

TO: Interested Parties
FROM: Amanda Fuchs Miller, Seventh Street Strategies and Reg Leichty, FLP Advisors
RE: U.S. Department of Education Dear Colleague Letter on the National Study of Learning, Voting and Engagement and FERPA Considerations
DATE: February 6, 2026

Yesterday, the Department of Education sent a letter to presidents of Institutions of Higher Education designed to stop efforts to promote voting among college students. According to the [Dear Colleague Letter](#) (DCL), colleges and universities are being told not to participate in the National Study of Learning, Voting and Engagement (NSLVE) study and to wait to utilize any 2026 NSLVE data, despite the fact that no determination has been made by the Department that participation in or use of NSLVE studies violates any privacy statutes. NSLVE has been in place for a decade, has more than 1000 colleges and universities participating, and is a “study of student political engagement in higher education institutions.” Campus reports contain only de-identified data and are provided to participating institutions for use in improving civic engagement on their own campuses.

What does this mean if you are a college or university that participates in NSLVE?

The DCL admits that the Department’s conclusion that NSLVE is in violation of FERPA is based on "preliminary analysis" and says it has "concerns" about NSLVE’s use of data but it does not state that NSLVE or the use of the NSLVE data violates any laws, including privacy laws.

The DCL does not change FERPA, does not identify a specific statutory violation, and does not prohibit institutional participation in NSLVE under existing law.

Is using the data or participating in NSLVE a violation of FERPA?

FERPA compliance turns on whether disclosures fall within established statutory exceptions or involve de-identified data. NSLVE was specifically structured to comply with FERPA through multiple, overlapping protections, including reliance on directory information, the FERPA “studies” exception, and the use of de-identified, aggregate data only. The reports do not contain personally identifiable information and are only sent to the institution. NSLVE has addressed the ways it is in compliance with FERPA here - <https://tufts.app.box.com/v/idhe-nslve-ferpa-faq>

How can we help?

As your institution works to address this new guidance, we can provide information and insights into the relationship between FERPA and NSLVE data, advise you on student concerns that arise, and provide support so you can effectively communicate with impacted partners about the project and the guidance. We can also work with you to assess any risks while ensuring that you don’t preemptively make changes that are not needed based on current law. Educating policymakers may also be helpful to ensure continued use of this data and we can work with you to put together and implement an effective congressional education strategy.

Amanda Fuchs Miller was the Deputy Assistant Secretary for Higher Education Programs at the U.S. Department of Education in the Biden-Harris Administration and authored the toolkit on “Promotion of Voter Participation for Students” that is cited in the Dear Colleague Letter. Reg Leichty is the Founding Partner of the education law firm Foresight Law + Policy and regularly advises educational agencies and institutions on FERPA compliance.

To learn more about how we can assist you, please contact Amanda Fuchs Miller at amanda@seventhstreetstrategies.com and Reg Leichty at Reg.Leichty@FLPAdvisors.com.