is permitted where the information has been completely anonymized so that there would be no way for anyone to identify a student or their family from what you choose to share.
- When information is shared with one of the three UFT special education liaisons who work directly with the Division of the Chief Academic Officer. These employees meet USDOE's definition of school officials, and so are permitted to access student information to perform that function.

If you have any questions about whether disclosure of protected information with union officials is permitted, please contact your [senior field counsel](#).