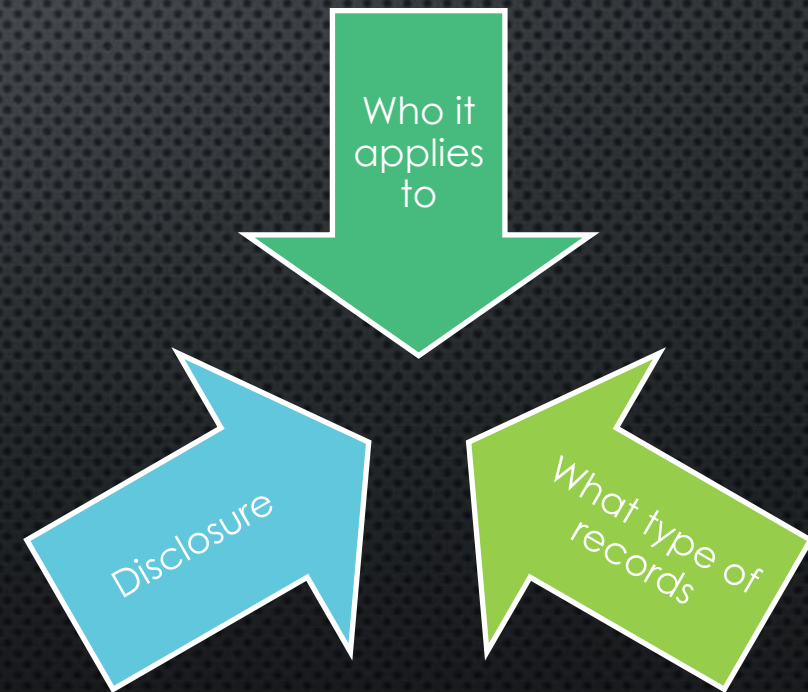


A grayscale photograph of a science classroom. In the foreground, a student is using a microscope. In the background, other students are also working with microscopes. The image is dark and has a halftone dot pattern.

SCHOOL RECORDS

SARA DI VITTORIO
CEDAR LAW, PLLC

FAMILY EDUCATIONAL RIGHTS & PRIVACY ACT (FERPA)





WHO HAS TO FOLLOW FERPA?

- ANY INSTITUTION RECEIVING FUNDING FROM THE DEPARTMENT OF EDUCATION
 - DOES NOT APPLY TO PAROCHIAL OR PRIVATE ELEMENTARY OR SECONDARY SCHOOLS
 - USUALLY APPLIES TO BOTH PUBLIC AND PRIVATE POSTSECONDARY SCHOOLS
-
- UM, BUT WAIT, WHAT HAPPENS IF THERE IS NO DEPARTMENT OF EDUCATION?



FERPA APPLIES TO “ELIGIBLE STUDENTS”

When the “eligible student” is under 18, the rights are held by the student and their parent

When the “eligible student” is over 18 or is in a postsecondary institution, their parents no longer have the rights

Running start kids are a hybrid



WHAT ARE “EDUCATION RECORDS”?

- RECORDS THAT CONTAIN INFORMATION DIRECTLY RELATED TO A STUDENT AND WHICH ARE MAINTAINED BY THE INSTITUTION OR BY A PARTY ACTING FOR THE INSTITUTION.



- INFORMATION OBTAINED FROM PERSONAL KNOWLEDGE OR OBSERVATION, OR HEARD ORALLY FROM OTHERS, IS NOT PROTECTED. EVEN IF IN AN EDUCATION RECORD, UNLESS THE OFFICIAL ROLE IN MAKING A DETERMINATION THAT GENERATED A PROTECTED EDUCATION RECORD.
 - THINK GOSSIP



School can does not have to maintain specific education records and can destroy without notice (unless there's a pending request by an eligible student).



Inspection within 45 days – must provide copies if they can't inspect



No duty to create education records



No duty to provide information or non-education records

MORE ON
“EDUCATION
RECORDS”



DISCLOSURE

- AN INSTITUTION CANNOT DISCLOSE TO A 3RD PARTY WITHOUT THE ELIGIBLE STUDENT'S WRITTEN CONSENT.
- UNLESS...

AN INSTITUTION MAY DISCLOSE IN OTHER CIRCUMSTANCES

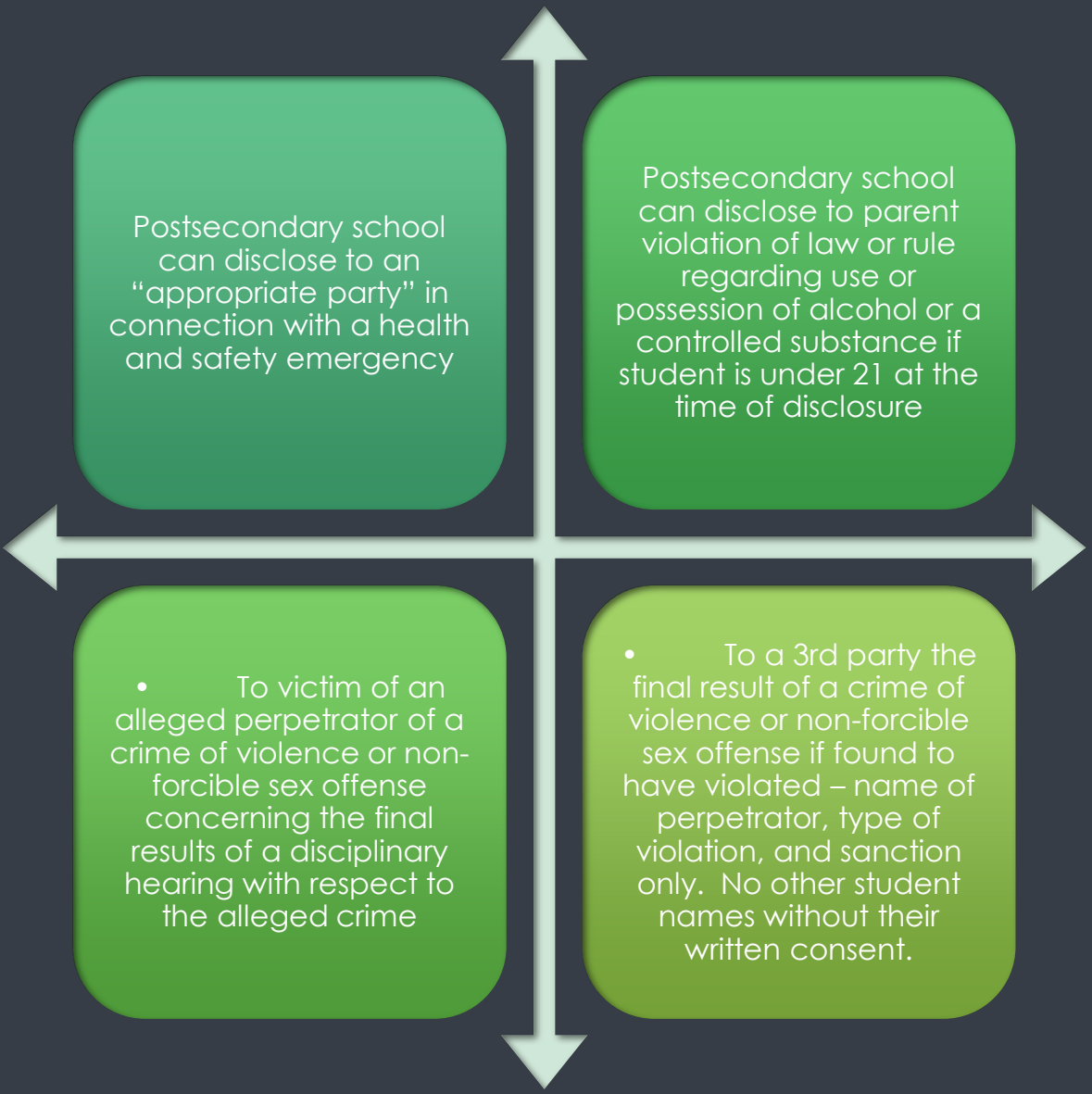
To “school officials” for
“legitimate educational
interest”

To another school where
eligible student seeks or
intends to enroll

For financial aid needs

To the parents of a
“dependent student”

To the federal government
for audit or evaluation of
federal or state supported
education programs or
enforcement/compliance
with fed legal requirements
related to those



Postsecondary school
can disclose to an
“appropriate party” in
connection with a health
and safety emergency

Postsecondary school
can disclose to parent
violation of law or rule
regarding use or
possession of alcohol or a
controlled substance if
student is under 21 at the
time of disclosure

- To victim of an
alleged perpetrator of a
crime of violence or non-
forcible sex offense
concerning the final
results of a disciplinary
hearing with respect to
the alleged crime

- To a 3rd party the
final result of a crime of
violence or non-forcible
sex offense if found to
have violated – name of
perpetrator, type of
violation, and sanction
only. No other student
names without their
written consent.

AN INSTITUTION
MAY DISCLOSE
IN OTHER
CIRCUMSTANCES

AN INSTITUTION MAY DISCLOSE IN OTHER CIRCUMSTANCES

To comply with court order or subpoena – prior to disclosing, institution must make a reasonable effort to notify the family of the order or subpoena (also required by RCW 28A.600.460)

Directory info

- May include name, address, email, phone, photo, date/place of birth, major, rec activities, weight, height, states of attendance, degrees/awards, previous school, grade level, enrollment status, etc.



WHAT ABOUT VIDEO RECORDINGS AND PHOTOS?

- WHEN IS IT AN EDUCATION RECORD?
 - DIRECTLY RELATED TO A STUDENT AND MAINTAINED BY AN INSTITUTION

WHEN IS A VIDEO/PHOTO DIRECTLY RELATED TO A STUDENT?

- WHEN IT IS USED FOR DISCIPLINE
- WHEN THE PERSON TAKING IT INTENDS THE STUDENT TO BE THE FOCUS
- WHEN IT CONTAINS PII CONTAINED IN THE STUDENT'S RECORD
- WHEN IT SHOWS AN ACTIVITY
 - EX: SHOWS A STUDENT IN VIOLATION OF LOCAL, STATE, OR FEDERAL LAW OR SHOWS A STUDENT GETTING INJURED, ATTACKED, VICTIMIZED, ILL, OR HAVING A HEALTH EMERGENCY



WHAT IF THERE ARE MULTIPLE STUDENTS IN THE VIDEO/PHOTO

- IF ONE OF THE PARENTS REQUESTS, ALLOW VIEWING TO THAT PARENT
 - MUST REDACT IF YOU CAN, BUT IF NOT, THEN THEY CAN STILL REVIEW
 - DOES NOT VIOLATE FERPA TO PROVIDE A COPY, BUT FERPA DOES NOT REQUIRE IT
 - CAN'T CHARGE FOR REDACTION OR FOR COPIES UNDER FERPA
 - REMEMBER THE PRA!

THANK

YOU

SOMEONE@EXAMPLE.COM