

NOTIFICATION OF CONFIDENTIALITY RIGHTS REGARDING EDUCATION RECORDS OF STUDENTS WITH DISABILITIES AND THEIR PARENTS

Confidentiality of education records is a right of public school students and their parents. This right is provided for by two federal laws, the Individuals with Disabilities Education Act (IDEA), and the Family Educational Rights and Privacy Act (FERPA). Under these laws, "education records" means those records that are: (1) directly related to a student; and (2) maintained by an educational agency or institution or by a party acting for the agency or institution. Of course, education records are maintained on every child enrolled in a public school. The types of information gathered and maintained includes, but is not limited to: the student's and parents' names, address and telephone number; the student's date and place of birth, date of enrollment in the school, records from previous schools attended, attendance record, subjects taken, grades, school activities, assessment results, number of credits earned, immunization records, disciplinary records, if any, correspondence from parents, and child find and other screening results, including hearing and vision screening results.

In addition, for children with disabilities, education records could include, among other things, evaluation and testing materials, medical and health information, each annual Individualized Education Program (IEP), notices to parents, notes regarding IEP meetings, parental consent documents, information provided by parents, progress reports, assessment results, materials related to disciplinary actions, and mediation agreements.

The information is gathered from a number of sources including the student's parents and staff of the school of attendance. Also, with parental permission, information may be gathered from additional sources including doctors and other health care providers.

This information is collected to assure proper identification of a student and the student's parents and the maintenance of accurate records of the student's progress and activities in school. For children with disabilities, additional information is collected in order to assure the child is identified, evaluated, and provided a Free Appropriate Public Education in accordance with state and federal special education laws.

Each agency participating under Part B of IDEA must assure that at all stages of gathering, storing, retaining and disclosing education records to third parties that it complies with the federal confidentiality laws. In addition, the destruction of any education records of a child with a disability must be in accordance with IDEA regulatory requirements.

The federal Family Policy Compliance Office of the U.S. Department of Education has provided the following notice of parent's rights under FERPA. In accordance with IDEA, the rights of the parents regarding education records are transferred to the student at age 18.

The Family Educational Rights and Privacy Act (FERPA) affords parents and students over 18 years of age ("eligible students") certain rights with respect to the student's education records. They are:

- (1) The right to inspect and review the student's education records within 45 days of the day the school receives a request for access.

Parents or eligible students should submit to the school principal (or appropriate school official) a written request that identifies the record(s) they wish to inspect. The principal will make arrangements for access and notify the parent or eligible student of the time and place where the records may be inspected.

- (2) The right to request the amendment of the student's education records that the parent or eligible student believes are inaccurate or misleading.

Parents or eligible students may ask a school district to amend a record that they believe is inaccurate or misleading. They should write the school principal, clearly identify the part of the record they want changed, and specify why it is inaccurate or misleading.

If the school decides not to amend the record as requested by the parent or eligible student, the school will notify the parent or eligible student of the decision and advise them of their right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the parent or eligible student when notified of the right to a hearing.

- (3) The right to consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that FERPA authorizes disclosure without consent.

One exception which permits disclosure without consent is disclosure to school officials with legitimate educational interests. A school official is a person employed by the school as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel); a person serving on the school board; a person or company with whom the school has contracted to perform a special task (such as an attorney, auditor, medical consultant, or therapist); or a parent or student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks.

A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.

Upon request, a school may disclose education records, without consent, to officials of another school district in which a student seeks or intends to enroll, if the school states in its annual notification of FERPA rights that it forwards records on request.

- (4) The right to file a complaint with the U.S. Department of Education concerning alleged failures by a school to comply with the requirements of FERPA. The name and address of the office that administers FERPA is:

Family Policy Compliance Office
U. S. Department of Education
600 Independence Avenue, SW
Washington D.C. 20204

A school may designate information in education records as “directory information” and may disclose it without parent consent, unless notified that the school is not to disclose the information without consent. The law defines “directory information” as follows:

The student’s name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended by the student.

Notice of these rights are available, upon request, on audio tape, in Braille, and in languages other than English. You may contact the Arizona Department of Education at 602-542-3111.