

ACCESSING STUDENT EDUCATION RECORDS

What Records Are Available for Parent Inspection & Copying?

The right to inspect and obtain copies of student records is guaranteed to parents under the federal law called the Family Education Rights and Privacy Act (FERPA). Education records are defined as: records, files, documents, and other materials that contain information directly related to a student and are maintained by an educational agency. Records may include any information or data recorded in any medium, including, but not limited to handwriting, print, tapes, film, microfilm, microfiche and electronically stored data.

Among the documents excluded from the definition of records available for inspection are personal notes kept by teachers and other school personnel if these documents are not revealed to any other individual except a substitute. Records kept by a school's law enforcement unit are not available for inspection if those records are maintained apart from education records and are not disclosed to anyone other than law enforcement officials within the jurisdiction.

Recent court decisions have interpreted FERPA to include access to test protocols, which are the actual standardized test instruments or documents on which test answers or assessments are recorded. But these are included only if the protocols are kept in the student's educational file rather than in the personal file of the person who administered and scored the test.

Inspecting and Requesting Copies of Education Records

Upon receipt of a written request from a parent or legal guardian to inspect, review or obtain a copy of the education record, the school district must grant the request within a reasonable period of time, but in no case should that time period be longer than 45 calendar days from the date of the request. Parents may be charged a reasonable fee for photocopies of documents or other information in the record as long as the costs do not effectively prevent the parents from exercising their right to inspection and review. Parents may also give permission for a representative to inspect and obtain copies of their student's education record.

Correcting Records

In addition to the right to access and review a student's education records, FERPA also guarantees parents informal and formal procedures to amend or delete education records that are inaccurate, misleading or violate the student's privacy or other rights. Parents can submit a written request to the principal or special education administrator that the school amend or delete information in the education record. The school must respond within a reasonable period of time as to whether it will comply with the request or not. If the school district agrees to amend or delete the record, parents may want to obtain a copy of the corrected record after allowing the school district a reasonable period of time to make the correction or deletion. Although the FERPA regulations do not define how long a "reasonable" period of time is, schools may not use the vague language to delay a response or abuse this informal procedure.

If the school district denies the parents' request or delays unreasonably in responding to the request, parents may initiate a due process hearing to challenge the school's action or lack of action, as the case may be. If the outcome of the hearing is that the disputed information is not inaccurate, misleading or in violation of the student's right to privacy, the parents then have the right to place in the education record a statement that states why they disagree with the school's decision not to amend or delete the information as requested. This explanation becomes part of the student's education record and must be disclosed whenever the contested information is disclosed.

Confidentiality and Release of Records to Third Parties

This federal law also places limitations on disclosure of information in the student's education record to third parties, such as prospective employers, state and federal government agencies and other entities. Generally, schools must obtain the written informed consent of the parent, legal guardian or student over the age of 18 prior to the release of any personally identifiable information from the student's education record.

Written consent should include:

- ◆ A description of the specific records to be disclosed
- ◆ A statement about the purpose for which the records are being disclosed
- ◆ The name of the person to whom the disclosure is being made
- ◆ A limitation on the length of time the consent is effective (usually 12 months or less)

- ◆ A statement that the parents may withdraw consent at any time by notifying the school district in writing that they withdraw consent

Prior written consent is **not** required to disclose records to: (1) other school personnel who have a **legitimate educational interest** in the information; (2) officials of another school or school system in which the student intends to enroll; (3) authorized representatives of federal or state education agencies when access to education records may be necessary to audit or evaluate federally supported education programs and district compliance; (4) if disclosure is necessary for public health or safety reasons; or (5) under a court order or subpoena. However, a school district should make reasonable efforts to notify the parents when records are released under any of these circumstances. For example, if the release is pursuant to a court order, a parent may need to know this in advance in the event the parent wishes to file a motion with the court to suppress the information in order to prevent the release of the information. Other exceptions to the prior consent requirement pertain to the records of students in post secondary education institutions and do not apply to students in elementary and secondary schools.

Finally, school districts are required to maintain a log with the name of every person who accesses the student's education file, the date of access and the reason for the access. This log must be kept in the student's education file and should include the names of even those persons who have a legitimate educational interest in the contents of the file.