

SPECIAL EDUCATION OPERATING PROCEDURES

Records

ANNUAL NOTIFICATION

June 2022



Annual Notification

What is Required

At least once annually, the District must notify parents of students currently in attendance, or eligible students currently in attendance, of their rights under the Family Educational Rights and Privacy Act (“FERPA”). The annual notification must inform parents or eligible students of their right to:

- Inspect and review the student’s education records;
- Seek amendment of the student’s education records that the parent or eligible student believes to be inaccurate, misleading, or otherwise in violation of the student’s privacy rights;
- Consent to disclosures of personally identifiable information contained in the student’s education records, unless consent is not required to disclose information, *see* [CONSENT FOR DISCLOSURE OF CONFIDENTIAL INFORMATION] and [WHEN CONSENT IS NOT REQUIRED TO DISCLOSE INFORMATION]; and
- File a complaint concerning alleged failures of the District to comply with the requirements of FERPA with the Family Policy Compliance Office.

The notice must also include all of the following:

- The procedures for exercising the parent or eligible student’s opportunity to examine all records relating to the student, *see* [PARENT OR ELIGIBLE STUDENT ACCESS TO EDUCATIONAL RECORDS];
- The procedures for amending education records, *see* [PROCEDURES FOR AMENDING EDUCATION RECORDS]; and
- The criteria for determining who constitutes a school official and what constitutes a legitimate educational interest, if the District has a policy of disclosing education records without parental consent to school officials, including teachers, within the District whom the District has determined to have legitimate educational interests.

Definitions

“Parent” is a parent of a student, including a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or a guardian.

“Eligible student” is a student who has reached 18 years of age or is attending an institution of postsecondary education.

“Student” is any individual who is or has been in attendance at the District and regarding whom

the District maintains education records—except as otherwise specifically provided under FERPA or by guidelines regarding the administration of records. *See* [ADMINISTRATION OF RECORDS].

The District must effectively provide annual notification to parents or eligible students who are disabled and to parents who have a primary or home language other than English. The annual notification may be provided by any means that are reasonably likely to inform the parents or eligible students of their rights.

Additional Procedures

Annual Notification

FERPA does not provide any specific requirements for the means in which the District must inform parents of their rights. Thus, the annual notification may be published by various means, including, but not limited to: a student handbook; separate written notice sent to parents; in the calendar of events; on the school’s website (although this should not be the only means in which it is published); in the local newspaper; or posted in a central location at the school or various locations throughout the school.

District Administration will determine the manner in which the notice is provided to parents and eligible students and develop the written notification to be provided. District Administration will review this notification annually to ensure compliance with applicable state and federal guidelines.

Directory Information

The District may also consider including in the annual notification notice of the policies and procedures related to directory information. If it chooses to do so, this notice should include (1) the types of personally identifiable information that the District has designated as directory information, (2) a parent’s or eligible student’s right to refuse to let the District designate any or all of those types of information about the student as directory information; and (3) the period of time within which a parent or eligible student has to notify the agency or institution in writing of the refusal to let the District designate any or all of those types of information about the student as directory information.

Transparency with Parents and Eligible Students

The U.S. Department of Education has stressed the importance of transparency with parents and eligible students regarding their data privacy, confidentiality, and security practices. Therefore, in addition to the information that must be disclosed to parents in the annual notification, the District will consider also including what data it is collecting about students and why, how that information is protected, whether the District will share any personal information with third parties (as well as to whom and for what purpose it will be shared), and who parents or eligible students should contact with questions about data practices.

Evidence of Implementation

- Annual Notification Provided in Parent’s Native Language
- Yearly Review of Annual Notification

Resources

[The Legal Framework for the Child-Centered Special Education Process: Annual Notification - Region 18](#)

[Family Policy Compliance Office Notice to Superintendents \(Dec. 1, 2014\) - U.S. Department of Education](#)

[Family Policy Compliance Office Letter to Anonymous \(Aug. 22, 2012\) - U.S. Department of Education](#)

[Model Notification of Rights under FERPA for Elementary and Secondary Schools - U.S. Department of Education](#)

[Model Notification of Rights under FERPA for Postsecondary Institutions - U.S. Department of Education](#)

[Annual Notification and Rights of Parents - National Center for Education Statistics](#)

[FERPA General Guidance for Parents - U.S. Department of Education](#)

[Transparency Best Practices for Schools and Districts \(Sept. 2014\) - U.S. Department of Education](#)

CITATIONS

Board Policy FL; 34 CFR 99.3, 99.63, 99.7(a)–(b), 99.31(a)(1) 99.63, 99.64

STAFF RESPONSIBLE

For questions about Records: Annual Notification contact the Department of Special Education.

(281) 396-2630

SPECIAL EDUCATION OPERATING PROCEDURES

Records

CONFIDENTIALITY OF INFORMATION

June 2022



Confidentiality of Information

What is Required

Confidentiality of a special education student's personally identifiable information is protected under both the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g; 34 CFR Part 99 and the IDEA.

FERPA and the IDEA provide parents and eligible (or adult) students the right to have access to the student's education records, the right to seek to have the records amended, and the right to have some control over the disclosure of personally identifiable information from the student's education records. Under FERPA and the IDEA, all education records related to the identification, evaluation, educational placement, or provision of a FAPE to a student with a disability are confidential.

Safeguards

The District must protect the confidentiality of a student's personally identifiable information at the collection, storage, disclosure, and destruction stages. Personally identifiable information includes, but is not limited to:

- The student's name;
 - The name of the student's parent or other family members;
 - The address of the student or student's family;
 - A personal identifier, such as the student's social security number, student identification number, or biometric record;
 - Other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name;
 - A list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty;
 - Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty;
- or

- Information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates.

A parent or eligible student must provide consent before District Personnel may disclose personally identifiable information from the student's education records, unless one of the exceptions to FERPA's general consent rule applies. *See* [CONSENT FOR DISCLOSURE OF CONFIDENTIAL INFORMATION] and [WHEN CONSENT IS NOT REQUIRED TO DISCLOSE INFORMATION].

Additionally, the District is required to maintain a current listing of the names and positions of District and Campus Personnel who may have access to a student's personally identifiable information for public inspection. The District must assign one official from within the District to assume responsibility for ensuring the confidentiality of all students' personally identifiable information.

Further, all individuals collecting or using a student's personally identifiable information must receive training or instruction regarding the state's policies and procedures to protect the confidentiality of the student's personally identifiable information collected, used, or maintained by the District. This training must include training under the IDEA's confidentiality provisions as well as FERPA.

Confidentiality of a Student's Personally Identifiable Information Provided to Websites Used for School Purposes

Covered student information created by, provided to, or gathered by an operator of a website, online service, online application, or mobile application which is used primarily for a school purpose and was designed and marketed for a school purpose must be kept confidential by the operator. Specifically, an operator must implement and maintain reasonable security procedures and practices designed to protect any covered information from unauthorized access, deletion, use, modification, or disclosure. An operator also may not knowingly engage in targeted advertising on any website, online service, online application, or mobile application where the target of the advertising is based on any information, including covered information and persistent unique identifiers, that the operator has acquired through the use of the operator's website, online service, online application, or mobile application for a school purpose. Likewise, an operator may not knowingly use information, including persistent unique identifiers, created or gathered by the operator's website, online service, online application, or mobile application, to create a profile about a student—unless the profile is created for a school purpose. Finally, an operator may not knowingly sell or rent any student's covered information, unless it involves:

- The purchase, merger, or any other type of acquisition of an operator by any entity, if the operator or successor entity complies regarding previously acquired student information; or
- A national assessment provider if the provider secured the express affirmative consent of the student or the student's parent, given in response to clear and conspicuous notice, and if the information is used solely to provide access to employment, educational scholarships,

financial aid, or postsecondary educational opportunities.

So long as the operator complies with rules regarding the redisclosure of records, an operator may use or disclose covered information for the following purposes:

- To further a school purpose on the website, online service, online application, or mobile application, and the recipient of the covered information does not further disclose the information—unless the disclosure is to allow or improve operability and functionality of the operator’s website, online service, online application, or mobile application;
- To ensure legal and regulatory compliance;
- To protect against liability;
- To respond to or participate in the judicial process;
- To protect the safety and integrity of users of the website, online service, online application, or mobile application;
- To satisfy a school, education, or employment purpose requested by the student or the student’s parent, and the information is not used or disclosed for any other purpose;
- For a legitimate research purpose, a school purpose, or postsecondary educational purpose;
- For a request by the District for a school purpose;
- If the provision of federal or state law requires the operator to disclose the information;
- To a third party if the operator has contracted with the third party to provide a service for a school purpose for or on behalf of the operator, so long as the contract prohibits the third party from using any covered information for any purpose other than providing the contracted service. The operator must require the third party to implement and maintain reasonable procedures and practices designed to prevent disclosure of covered information;
- To recommend to a student additional services or content relating to an educational, learning, or employment opportunity within a website, online service, online application, or mobile application if the recommendation is not determined by payment or other consideration from a third party;
- For development and improvement of educational websites, online services, online applications, or mobile applications, if the covered information is not associated with an identified student;
- By authority of a law enforcement agency to obtain any information from an operator as authorized by law or under a court order;
- For adaptive learning or customized student learning purposes; or

- For maintaining, developing, supporting, improving, or diagnosing the operator’s website, online service, online application, or mobile application.

See [REDIS CLOSURE OF RECORDS].

Definitions

“Eligible student” means a student who has reached 18 years of age or is attending an institution of postsecondary education.

“Operator” is, to the extent operating in this capacity, the operator of a website, online service, online application, or mobile application who has actual knowledge that the website, online service, online application, or mobile application is used primarily for a school purpose and was designed and marketed for a school purpose.

“Covered information” is personally identifiable information or information that is linked to personally identifiable information, in any media or format, that is not publicly available and is:

- Created by or provided to an operator by a student or the student’s parent in the course of the student’s or parent’s use of the operator’s website, online service, online application, or mobile application for a school purpose;
- Created by or provided to an operator by an employee of a school district or school campus for a school purpose; or
- Gathered by an operator through the operation of the operator’s website, online service, online application, or mobile application for a school purpose and personally identifies a student, including the student’s educational record, electronic mail, first and last name, home address, telephone number, electronic mail address, information that allows physical or online contact, discipline records, test results, special education data, juvenile delinquency records, grades, evaluations, criminal records, medical records, health records, social security number, biometric information, disabilities, socioeconomic information, food purchases, political affiliations, religious information, text messages, student identifiers, search activity, photographs, voice recordings, or geological information.

“School purpose” is a purpose that is directed by or customarily takes place at the direction of a school district, school campus, or teacher or assists in the administration of school activities, including instruction in the classroom or at home, administrative activities, and collaboration between students, school personnel, or parents, or is otherwise for the use and benefit of the school.

“Targeted advertising” means presenting an advertisement to a student in which the advertisement is selected for the student based on information obtained or inferred over time from the student’s online behavior, usage of applications, or covered information. Targeted advertising does not include advertising to a student at an online location based on the student’s visit to that location at that time, or in response to the student’s request for information or feedback, without the retention of the student’s online activities or requests over time for the purpose of targeting subsequent

advertisements.

Additional Procedures

Education Records

Generally, education records under FERPA are those records, files, documents, and other materials which contain information directly related to a student and are maintained by the District or by a party acting for the District. Education records include but are not limited to grades, transcripts, class work, course schedules, health records, enrollment records, special education records, and communications (emails, texts, notices) about a student.

The term “education records” does not include:

- Records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record;
- Records maintained by a law enforcement unit of the District that were created by that law enforcement unit for the purpose of law enforcement (this exclusion does NOT include records maintained by school personnel for disciplinary or other purposes, even if such records were created by the law enforcement unit and it does NOT include records maintained and/or created by the law enforcement unit for disciplinary purposes);
- Records relating to an individual who is employed by the District that are made and maintained in the normal course of business of the District, related exclusively to the individual in that individual’s capacity as an employee, and are not available for use for any other purpose;
- Records on a student who is 18 years of age or older that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional acting in his or her professional capacity or assisting in a paraprofessional capacity; made, maintained, or used only in connection with treatment of the student; and disclosed only to individuals providing the treatment. However, “treatment” does not include remedial educational activities or activities that are part of the program of instruction at the District;
- Records created or received by the District after an individual is no longer a student in attendance and that are not directly related to the individual’s attendance as a student; or
- Grades on peer-graded papers before they are collected and recorded by a teacher.

Education records means any information recorded in any manner, including, but not limited to handwriting, print, computer media, video or audio recording, film, microfilm, or microfiche.

The District must provide parents of special education students or adult students on request a list of the types of education records collected, maintained or used by the District.

Confidentiality

The confidentiality of personally identifiable student information is protected in the District. Such records are collected and maintained only for the purpose indicated, and all District Personnel are trained to use personal data with the greatest respect of parent and student rights. All education records regarding the identification, evaluation, placement or the provision of FAPE for a student are regarded and treated by all District Personnel as confidential under state and federal law.

Campus Personnel must ensure that all personally identifiable information of a student with a disability is retained in accordance with applicable state and federal laws. District or Campus Special Education Personnel will maintain in the student's eligibility folder a current listing of the names and positions of all District and Campus Personnel who have accessed the student's eligibility folder.

Furthermore, District and Campus Personnel must understand that they are expected to exercise extreme caution to ensure that the names of students receiving special education services are not displayed and that these students are not specifically identified as students who receive special education services.

To best ensure confidentiality, a student's full name should not be used in the subject line of an email.

Parent Review of Student Records

District or Campus Personnel will ensure that a parent or representatives of the parent have the right to view all records, including:

- The right to a response from District or Campus Personnel having possession of such records;
- The right to a reasonable explanation or interpretation of the records;
- The right to request copies of school records;
- The right to know who has seen their records;
- The right to restrict access to their student's records by withholding consent to release records; and
- The right to examine, within 45 days of their request, any records relating to the education of their student unless the school district has been advised that the parent does not have authority under applicable laws governing such matters as guardianship, foster parent placement, separation, and student custody.

IDEA and Confidentiality of Information

The District must comply with all requirements under Part B of the IDEA, including those Part B Confidentiality of Information regulations that restate or paraphrase FERPA requirements. Part B Confidentiality of Information regulations contain several provisions that are tailored specifically to the special education environment. Public agencies and other participating agencies, as defined under Part B of the IDEA, are subject to the Part B Confidentiality of Information regulations, even FERPA is not applicable to such agencies.

The Texas Education Agency is responsible for implementing and enforcing Part B of the IDEA, including the Confidentiality of Information provisions. Thus, the Texas Education Agency sets forth the State complaint procedures for resolving complaints related to such provisions.

Training

All District or Campus Personnel using or collecting personally identifiable information must receive training regarding the District's and state's policies and procedures to ensure protection of the confidentiality of any personally identifiable information collected, used, or maintained under the IDEA. District Administration will ensure that all District and Campus Personnel are informed of these confidentiality requirements.

Video Surveillance and Access to Videos

To promote student safety, the District shall comply with written requests for video and audio surveillance from authorized individuals of certain self-contained special education classrooms in accordance with Texas Education Code 29.022 and District policy. District Personnel are not required to obtain the consent of a student's parent or adult student before the employee may make a videotape of a student or authorize the recording of a student's voice if the videotape or voice recording is to be used for a purpose related to the promotion of student safety under Texas Education Code Section 29.022.

An authorized individual who may request video surveillance for a specific classroom includes a parent of a student who receives special education services in that classroom, a staff member assigned to work in that classroom, or the principal or assistant principal for that campus. In addition, the board of trustees or governing body may request that video surveillance be provided to one or more specified schools or campuses at which one or more children receive special education services in self-contained classrooms or other special education settings.

Upon written request from an authorized individual, the District shall provide equipment, including a video camera, to the campus specified in the request. A campus that receives such equipment shall place, operate, and maintain one or more video cameras in self-contained classrooms and other special education settings in which a majority of the students in regular attendance are provided special education and related services and are assigned to one or more self-contained classrooms or other special education settings for at least 50 percent of the instructional day, so long as:

- The campus that receives equipment as a result of the request by a parent or staff member is required to place equipment only in classrooms or settings in which the parent's student

is in regular attendance or to which the staff member is assigned; and

- The campus that receives equipment as part of the request by the Board of Trustees, Campus Principal, or Campus Assistant Principal is required to place equipment only in classrooms or settings identified by the requestor, if the requestor limits the request to specific classrooms or settings or settings subject to Education Code 29.022.

A campus shall operate and maintain the camera in the classroom or setting as long as the classroom or setting continues to satisfy the above requirements, for the remainder of the school year in which the campus received the request, unless the requestor withdraws the request in writing.

Before a campus activates a video camera in a classroom or special education setting, the campus shall provide written notice of the placement to all campus staff and to the parents of each student attending class or engaging in school activities in the classroom or setting. If for any reason a campus will discontinue operation of a video camera during a school year, not later than the fifth school day before the date the operation of the video camera will be discontinued, the campus must notify the parents of each student in regular attendance in the classroom or setting that operation of the video camera will not continue unless requested by a person eligible to make a request. Not later than the tenth school day before the end of each school year, the campus must notify the parents of each student in regular attendance in the classroom or setting that operation of the video camera will not continue during the following school year unless a person eligible to make a request for the next school year submits a new request.

Video recordings made in accordance with Section 29.022 shall be confidential and shall only be accessed or viewed by authorized individuals and only under the limited circumstances permitted by law. The District may not allow regular or continual monitoring of video records under Section 29.022 or use video for teacher evaluation or for any purpose other than the promotion of safety of students receiving special education services.

The District may only release a recording for viewing when an “incident” defined by law is alleged to have occurred. An “incident” is defined as “an event or circumstance that involved alleged abuse or neglect as described in Texas Family Code 261.001, of a student by a staff member of the district or alleged physical abuse or sexual abuse, as described in Texas Family Code 261.410, of a student by another student.”

If an incident is determined to have occurred, the District shall release a recording of the incident for viewing by:

- (1) An employee who is involved in an alleged incident that is documented by the recording and has been reported to the District or school, on request of the employee;
- (2) A parent of a student who is involved in an alleged incident that is documented by the recording and has been reported to the District or school, on request of the parent;
- (3) Appropriate Department of Family and Protective Services Personnel as part of an investigation of alleged or suspected abuse or neglect of a child under Family Code

261.406;

- (4) A peace officer, school nurse, or District or Campus Administrator trained in de-escalation and restraint techniques as provided by Commissioner rule, or Human Resources Personnel designated by the District's Board of Trustees in response to a report of an alleged incident or an investigation of District or Campus Personnel or a report of alleged abuse committed by a student; or
- (5) Appropriate agency of State Board of Educator Certification Personnel or agents as part of an investigation.

A contractor or employee performing job duties relating to the installation, operation, or maintenance of video equipment or the retention of video recordings who incidentally views a video is not in violation of these confidentiality provisions. However, even if the individual is eligible to view the recordings, the District may not release the recordings for viewing if prohibited to do so under FERPA.

Moreover, if an authorized individual listed in (3), (4) or (5) above who views the recording believes that the recording documents a possible violation of District or Campus policy, the person may allow access to the recording to appropriate legal and human resources personnel to the extent not limited by FERPA or other law. A recording believed to document a possible violation of District or Campus policy relating to the neglect or abuse of a student may be used as part of a disciplinary action against District or Campus Personnel and shall be released at the request of the student's parent in a legal proceeding.

This does not limit the access of the student's parent to a record regarding the student under FERPA. While these video recordings are generally considered surveillance videos and do not constitute a student's education record subject to disclosure in response to a request made under FERPA, if the alleged incident is documented on the video recording or the student otherwise becomes the focus of the recording, such video is a student record under FERPA.

Accidental Disclosure of Confidential Information

FERPA does not require the District to notify a parent or eligible student that information from the student's education records was stolen or otherwise subject to unauthorized release. However, the District must maintain a record of each disclosure. The District should consider informing the parent or eligible student if data, including the student's Social Security Number and other identifying information that could lead to identity theft, is accidentally released.

A failure to take reasonable and appropriate steps to protect education records could result in the release or disclosure of personally identifiable information from education records. This may constitute a policy or practice of permitting the release or disclosure of education records in violation of FERPA. Should the U.S. Department of Education investigate a complaint against the District or other indications of noncompliance by the District, the District must be able to show the steps it has taken in response to a data breach or other unauthorized access to, release, or other disclosure of education records.

Evidence of Implementation

- Protection of Personally Identifiable Information
- List of Types and Locations of Education Records
- Procedures for Collecting, Storing, and Maintaining Student Records
- List of District and Campus Personnel Who May Access Records
- Designated Official to Ensure Confidentiality of Personally Identifiable Information
- Records of Training Related to Confidentiality
- Access Audit Logs in Student Information System
- Access Logs for Special Education Folders
- Requests for Viewing Recordings
- District or Campus Websites
- Authorized Disclosures by Operators
- Record Request Form
- Consent for Disclosure of Information

Resources

[The Legal Framework for the Child-Centered Special Education Process: Confidentiality of Information - Region 18](#)

[Protecting Student Privacy - U.S. Department of Education](#)

[Protecting Student Privacy While Using Online Educational Services: Model Terms of Service \(March 2016\) - U.S. Department of Education](#)

[OSEP Letter to Anonymous \(Apr. 9, 2012\) - U.S. Department of Education](#)

[OSEP Letter to Copenhaver \(Apr. 17, 2008\) - U.S. Department of Education](#)

[OSEP Letter to Anderson \(March 7, 2008\) - U.S. Department of Education](#)

[Student Records FAQ's - Texas Education Agency](#)

[FPCO Letter to Tobias \(May 8, 2015\) - U.S. Department of Education](#)

[Information Security Handbook: A Guide for Managers - National Institute of Standards and Technology](#)

[Security and Privacy Controls for Federal Information Systems and Organizations - National Institute of Standards and Technology](#)

Memorandum to Heads of Federal Agencies from the Office of Management and Budget
(May 22, 2007) - U.S. Department of Education

Identity Theft - U.S. Department of Education

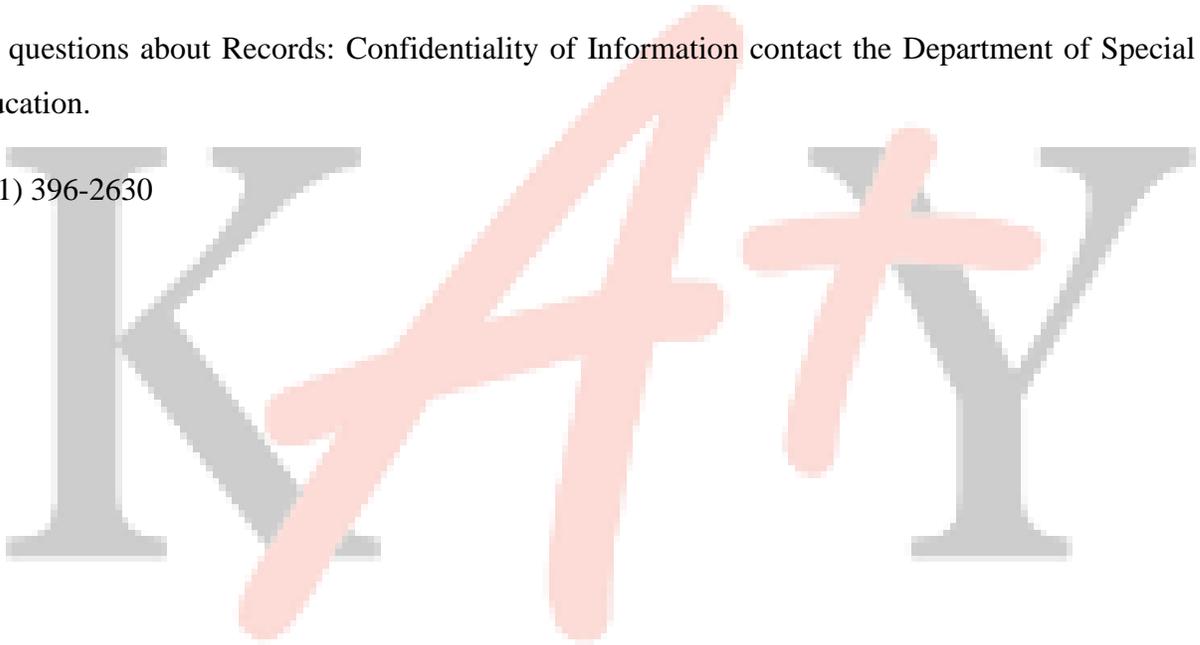
CITATIONS

Board Policy FL and EHBAF; 20 USC 1232g; 34 CFR 99.2, 99.3; 99.32, 300.32; 300.610, 300.623, 300.626; Texas Education Code 29.022, 32.151–32.157; Texas Administrative Code 103.1301

STAFF RESPONSIBLE

For questions about Records: Confidentiality of Information contact the Department of Special Education.

(281) 396-2630



SPECIAL EDUCATION OPERATING PROCEDURES

Records

DISCLOSURE OF DIRECTORY INFORMATION

June 2022



Disclosure of Directory Information

What is Required

Under the Family Educational Rights and Privacy Act (“FERPA”), directory information is information contained in a student’s education record that would not generally be considered harmful or an invasion of privacy if disclosed. Directory information includes, but is not limited to:

- The student’s name;
- Address;
- Telephone listing;
- E-mail address;
- Photograph;
- Date and place of birth;
- Major field of study;
- Grade level;
- Enrollment status;
- Dates of attendance;
- Participation in officially recognized activities and sports;
- Weight and height of members of athletic teams;
- Degrees, honors, and awards received;
- The most recent educational agency or institution attended; and
- Student identification (“ID”) number, user ID, or other unique personal identifier used by the student for the purposes of accessing or communicating in electronic systems, but only if the identifier cannot be used to gain access to education records, except when used in conjunction with one or more factors that authenticate the user’s identity, including the personal ID number, password, or other factor known or possessed only by the authorized user.

The District may designate any or all information defined as directory information under FERPA to be directory information for disclosure purposes.

Notice of Directory Information for School Districts

The District may disclose directory information if it has given written public notice to parents and eligible students in attendance at the District. The notice must be provided at the beginning of each school year or upon enrollment of the student after the beginning of the school year. Further, the notice must contain the following information:

- An explanation of the FERPA provisions relating to the release of directory information about the student;
- Notice of the right of the parent or eligible student to object to the release of directory information about the student under FERPA;
- A statement in boldface type that is 14 point or larger stating:
 - **“Certain information about District students is considered directory information and will be released to anyone who follows the procedures for requesting the information unless the parent or guardian objects to the release of the directory information about the student. If you do not want Katy Independent School District to disclose directory information from your child’s education records without your prior written consent, you may notify the District in writing within two weeks of enrollment. Katy Independent School District has designated the following information as directory information: student name, address, primary telephone listing, photograph, honors and awards received, dates of school attendance, grade level, most recent educational institution attended, participation in officially recognized activities and sports, and weight and height of member of athletic teams.”**
- A statement that federal law requires school districts receiving assistance under the Elementary and Secondary Education Act (“ESEA”) to provide a military recruiter or an institution of higher education, on request, with the name, address, and telephone number of a secondary student, unless the parent or eligible student has advised the District that the parent or eligible student does not want the student’s information disclosed without prior written consent;
- A form, such as a check-off list or similar mechanism, that immediately follows the required notice written on the same page or the next page and allows a parent or eligible student to indicate:
 - The parent’s or eligible student’s objection to the release of all directory information, or one or more specific categories of directory information (if District policy permits the parent to object to one or more specific categories);
 - The parent’s or eligible student’s objection to the release of a secondary student’s name, address, and telephone number to a military recruiter or institution of higher education; and

- The parent’s or eligible student’s consent to the release of one or more specific categories of directory information for a limited school-sponsored purpose if the purpose has been designated by the District and is specifically identified (e.g., for a student directory, student yearbook, or district publication).

Public Information

Directory information under FERPA that is not designated by the District as directory information for the District is excepted from disclosure by the District. Thus, the District may not release such information under the Public Information Act, Chapter 552 of the Texas Government Code (“PIA”). Additionally, when a parent or eligible student provides consent for the District to use directory information only for a limited school-sponsored purpose (if the District has designated any such purpose), the information will remain otherwise confidential and may not be released under the PIA.

Former Students

The District may disclose directory information about former students without complying with the public notice and opt out conditions. However, the District must continue to honor any valid request to opt out of the disclosure of directory information made while a student was in attendance, unless the student rescinds the opt out request.

Definitions

“Eligible student” is a student who has reached 18 years of age or is attending an institution of postsecondary education.

“Education records” are those records that are directly related to the student and maintained by an educational agency or institution or by a party acting for the agency or institution.

Additional Procedures

Primary Purpose of Directory Information

In the notice to the parent or eligible student, the District should explain that the primary purpose of directory information is to allow the District to include information from the student’s education records in certain school publications. Examples of school publications where directory information may be published include a playbill for a drama production, the annual yearbook, an honor roll or other recognition lists, graduation programs, and sports activity sheets (such as wrestling, showing weight and height of team members).

Exceptions from Directory Information

The Department of Education has consistently advised that the District may not include Social Security numbers and other student identifiers as directory information where disclosure of such information would generally be considered an invasion of privacy. As such, a student’s social

security number and driver's license number will not be designated as directory information and should be kept confidential. Additionally, categories of information, such as race and ethnicity, will not be designated as directory information.

Notice of Directory Information

In its notice of directory information, the District may specify that disclosure of directory information will be limited to specific parties, for specific purposes, or both. If it does so, the District must limit its directory information disclosures to those specified in the notice.

However, a parent or eligible student may not use the notice provisions to opt out of directory information disclosures to prevent a district from disclosing or requiring a student to disclose the student's name, identifier, or institutional email address in a class. Likewise, the parent may not use this provision to prevent a district from requiring a student to wear, display publicly, or disclose a student ID card or badge that exhibits information allowable as directory information that that has been properly designated by the district as such.

Former Students

The District is not required to inform former students or the parents of former students regarding directory information. Likewise, the District is not required to honor a request from a former student or parent that directory information not be disclosed without consent. However, if a parent or eligible student, within the specified time period during the student's last opportunity as a student in attendance, requested that directory information not be disclosed, the District must honor that request until otherwise notified. Therefore, the District may disclose directory information about former students to third parties without meeting the FERPA notice requirements.

Homeless Students

Information about a homeless student's living situation, including the address of the student if they are living in temporary housing, shall be treated as a student education record and shall not be deemed to be directory information.

Students with Disabilities

While FERPA allows the District to disclose personally identifiable information that has been designated as directory information without prior consent, this exception may not always apply to disclosures involving the personally identifiable information of students with disabilities. Thus, the District may not release the directory information of a student if such information would reveal the student's health, special education status or disability without the written consent of the parent.

Disclosure and Redisclosure of Directory Information

The District may disclose information that is properly designated by the District as directory information to any party—including officials of the Texas Education Agency—and may be further shared or redisclosed to additional parties. *See* [REDISCLOSURE OF INFORMATION]. Examples of additional parties that the District may disclose directory information to includes

institutions that are not required to admit students, including private or out-of-state universities or trade schools.

TEA and Directory Information

The Texas Education Agency does not collect directory information from Districts and cannot verify which parents or eligible students have advised the District that the parent or eligible student does not want directory information disclosed. Therefore, if TEA wishes to redisclose information it collects from the District, the District should provide directory information to TEA on only those students whose parents have not opted out of directory information.

Evidence of Implementation

- Determination of What Constitutes Directory Information
- FERPA Notice for Directory Information
- Appropriate Disclosure of Directory Information
- List of Types and Locations of Education Records
- Record Request Form
- Consent for Disclosure of Information

Resources

[The Legal Framework for the Child-Centered Special Education Process: Disclosure of Directory Information - Region 18](#)

[OSEP Letter to Feuchtenberger \(Feb. 2, 2006\) - U.S. Department of Education](#)

[OSEP Letter to Elder \(Feb. 11, 2004\) - U.S. Department of Education](#)

[FERPA Frequently Asked Questions - U.S. Department of Education](#)

[Directory Information - U.S. Department of Education](#)

[FERPA Model Notice for Directory Information - U.S. Department of Education](#)

[Letter to Texas Education Agency Regarding Directory Information \(Jan. 2001\) - U.S. Department of Education](#)

[FERPA & Coronavirus Disease 2019 \(COVID-19\) Frequently Asked Questions \(March 2020\) - U.S. Department of Education](#)

[Notice to Superintendents - U.S. Department of Education](#)

CITATIONS

Board Policy FL; 42 USC 11432(g)(3)(G); 34 CFR 99.3, 99.37; Texas Education Code 26.013;
Texas Government Code Chapter 552

STAFF RESPONSIBLE

For questions about Records: Disclosure of Directory Information contact the Department of
Special Education.

(281) 396-2630

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Updated 2022

SPECIAL EDUCATION OPERATING PROCEDURES

Records

PARENT OF ELIGIBLE STUDENT ACCESS TO EDUCATION RECORDS

June 2022

Disclaimer: This information is provided for educational purposes only to facilitate a general understanding of the law or other regulatory matter. This information is neither an exhaustive treatment on the subject nor is this intended to substitute for the advice of an attorney or other professional advisor. Consult with your attorney or professional advisor to apply these principles to specific fact situations.

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Parent or Eligible Student Access to Education Records

What is Required

The District must provide the parent of a student with a disability or eligible student the opportunity to examine all records relating to the student as described in the *Notice of Procedural Safeguards*. Specifically, the *Notice of Procedural Safeguards* states the following regarding the education records directly related to a student:

You [the parent or eligible student] have the right to review your child's entire education record including the parts that are related to special education. The school may presume that you have authority to inspect and review records related to your child unless advised that you do not have the authority under applicable state law governing such matters as guardianship, separation, and divorce. You can also give permission for someone else to review your child's record. When you ask to review the records, the school must make them available without unnecessary delay and before any ARD committee meeting or any due process hearing or resolution session, and in no case more than 45 calendar days after the date of the request.

Lists and Types and Locations of Information

Each District must provide the parent, on request, a list of the types and locations of education records collected, maintained, or used by the District.

Right to Inspect and Review Records

The District must give full rights to the parent or eligible student to inspect and review records relating to the student, unless the District has been provided with evidence that there is a court order, state statute, or legally binding document relating to such matters as guardianship, divorce, separation, or custody that specifically revoked these rights. The parent or eligible student may inspect and review any education records of the student that are collected, maintained, or used by the District, including:

- Attendance records;
- Test scores;
- Grades;
- Disciplinary records;
- Counseling records;
- Psychological records;

- Applications for admission;
- Health and immunization information;
- Teacher and school counselor evaluations;
- Reports of behavioral patterns; and
- Records relating to assistance provided for learning difficulties, including information collected regarding any intervention strategies used with the student.

Should the parent or eligible student make a reasonable request for an explanation or interpretation of records, the District must respond to such requests. The parent or eligible student also has the right to request copies of any education records or to have a representative of the parent or eligible student inspect and review the records. Further, the parent or eligible student may have a physician or other appropriate professional of the parent or eligible student's choice review the treatment records of the student.

The District must preserve education records if there is an outstanding request by the parent or eligible student to inspect and review the records.

Timeline

The District must comply with a request to inspect and review education records relating to a special education student without unnecessary delay and before any ARD committee meeting, any due process hearing, or resolution session, and in no case more than 45 calendar days after the date of the request.

Records on More than One Student

If a student's education records also include information about other students, the parent or eligible student may only inspect and review or be informed of the specific information about their own student.

Copies Including Fees for Copies

If circumstances effectively prevent the parent or eligible student from being able to inspect and review the student's education records, the District must provide the parent or eligible student with a copy of the records requested or make other arrangements for the parent or eligible student to inspect and review the requested records.

Unless doing so effectively prevents the parent from being able to inspect and review the student's education records, the District may charge a reasonable fee for a copy of an education record that is made for the parent or eligible student. However, the District cannot charge a fee to search for or to retrieve the records of a student.

When the District discloses confidential records for which consent for disclosure is required, the District must provide a copy of the records disclosed to the parent or eligible student upon request. For a student who has reached 18 years of age or is attending an institution of postsecondary education, the copy of the disclosed records should be provided to the student instead of the parent. Similarly, even if the District discloses confidential records to other districts and/or consent for the disclosure is not required, the District must still give the parent or eligible student a copy of the record that was disclosed upon request.

Student Assessment Data Portal

The Texas Education Agency (TEA) will establish and maintain a student assessment data portal for use by the District, teachers, parents, students, and public institutions of higher education. TEA will establish a secure, interoperable system to be implemented through the portal under which:

- A student, the student’s parent, or other person standing in parental relationship can easily access the student’s individual assessment data;
- An authorized employee of the District, including the student’s teacher, can readily access individual assessment data of students for use in developing strategies for improving student performance; and
- An authorized employee of a public institution of higher education can readily access individual assessment data of students applying for admission for use in developing strategies for improving student performance.

The secure, interoperable system will provide a means for a student, the student’s parent, or other person standing in parental relationship to track the student’s progress on assessment instrument requirements for graduation.

Student assessment data provided through the portal will be available on or before the first instructional day of the school year following the year in which the data is collected; and include student performance data on assessment instruments over multiple years, including any data indicating progress in student achievement.

Definitions

“Eligible student” is the student who has reached 18 years of age or is attending an institution of postsecondary education.

“Record” is any information recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm and microfiche.

“Education records” are records that are directly related to the student and maintained by the District or by a party acting for the District. This also includes records relating to an individual in attendance at the District, who is employed as a result of the student’s status. Education records do not include:

- Records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record;
- Records of the law enforcement unit of the District;
- Records relating to an individual who is employed by the District that are made and maintained in the normal course of business, relate exclusively to the individual in that individual's capacity as an employee, and are not available for use for any other purpose;
- Records on the student who is 18 years of age or older, or is attending an institution of postsecondary education that are:
 - Made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in a professional capacity or assisting in a paraprofessional capacity;
 - Made, maintained, or used only in connection with treatment of the student; and
 - Disclosed only to individuals providing the treatment, which does not include remedial educational activities or activities that are part of the program of instruction at the District.
- Records created or received by the District after an individual is no longer a student in attendance and that are not directly related to the individual's attendance as a student; and
- Grades on peer-graded papers before they are collected and recorded by a teacher.

Additional Procedures

Types and Locations of Records

Each record custodian shall be responsible for the education records at his or her campus. These records may include:

- Admissions data, personal and family data, including certification of date of birth.
- Standardized test data, including intelligence, aptitude, interest, personality, and social adjustment ratings.
- All achievement records, as determined by tests, recorded grades, and teacher evaluation.
- All documentation regarding a student's testing history and any accelerated instruction he or she has received, including any documentation of discussion or action by a grade placement committee (GPC) convened for the student.
- Health services record, including:

- The results of any tuberculin tests administered by the District.
 - The findings of screening or health appraisal programs the District conducts or provides, which may include vision, hearing, and scoliosis. [See FFAA]
 - Immunization records. [See FFAB]
 - Dates for any periods of exclusion from school because of a communicable disease and the name of the illness.
- Attendance records.
 - Student questionnaires.
 - Records of teacher, counselor, or administrative conferences with the student or pertaining to the student.
 - Verified reports of serious or recurrent behavior patterns.
 - Copies of correspondence with parents and others concerned with the student.
 - Records transferred from other districts in which the student was enrolled.
 - Records pertaining to participation in extracurricular activities.
 - Information relating to student participation in special programs.
 - Records required to be maintained in the Student Support Team folder.
 - Records required to be maintained in the section 504 eligibility folder.
 - Records of fees assessed and paid.
 - Other records that may contribute to an understanding of the student.

Right to Inspect and Review Records

A parent or eligible student has the right to review the student's entire education record including the parts that are related to special education. Records may be reviewed during regular school hours upon written request to the record custodian. The record custodian or designee shall be present to explain the record and answer questions. The confidential nature of the student's records shall be maintained at all times, and the review of the records shall be restricted to only the Superintendent's, Principal's, or Counselor's office, or other restricted area designated by the record custodian. The original copy of the record or any document contained in the cumulative record shall not be removed from the school.

However, the District does not have to allow a parent or eligible student to review every single record that it has that relates to a particular student. For example, as such information is not generally directed to an individual student, and therefore does not meet the definition of an educational record, the District does not generally need to provide the parent with access to school calendars or general notices, including announcements of parent-teacher meetings or extra-curricular activities. Likewise, email correspondence that briefly references the student or is clearly not maintained as part of the student's education record may not need to be provided.

The District also is not required to provide information that is not maintained or to create education records in response to a parent’s request. Additionally, while communication with the parent as to a student’s progress is both necessary and appropriate under other state and federal laws, FERPA does not require the District to provide a parent with updates on the student’s progress in school unless such information already exists in the form of an education record.

Access by School Officials

School officials who have a legitimate educational interest in the student may have access to a student’s records. “School officials” shall mean any employee, Trustee, or agent that has been designated by the District or of facilities in which the District contracts for placement of students with disabilities. The term also includes attorneys, consultants, and independent contractors who are retained by the District.

School officials have a “legitimate education interest” in a student’s records when they are working with the student; considering disciplinary or academic actions, the student’s case, or an IEP for a student with disabilities; compiling statistical data; or investigating or evaluating programs.

Record of Access

Campus Special Education Personnel shall maintain a record of any party obtaining access to education records collected, maintained, or used under the IDEA Part B. The Access Record should include:

- The name of the person or agency accessing the records;
- The date access was given; and
- The purpose for which the person or agency is authorized to use the records.

See [RECORD OF ACCESS]

Copies of Education Records

While the District is required to allow parents and eligible students to inspect and review education records, it does not need to provide copies of education records unless the circumstances effectively prevent the parent or eligible student from being able to review the records otherwise, and the District either cannot or does not wish to arrange another way for the parent or eligible student to view the records. An example of when a school may need to make other arrangements for a parent to obtain access to the student’s educational records is if the parent does not live within commuting distance of the school or has a disability that effectively prohibits the parent from visiting the campus. If other arrangements are not feasible or desired, the District must provide a copy of the records to the parent.

Upon written request from the parent or adult student, Special Education Campus Personnel will provide copies of a student’s records and may charge 10 cents per page. When requested, the fee

must be waived if the fee would effectively prevent the parent from exercising their right to review and inspect the student's records.

Test Protocols

The parent or adult student may view test protocols of the student in the presence of appropriate Special Education Assessment Personnel. Special Education Assessment Personnel shall explain the results of the test protocol to the parent and answer any questions the parent has regarding the test. However, copyright regulations prohibit the copying of any portion of a test protocol, with the exception of the front score page.

Complaints Regarding Request for Access

If a parent or eligible student believes that the school has violated FERPA by failing to comply with a request for access to the student's education records, the parent should complete a parent complaint form, which includes: the date of the request for access to the student's education records; the name of the school official to whom the request was made, including a dated copy of any written request to the school where possible; the response of the school official, if any; and the specific nature of the information requested, and follow the District's parent grievance process.

Languages Other than English

The District must communicate effectively with both students and parents who do not understand English. This requires the District to provide meaningful access to the information in the students' education records and/or provide the records to the parent in their native language, in some cases. If a parent or eligible student who cannot understand English requests to view the student's education records, the District must provide meaningful assistance via a qualified interpreter or written translation to ensure that the parent or eligible student can understand the information in the education records.

Divorced Parents

Under FERPA, both the custodial and noncustodial parents have the right to access their student's education records and the right to consent to the release of those records, unless a court order explicitly eliminates those rights.

Records Relating to More Than One Student

Because the parent or eligible student may only inspect, review, or be informed of specific information about his or her own student, the District must redact the names of, or information directly relating to, any other student(s) mentioned in the student's education records before providing the parent or eligible student access to the education records. If joint records cannot be easily redacted or the information cannot be easily segregated out, the District may satisfy the

request for access by informing the parent about the contents of the record which relates to the student. There is no exception to this requirement under the IDEA.

Consent to Allow Person Other Than Parent or Eligible Student to Review Education Records

Under FERPA, the parent or eligible student may provide written consent allowing another individual to access the student's education records. Written consent must include:

- The signature of the parent or eligible student consenting to allow another person to review the records;
- The date that the consent was signed;
- The name of the person(s) who may review the education records;
- A description of the education records that may be disclosed (or the specific information from the education records that may be disclosed); and
- The reason for allowing the person to review the education records.

Access During School Closures

A long-term school closure due to public health emergencies likely qualifies as a circumstance that effectively prevents a parent or eligible student from reviewing and inspecting the student's education records on school grounds. Should that situation arise, the District may need to comply with a parent's access request with FERPA's 45-day deadline by sending the parent the requested educational records via email or U.S. mail, or by allowing the parent the opportunity to inspect records through an online platform. Should the District provide the records through one of these means, it must take significant precautions to send the records to the correct location/recipient.

Evidence of Implementation

- Notice of Procedural Safeguards
- Record of Access to Records
- Consent to Disclose Student Records
- Copies of Student Records
- Student Records Provided in Parent's Native Language or Interpreted
- Alternative Arrangements to Review Student Records
- Parent Complaint Form

Resources

[The Legal Framework for the Child-Centered Special Education Process: Parent or Eligible Student Access to Education Records - Region 18](#)

[Balancing Student Privacy and School Safety: A Guide to the Family Educational Rights and Privacy Act for Elementary and Secondary Schools - U.S. Department of Education](#)

[FERPA General Guidance for Parents - U.S. Department of Education](#)

[OSEP Letter to Anderson \(Mar. 7, 2008\) - U.S. Department of Education](#)

[OSEP Letter to Price \(Oct. 13, 2010\) - U.S. Department of Education](#)

[OSEP Letter to Anonymous \(Apr. 9, 2012\) - U.S. Department of Education](#)

[FPCO Letter to Anonymous \(Feb. 13, 2013\) - U.S. Department of Education](#)

[FPCO Letter to Anonymous \(Feb. 27, 2015\) - U.S. Department of Education](#)

[FPCO Letter to Wachter \(Dec. 7, 2017\) - U.S. Department of Education](#)

CITATIONS

Board Policy FL; 34 CFR 99.3, 99.4, 99.8, 99.10–99.12, 99.30, 99.34, 300.501(a), 300.507, 300.510, 300.530–300.532, 300.611(b), 300.613, 300.615–300.617; Texas Education Code 26.004(a)–(b), 26.012, 32.258(a)–(d)

STAFF RESPONSIBLE

For questions about Records: Parent or Eligible Student Access to Education Records contact the Department of Special Education.

(281) 396-2630

SPECIAL EDUCATION OPERATING PROCEDURES

Records

PROCEDURES FOR AMENDING EDUCATION RECORDS

June 2022



Procedures for Amending Education Records

What is Required

Under the Family and Educational Rights and Privacy Act (“FERPA”) and the IDEA, a parent or eligible student who believes that information in the student’s education records collected, maintained, or used by the District is inaccurate, misleading or violates the privacy or other rights of the student may request that the District amend the information.

Request to Amend

Within a reasonable period of time after the District receives the parent or adult student’s request to amend a record, District Administration must decide whether to amend the record as requested. If the District decides not to amend the record as requested, District Administration must inform the parent or eligible student of the decision and advise the parent or eligible student of the right to a records hearing.

Opportunity for a Records Hearing

Upon request, the District must give the parent or eligible student an opportunity for a hearing to challenge the content of the student’s education record on the grounds that the information contained in the education record is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student.

Hearing Procedures

The hearing on the amendment of records must be held within a reasonable time after the District receives the request for the hearing from the parent or eligible student. The District must give the parent or eligible student notice of the date, time, and place of the hearing within a reasonable amount of time prior to the hearing.

The hearing may be conducted by any individual, including a District official, who does not have a direct interest in the outcome of the hearing. During the hearing, the parent or eligible student must have a full and fair opportunity to present evidence related to the issue(s). The parent or eligible student may, at their own expense, be assisted or represented by one or more individuals of the parent or eligible student’s own choice, including an attorney.

Following the hearing, the District must make its decision within a reasonable period of time. The decision must be in writing and based solely on the evidence presented at the hearing. The decision must also include a summary of the evidence and the reasons for

the decision.

Result of Records Hearing

If, following the hearing, the District decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, the District must amend the record accordingly and inform the parent or eligible student of the amendment in writing.

On the other hand, if, following the hearing, the District decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it must inform the parent or eligible student of the right to place a statement in the record commenting on the contested information in the record or setting forth the reasons for disagreeing with the District's decision—or both. The District must maintain any statement placed in the student's records as part of the student's records for as long as the record is maintained by the District. Further, the statement must be disclosed whenever the District discloses the portion of the record to which the statement relates.

Additional Procedures

Examples of Information That Is Amendable

The law limits a parent or eligible student's right to seek to amend a record by allowing them to only challenge information that is inaccurate, misleading, or otherwise violates a student's privacy. Examples of information that could be amendable under the law include, but are not limited to, the following:

- Substantive decisions that are inaccurately recorded, such as grades being wrongly entered into the student information system—but only if the parent can provide compelling evidence to show that the decision is inaccurate;
- Attendance information;
- Noncustodial parent contact information, such as when a court order explicitly states that a parent should no longer have access to the student's records;
- Unnecessary or derogatory opinions, such as those using a racial or ethnic slur, that are not substantive decisions; and
- Items that a student shared with a school official in confidence that may violate their privacy if shared with others, such as information relating to a student's sexuality.

Limited Right to Amend

The laws related to record amendment were only intended to require schools to conform to fair recordkeeping practices and not to override accepted standards and procedures for making academic assessments, disciplinary rulings, or placement determinations. Therefore, the right to amend a student's record is not unlimited. The law does not require the District to provide a parent or eligible student the right to seek to change substantive decisions made by school officials, such as grades, disciplinary decisions, other evaluations of the student, or disability placement or services.

If the amendment procedures are not applicable to the parent or eligible student's request for amendment, the District does not need to hold a hearing on the matter. Note that, although not required to do so, the District may still choose to fulfill a parent's request to amend information that is not required to be amended under the law.

Notice of Right to Amend

The District is required to provide annual notice explaining how a parent or eligible student can seek an amendment to the student's education record. The notice must specify the individual or department whom the parent or eligible student should contact regarding the request, as well as the information that should be included in the request. See [ANNUAL NOTIFICATION].

Procedures to Amend Special Education Records

Requests for challenging contents of a student's special education records must be submitted to the Principal of the student's school in writing. Upon receipt of such request, the Principal will schedule, within ten school days, a personal conference with the parent and other Special Education Personnel necessary to facilitate the meeting. Within five school days of the meeting, the Principal shall notify the parents in writing of its decision on the request and, if the request is denied, of their right to a hearing.

If a hearing is requested, it shall be held within 10 school days after the request is received. The parent or adult student shall be notified in advance of the date, time, and place of the hearing. A Special Education Administrator who is not responsible for the contested records and who does not have a direct interest in the outcome of the hearing shall conduct the hearing. The parent or adult student shall be given a full and fair opportunity to present evidence, and at their own expense, may be assisted or represented at the hearing.

During a hearing relating to the amendment, the District is not required to address concerns unrelated to the amendment. The decision about whether to amend the record should derive solely from the evidence presented in the hearing. Therefore, the District should aim to only discuss evidence regarding the record at issue during the hearing.

The parent or adult student shall be notified of the decision in writing within ten school days of the hearing. The decision shall be based solely on the evidence presented at the hearing and shall include a detailed summary of the evidence and reasons for the decision. If the decision is to deny the request, the parent or adult student shall be informed that they have 30 school days within which to exercise the right to place in the record a statement commenting on the contested information and/or stating any reason for disagreeing with the District's decision.

Deleting Information

The District may agree to grant a parent's request to delete or amend information that is no longer relevant without going through the amendment process, so long as it complies with state or District record-retention policies.

Revocation of Special Education Services

If the parent revokes consent in writing for the student's receipt of special education services after the student is initially provided with special education services, the District does not need to amend the student's education records to remove any references to the student's receipt of special education and related services.

Failure to Provide Right to Amend

If a parent or eligible student believes that the District has failed to provide the opportunity to seek amendment of inaccurate information in the student's education records or failed to offer an opportunity for a hearing on the matter, the parent may complete a parent complaint form. The complaint should include the following information: the date of the request for amendment of the student's education records; the name of the school official to whom the request was made, including a dated copy of any written request to the school, if possible; the response of the school official, if any; the specific nature of the information for which amendment was requested; and the evidence provided to the school to support the assertion that the information is inaccurate.

Should the parent file a complaint with the U.S. Department of Education, the District will have to demonstrate that it followed fair processes in compliance with FERPA. Therefore, to demonstrate compliance, it is critical that the District maintain a record of every communication and each step that was taken in making the decision.

Evidence of Implementation

- Notice of Procedural Safeguards
- Notice of Right to Amend
- Request to Amend
- Appointment of Impartial Hearing Officer

- Hearing Conducted by Impartial Hearing Officer
- Decision of Hearing Officer
- Amendment of Record
- Parent Statement in Record
- Parent Complaint Form

Resources

[The Legal Framework for the Child-Centered Special Education Process: Procedures for Amending Education Records - Region 18](#)

[FCPO Letter to Anonymous \(May 1, 2015\) - U.S. Department of Education](#)

[FCPO Letter to Parent re: Amendment of Special Education Records \(Aug. 13, 2004\) - U.S. Department of Education](#)

[Questions and Answers about Education Records - U.S. Department of Education](#)

[FERPA General Guidance for Parents - U.S. Department of Education](#)

CITATIONS

Board Policy FL; 34 CFR 99.20–99.22, 300.618(a)–(c), 300.619–300.622

STAFF RESPONSIBLE

For questions about Records: Procedures for Amending Education Records contact the Department of Special Education.

(281) 396-2630

SPECIAL EDUCATION OPERATING PROCEDURES

Records

RECORD OF ACCESS

June 2022



Record of Access

What is Required

The District must maintain a record of each request for access to and each disclosure of personally identifiable information from the education records of each student. *See* [PARENT OR ELIGIBLE STUDENT ACCESS TO EDUCATION RECORDS]. The record of access should include a listing of authorities, officials, and agencies that may make further disclosures of the student's education records in connection with an audit or evaluation of federal or state supported education programs, or for the enforcement of or compliance with federal legal requirements that relate to those programs. *See* [REDISCLASURE OF INFORMATION].

Required Entries

For each request or disclosure, the record of access must include:

- The name of the person or agency accessing the records;
- The purpose for which the party is authorized to use the records; and
- The date access was given.

If the District discloses personally identifiable information from an education record as permitted for redisclosure of information, the record of access must include the names of the additional parties to which the receiving party may disclose the information on behalf of the District. *See* [REDISCLASURE OF INFORMATION]. Likewise, it must include the legitimate interests that each of the additional parties has in requesting or obtaining the information. *See* [WHEN CONSENT IS NOT REQUIRED TO DISCLOSE INFORMATION]. This does not apply when a record of access is maintained by a state or local educational authority or federal official or agency who has access to records for auditing purposes.

When the District discloses personally identifiable information from education records under the health or safety emergency exception, it must record the articulable and significant threat to the health or safety of a student or other individuals that formed the basis for the disclosure, as well as the parties to whom the District disclosed the information. *See* [WHEN CONSENT IS NOT REQUIRED TO DISCLOSE INFORMATION].

Other Government Agencies' Records of Access

If a state or local educational authority or federal official or agency that has access to education records in connection with an audit or evaluation of federal or state supported education programs, or for the enforcement of or compliance with federal legal requirements that relate to those programs, makes further disclosures of information from education records, the auditing authority, official, or agency must record the names of the additional parties to which it discloses information on behalf of the District. *See* [REDISCLASURE OF INFORMATION]. The auditing authority,

official, or agency must also record the parties' legitimate interest in the information if the information was received from the District that has not recorded the further disclosures as part of its record of access entries or from another state or local educational authority or federal official or agency for audit purposes. *See* [WHEN CONSENT IS NOT REQUIRED TO DISCLOSE INFORMATION].

The auditing authority, official, or agency may maintain the record of access by the student's class, school, District, or other appropriate grouping, rather than by the student's name. Upon request by the District, the auditing authority, official, or agency that maintains the record of access of further disclosures must provide a copy of the record of access of further disclosures to the District within a reasonable period of time—not to exceed 30 days.

Upon request from a parent or eligible student to review the student's record of disclosure, the District must obtain a copy of the record of further disclosures to be maintained by the state or local educational authority or federal official or agency and make it available in response to a parent's or eligible student's request to review the student's record of disclosures.

Parties Not Required to Be Entered on the Record of Access

The following parties requesting or obtaining access to the student's education record do not have to be entered on the record of access:

- The parent or eligible student;
- A school official whom the agency or institution has determined to have a legitimate educational interest;
- A party with written consent from the parent or eligible student;
- A party seeking directory information, *see* [DISCLOSURE OF DIRECTORY INFORMATION]; or
- A party seeking or receiving the records as directed by a federal grand jury or other law enforcement subpoena and the issuing court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed.

Retention and Inspection of Record of Access

The District is required to maintain the record of access with the education records of the student for as long as the records are maintained by the District. A record of access for disclosure of personally identifiable information to a juvenile service provider must be maintained for seven (7) years from the date of disclosure. *See* [WHEN CONSENT IS NOT REQUIRED TO DISCLOSE INFORMATION].

Additionally, the following parties may inspect the record of access:

- The parent or eligible student;
- Campus Administration or Personnel who are responsible for the custody of the records; and
- For the purposes of auditing the recordkeeping procedures of the District, Campus Administration and Personnel, including teachers whom the District has determined have legitimate educational interests, and authorized representatives from the Comptroller General of the United States, the Attorney General of the United States, the United States Security of Education, or state and local educational authorities.

Additional Procedures

Access to Records by Third Parties

Any disclosure of a student’s personally identifiable information, other than to parents, eligible students, and appropriate individuals as listed above, will be recorded. This record will indicate the party who requested such disclosure and their interest in such disclosure, including name, date of access, and the purpose for which the person is authorized to use the records. This Record of Disclosure or Access Log will be available for inspection by parents and eligible students, officials responsible for such records, and appropriate federal and state officials for audit purposes.

Maintenance of Access Record

The record of access to document any person other than District and Campus Administration and Personnel with a legitimate educational interest should be kept in the student’s audit folder.

Recording Access to Computer Copies

Should the District maintain both computer and hard copies of a student’s education records, as is commonly done for IEPs, for example, access does not need to be recorded twice if the same party views both the computerized and hard copy version of the record on the same occasion. However, access must be recorded if the party examines only the computer version of the record without viewing the hard copy.

Evidence of Implementation

- Record of Access Maintained by District
- Record of Access Maintained by Other Party
- Access to Inspect Record of Access

Resources

[The Legal Framework for the Child-Centered Special Education Process: Record of Access - Region 18](#)

[FERPA for School Officials Guidance and Notices - U.S. Department of Education](#)

[Model Notification of Rights under FERPA for Elementary and Secondary Schools - U.S. Department of Education](#)

[Model Notification of Rights under FERPA for Postsecondary Institutions - U.S. Department of Education](#)

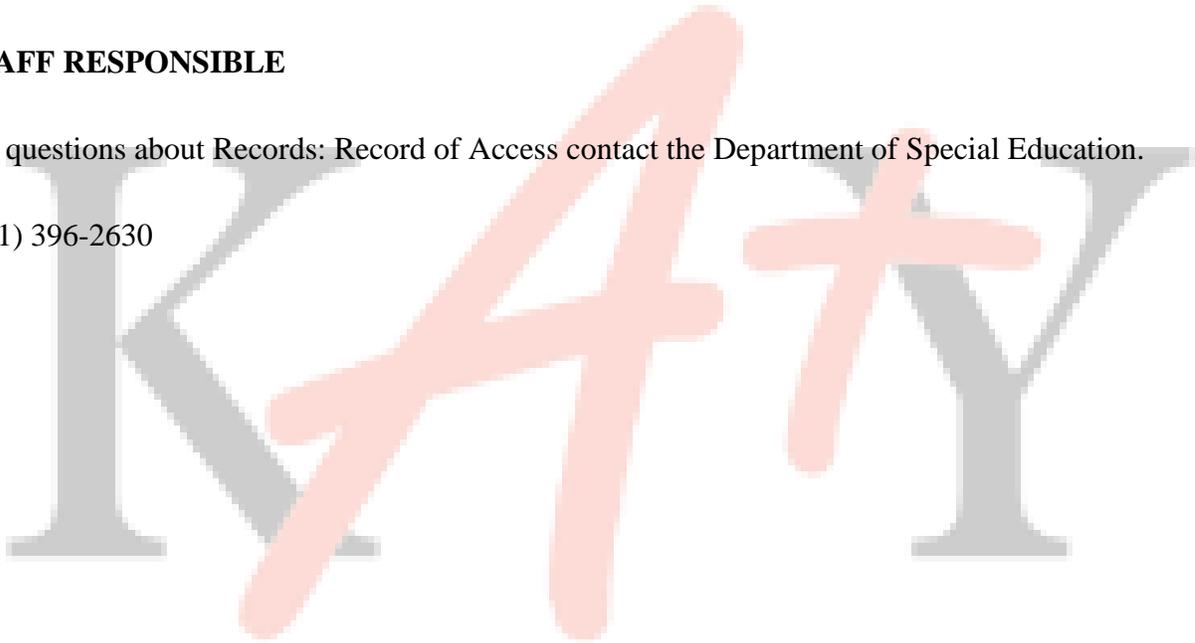
CITATIONS

Board Policy FL; 34 CFR 99.31–99.33, 99.35–99.36, 300.614; Texas Family Code 58.0051(c)

STAFF RESPONSIBLE

For questions about Records: Record of Access contact the Department of Special Education.

(281) 396-2630



SPECIAL EDUCATION OPERATING PROCEDURES

Records

REDISCLOSURE OF INFORMATION

June 2022



Redisclosure of Information

What is Required

Personal information from student education records may be transferred to an authorized third party only on the condition that such party will not permit any other party to have access to such information without the written consent of the student's parent, except in certain circumstances. In addition, officers, employees, and agents of the party that receive this information may only use the information for the purpose for which the disclosure was made. If a third party permits access to information in violation of this provision, the District shall not permit access to information from educational records to that third party for a period of not less than five years.

Conditions for Redisclosure Without Consent

A party may redisclose the information received from the District without the prior consent of the parent or eligible student if the redisclosure is made based on the following exceptions:

- To parents of dependent students;
- To comply with a court order or lawfully issued subpoena;
- As directory information;
- To the parent of a student who is not an eligible student or to the student;
- When the disclosure is in connection with and satisfies the elements of a disciplinary proceeding at an institution of postsecondary education;
- When the disclosure is to a parent of a student at an institution of postsecondary education regarding the student's violation of any federal, state, or local law, or of any rule of policy of the institution, related to the use or possession of alcohol or a controlled substance; and
- When the disclosure concerns sex offenders and other individuals required to register under the section of the Violent Crime Control and Law Enforcement Act of 1994 and satisfies the elements of the exception.

See [WHEN CONSENT IS NOT REQUIRED TO DISCLOSE INFORMATION] and [DISCLOSURE OF DIRECTORY INFORMATION].

The District must inform a party to whom disclosure is made of the requirements of redisclosure unless the redisclosure is made under one of the exceptions above. The District may still disclose personally identifiable information with the understanding that the party receiving the information may make further disclosures of the information on behalf of the District if the disclosures meet the exceptions for when consent is not required to disclose information and the District has complied with the requirements related to maintaining the record of access. *See* [WHEN

CONSENT IS NOT REQUIRED TO DISCLOSE INFORMATION] and [RECORD OF ACCESS].

Definitions

“Dependent student” is a qualifying child or relative.

- A qualifying child, with respect to any taxpayer for any taxable year, is an individual who bears a relationship to the taxpayer (i.e. is a child of the taxpayer or a descendant of such a child, or a brother, sister, stepbrother, or stepsister of the taxpayer or a descendant of any such relative); has the same principal place of abode as the taxpayer for more than one-half of such taxable year; meets the age requirements (has not reached the age of 19 as of the close of the calendar year in which the taxable year of the taxpayer begins or is a student who has not reached the age of 24 as of the close of such calendar year); has not provided over one-half of such individual’s own support for the calendar year in which the taxable year of the taxpayer begins; and has not filed a joint return (other than only for a claim of refund) with the individual’s spouse.
- A qualifying relative, with respect to any taxpayer for any taxable year, is an individual who bears a relationship to the taxpayer (i.e. is a child or descendant of a child; a brother, sister, stepbrother, or stepsister; the father or mother, or an ancestor of either; a stepfather or stepmother; a son or daughter of a brother or sister of the taxpayer; a brother or sister of the father or mother of the taxpayer; a son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law; or an individual who, for the taxable year of the taxpayer, has the same principal place of abode as the taxpayer and is a member of the taxpayer’s household); whose gross income for the calendar year in which such taxable year begins is less than the exemption amount; with respect to whom the taxpayer provides over one-half of the individual’s support for the calendar year in which such taxable year begins; and who is not a qualifying child of such taxpayer or of any other taxpayer for any taxable year beginning in the calendar year in which such taxable year begins.
- It does not include an individual who is not a citizen or national of the United States unless such individual is a resident of the United States or a country contiguous to the United States.

Additional Procedures

Redisclosure Notice

For any release of student records to a third party, the Record of Custodian who releases the record shall ensure that attached to the records is the District’s notice explaining the prohibitions of redislosure and the exceptions to redislosure as set out in District policy. Specifically, the District will inform the recipients of personally identifiable information of the limitation on

redisclosure, when such a limitation is applicable, by the following statement which is to accompany such disclosures:

The information on this document is considered personally identifiable information from the education records of a student. This disclosure is made upon the condition that you will not disclose the information to any other party (except to your officers, employees and agents pursuant to purposes for which the disclosure is made) without obtaining the prior written consent of the parent or eligible student.

Any District Employee who learns that a third party has violated the prohibitions regarding redisclosure must report such conduct to a District Administrator immediately.

Evidence of Implementation

- Consent from Parent or Eligible Student
- Redisclosure in Accordance with Requirements
- Notice from District to Party Regarding Requirements of Redisclosure
- Record of Access

Resources

[The Legal Framework for the Child-Centered Special Education Process: Redisclosure of Information - Region 18](#)

[FPCO Notice to Superintendents - U.S. Department of Education](#)

[Frequently Asked Questions - U.S. Department of Education](#)

CITATIONS

Board Policy FL; 20 USC 1092(f); 26 USC 152; 34 CFR 99.31, 99.33, 99.39

STAFF RESPONSIBLE

For questions about Records: Redisclosure of Information contact the Department of Special Education.

(281) 396-2630

SPECIAL EDUCATION OPERATING PROCEDURES

Records

RETENTION AND DESTRUCTION OF RECORDS

June 2022



Retention and Destruction of Records

What is Required

District Administration is solely responsible for retaining and destroying District records in accordance with state and federal requirements. Therefore, District and Campus Personnel must maintain the records in their care and work to preserve records in accordance with District policies and procedures to ensure that the records are appropriately retained and are not inadvertently destroyed.

Records Retention Schedules

The director and librarian of the Texas State Library and Archives Commission prepares and distributes the records retention schedules for the District. The records retention schedule will list the various types of District records; state the retention period prescribed by a federal or state law, rule of court, or regulation for records for which a period is prescribed; and prescribe retention periods for all other records. Prescribed retention periods have the same effect as if prescribed by law after the records retention schedule is adopted as a rule of the Texas State Library and Archives Commission. All District Personnel must maintain District records in accordance with the records retention schedules issued by the Texas State Library and Archives Commission and District policy.

Use of Local Schedule SD

Local Schedule SD sets mandatory minimum retention periods for records commonly found in the District. It is commonly used for districts of all types, regional educational service centers, educational cooperatives for special education and other purposes, rehabilitation districts, county industrial training school districts, county vocational districts, and active offices of county superintendents of schools and county departments of education.

Local Schedule SD Abbreviations

The following abbreviations are used in Local Schedule SD:

- AV – As long as administratively valuable;
- CE – Calendar year end;
- CFR – Code of Federal Regulations;
- FE – Fiscal year end;
- TAC – Texas Administrative Code;
- US – Until superseded; and

- LA – Life of asset.

Retention Period

Unless otherwise stated, the retention period for a record is in calendar years from the date of the record's creation and applies only to an official record, not to convenience or working copies created for informational purposes. Certain records are assigned the AV ("As long as administratively valuable") retention period, which provides the District the maximum amount of discretion in determining a specific retention period for a record.

Multiple Copies and the Official Record

If several copies of a record are maintained, the District will decide which copy will be the official record and in which of its divisions or departments it will be maintained. The District's records management program must establish policies and procedures to provide for the systematic disposal of copies.

Multiple Records Maintained Together

Unless otherwise stated, the retention period of a record maintained in a bound volume with pages not designed for removal is from the date of last entry. If two or more records are maintained together and are not severable, the combined record must be retained for the length of time of the component with the longest retention period.

Electronically Stored Data

The retention period for a record applies to the record regardless of the medium in which it is maintained. Electronically stored data that is used to create a record in any manner or the functional equivalent of a record, as described in Local Schedule SD, must be retained, along with the hardware and software necessary to access the data, for the retention period assigned to the record, unless the backup copies of the data generated from electronic storage are retained in paper or on microfilm for the retention period.

Conflicts with Other Local Schedules

Should there be any conflict between retention periods among Local Schedule SD, Local Schedule GR, or Local Schedule TX, the retention periods in Local Schedule SD take priority.

Grant Records

The District will maintain many records includable among the general administrative, financial, and personnel record series in Local Schedule GR, especially those relating to grant allocations, funding, and reporting. As a grantee, the District will keep records that fully show:

- The amount of funds under the grant;
- How the District uses the funds;
- The total cost of the project;
- The share of that cost provided from other sources;
- Other records to facilitate an effective audit;
- Records to show its compliance with program requirements; and
- Records of significant project experiences and results.

Retention of Federal Financial Program Records

The TEA will retain all financial and programmatic records, including supporting documents, statistical reports, and other records pertinent to program regulations or the grant agreement relating to projects or programs funded by the U.S. Department of Education through subgrants using federal funds from the TEA. All such records must be available for audit for three (3) years after the date of submission or last expenditure report by the TEA as the subgrantor—not by the District. As the TEA submits final expenditure reports after all reports from the District are received, a 5-year retention period for many District records is required.

The 5-year retention period will be extended in the following situations:

- If any litigation, claim, or audit is stated before the expiration of the 5-year retention period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken;
- When the District is notified in writing by the federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period;
- Records for real property and equipment acquired with federal funds must be retained for three years after final disposition;
- When records are transferred to or maintained by the federal awarding agency or pass-through entity, the 3-year retention requirement is not applicable to the District;
- Records for program income transactions after the period of performance. The District must report program income after the period of performance in some cases. If there is such a requirement, the retention period for the records pertaining to the earning of the program income starts from the end of the District’s fiscal year in which the program income is earned; and

- Indirect cost rate proposals and cost allocations plans, including indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable, such as computer usage chargeback rates or composite fringe benefit rates. If the District is required to submit the proposal, plan, or other computation to the federal government (or to the pass-through entity) to form the basis for negotiation of the rate, then the retention period for its supporting records starts from the date of such submission. If the District is not required to submit the proposal, plan, or other computation to the federal government (or to the pass-through entity) for negotiation purposes, the retention record for the proposal, plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or computation.

The District must retain all copies or records it submits to the TEA in accordance with Local Schedule SD.

Local Schedule SD

The District must comply with the applicable parts and sections of Local Schedule SD when determining retention rate of records, including:

- Academic records;
- Family Educational Rights and Privacy Act (“FERPA”) records;
- Records of special populations and services, including special education program records, bilingual and special language program records, Gifted/Talented program records, Section 504 program records, dyslexia program records, Migrant Student Transfer System records, or other special population records;
- Attendance records;
- Health records;
- Instruction and grade reporting records;
- Discipline and counseling records;
- Adult and vocational education records;
- Drivers education records;
- Accreditation records;
- Food service records;
- Textbook records;

- Transportation records;
- School safety records;
- Financial records;
- Personnel and staffing records, including individual employee records and staffing records;
- Miscellaneous reports and surveys;
- Miscellaneous records; and
- Library records.

Retention of Test Administration Documentation

The District must maintain records related to the security of assessment instruments for five years.

Requirement to Retain When Action Pending

The District may not destroy any District record if:

- the subject matter of the record is known by the custodian of the record to be in litigation,
- there is a pending request for disclosure under the Public Information Act (“PIA”);
- there is an outstanding request to inspect and review the record under FERPA;
- the record is subject to a pending audit by a federal or state grantor or subgrantor agency or, if questions remain unresolved from a conducted audit, until audit finds are resolved; or
- there is a pending claim, administrative review, or other action involving the record.

Destruction

The District may destroy a District record for the following reasons:

- The record is listed on a valid records control schedule and its retention period has expired, or it has been microfilmed or stored electronically;
- The record appears on a list of obsolete records approved by the director and librarian;
- The record is not listed on a records retention schedule issued by the Texas State Library and Archives Commission, and the District provides notice to the Texas State Library and Archives Commission at least ten (10) days before destroying the record;

- An expunction order issued by a court pursuant to state law directs the destruction of the record; or
- The record is defined or listed as exempt from scheduling or filing requirements by Texas State Library and Archives Commission rules.

Subject to any policies developed in the District regarding destruction, the custodian or creator of the document may exercise discretion in disposing of material that is not included in the definition of a local government record and that is not described as:

- Extra identical copies of documents created for convenience of reference or research by officers or employees of the District;
- Notes, journals, diaries, and similar documents created by an officer or employee of the District for the officer's or employee's personal convenience; and
- Blank forms.

Method of Destruction

If public access is restricted to District records, including extra identical copies, under the PIA or other state law, the District should only destroy such records by burning, pulping, or shredding. If public access is not restricted to District records under the PIA or other state law, the District may destroy the records by burning, pulping, shredding, burial in a landfill, or sale or donation for recycling purposes.

If the District sells or donates records for recycling purposes, the District must establish procedures for ensuring that the records are rendered unrecognizable as District records by the recycler. Through its records management program, the District will establish policies and procedures for the systematic disposal of copies of records. The director and librarian of the Texas State Library and Archives Commission may approve other methods of destruction that render the records unrecognizable as District records.

Damaged Records

If the minimum retention period of a record has not yet expired and is less than permanent, the District may dispose of the record if it has been so badly damaged by fire, water, or insect or rodent infestation as to render it unreadable. The District may also dispose of a record whose minimum retention period of a record has not yet expired and is less than permanent if portions of the information in the record have been so thoroughly destroyed that remaining portions are unintelligible.

However, if the retention period for the record is permanent, the District must obtain authority to dispose the damaged record from the director and librarian of the Texas State Library and Archives Commission. The Request for Authority to Destroy Unscheduled Records (Form SLR 501) should be used to seek such authority.

Alienation of Records

A records management officer or custodian may temporarily transfer a District record to a person for the purpose of microfilming, duplication, conversion to electronic media, restoration, or similar records management and preservation procedures.

Liability and Penalty

A custodian of District records, records management officer, or other District officer or employee may not be held personally liable for the destruction of a District record if the destruction is in compliance with the Local Government Code and rules adopted under it. A District officer or employee commits a Class A misdemeanor if the officer or employee knowingly or intentionally violates the Local Government Code or rules adopted under it by destroying or alienating a District record in violation of the Local Government Code or intentionally failing to deliver records to a successor in office.

Definitions

“Destruction” is physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.

“Director and librarian” are the executive and administrative officers of the Texas State Library and Archives Commission, respectively.

“Local government” is a county, including all district and precinct officers of a county, municipality, public school district, appraisal district, or any other special-purpose district or authority.

“Local government record” is any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by a local government or any of its officers or employees pursuant to law, including an ordinance, or in the transaction of public business. It does not include the following:

- Extra identical copies of documents created only for convenience of reference or research by officers or employees of the local government;
- Notes, journals, diaries, and similar documents created by an officer or employee of the local government for the officer’s or employee’s personal convenience;
- Blank forms;
- Stocks of publications;
- Library and museum materials acquired solely for the purposes of reference or display;

- Copies of documents in any media furnished to members of the public to which they are entitled under the Texas Public Information Act (“PIA”), Texas Government Code, Chapter 552, or other state law; or
- Any records, correspondence, notes, memoranda, or documents, other than a final written agreement associated with a matter conducted under an alternative dispute resolution procedure in which personnel of a state department or institution, local government, special district, or other political subdivision of the state participated as a party, facilitated as an impartial third party, or facilitated as the administrator of a dispute resolution system of organization.

“Records retention schedule” is a document issued by the Texas State Library and Archives Commission under authority of the subchapter on the Preservation and Management of Local Government Records in the Texas Government Code, establishing mandatory retention periods for local governmental records.

“Retention period” is the minimum time that must pass after the creation, recording, or receipt of a record, or the fulfillment of certain actions associated with a record before it is eligible for destruction.

Additional Procedures

Custodian of Records for Special Education Records

The principal is the custodian of all records for currently enrolled students at the assigned school. The Superintendent of Schools or designee is the custodian of records for students who have withdrawn or graduated. The official responsible for ensuring the confidentiality of any personally identifiable information in records of special education students shall be the principal or the District records management officer.

Special Education Program Records

Special education student records include records of each student referred to or receiving special education services, including: referral, assessment, and reevaluation reports; enrollment and eligibility forms; ARD and transition planning documentation; IEPs and individual transitional plans; parental consent forms for testing and placement; and any other records of services required under federal and state regulation. This also includes records of students receiving School Health and Related Services (“SHARS”). A student record is defined as information about a student recorded in any way, including, but not limited to handwriting, print, computer media, video or audio tape, film, microfilm and microfiche.

Upon the cessation of special education services, the District must retain special education student records for at least 5 years. However, the following information must be permanently retained in some form for each student in grades 9-12 participating in a special education program:

- Name;
- Last known address;
- Student ID or Social Security number;
- Grades;
- Classes attended; and
- Grade level and year completed.

If an academic achievement record is created for the student and maintained among those for students in the general education population, the District does not need to maintain the prescribed information beyond 5 years after the cessation of services, provided that it is contained in the Academic Achievement Record.

Destruction of Special Education Records

Documents containing personally identifiable information (social security number, date of birth, home addresses, etc.) of special education students must be appropriately and securely destroyed. District employees are expected to maintain the records in their care and carry out the preservation, microfilming, destruction, or other disposition of the records in accordance with the policies and procedures of the District's records management program.

The District must inform parents of students with disabilities when personally identifiable information in education records is no longer needed to provide educational services to the student. At the parent's request, the District must destroy the information. However, parents may not request that the District destroy their student's education records when those records are still needed for educational purposes. Furthermore, the District may still maintain a permanent record of the student's name, address, phone number, grades, attendance record, classes attended, grade level completed, and years completed for an unlimited period of time.

When the District notifies the parent that the student's records are no longer needed for educational purposes, and the parents do not request that the documents be destroyed, the District may choose to destroy the student's education records. The District is not required to provide further notice of the destruction to the parent at this point. However, the records may be needed by the parent or student in the future in connection with applications for Social Security or other benefits. Therefore, a parent may wish to exercise the right to inspect and review the records and request retention of desired portions after being notified that the records are no longer needed. The District may not destroy the records while the request to inspect and review the records is pending.

Evidence of Implementation

- Records Retention Schedule
- Retention of Official Records

- Policies and Procedures for Disposal of Copies
- Compliance with Policies and Procedures for Disposal of Copies
- Policies and Procedures Relating to Destruction of Records
- Compliance with Policies and Procedures Relating to Destruction of Records
- Notification to Parents Regarding Education Records
- Request for Parent to Destroy Education Records

Resources

[The Legal Framework for the Child-Centered Special Education Process: Retention and Destruction of Records](#)

[Local Schedule SD: Retention Schedule for Records of Public School Districts - Texas State Library and Archives Commission](#)

[OSEP Letter to Hoekstra \(Oct. 26, 2000\) - U.S. Department of Education](#)

[OSEP Letter to Breecher \(Sept. 27, 1990\) - U.S. Department of Education](#)

[OSEP Letter to Anonymous \(Jan. 18, 1989\) - U.S. Department of Education](#)

CITATIONS

Board Policy FL; 2 Code of Federal Regulations 200.333(a)–(f); 34 Code of Federal Regulations 75.730–75.732, 300.611(a), 300.573; Texas Government Code 441.158(a)–(b), 441.169; Texas Local Government Code 201.003, 201.006(a), 202.001–202.004, 202.006–202.008, 203.041, 203.044, 204.007, 205.008; 19 Texas Administrative Code 101.3031; Local Schedule SD

STAFF RESPONSIBLE

For questions about Records: Retention and Destruction of Records contact the Department of Special Education.

(281) 396-2630

Updated 2022

SPECIAL EDUCATION OPERATING PROCEDURES

Records

SCHOOL PERSONNEL AND THE IEP

June 2022



School Personnel and the Individualized Education Program

What is Required

The District must ensure that a student's IEP is accessible to all Campus Personnel—including regular education teachers, special education teachers, and related service providers—and any other service provider who is responsible for its implementation. The District must also ensure that all Campus Personnel and Related Service Personnel working with the student are informed of their specific responsibilities related to implementing the student's IEP and the specific accommodations, modifications, and supports that must be provided for the student in accordance with the IEP. Further, the District must ensure that all Campus Personnel providing instruction to the student have the opportunity to request assistance regarding the implementation of the IEP.

Teacher Request for Review of IEP

The District must develop a process to be used by Campus Personnel who instruct a student with a disability in a regular classroom setting to request a review of the student's IEP and to provide input in the development of the student's IEP. Further, the District is required to develop a process for such Campus Personnel that provides for a timely response by the District to the teacher's request and provides for notification to the student's parent of that request.

Additional Procedures

School Personnel Access to IEP

All School Personnel who are responsible for implementing a student's IEP including regular education teachers, special education teachers, teacher assistants, administrators, related service personnel, and other support personnel shall be provided access to the student's IEP. Specifically, Campus Special Education Personnel shall ensure that copies of the following portions of the ARD/IEP report are provided to each person responsible for the implementation of the IEP:

- Present Levels of Academic Achievement and Functional Performance (PLAAFP)
- Goals and objectives
- Accommodations and modifications
- Behavior Intervention Plan (BIP)
- Health Care Plan
- Schedule of Services
- Portions of the ARD deliberations as appropriate

- Other relevant sections as appropriate.

Such information shall be provided by the student's Special Education Case Manager to all relevant personnel within three (3) school days of the ARD meeting in which the IEP was adopted or within three (3) school days after the relevant personnel is assigned to implement the student's IEP (including within 3 school days of a new school year or new semester in which the student is enrolled in the School Personnel's class or service). Each School Personnel receiving the IEP shall sign electronically for documents shared through an electronic management system, or with their personal signature on the Distribution of IEP form for paper copies received.

In addition, at any time, any School Personnel responsible for the implementation of a student's IEP may request assistance from the student's Special Education Case Manager regarding the implementation of the IEP. Such assistance shall be promptly provided and documented by the student's Special Education Case Manager.

Regular Education Teacher Review & Input Into IEP

All of a student's regular education teachers shall have input into a student's IEP. Prior to a student's ARD meeting, the student's Special Education Case Manager shall request information from each of the student's current regular education teachers regarding the student's progress and any input the regular education teacher can provide regarding interventions, instruction, and/or modifications appropriate for the student in the teacher's class. Such information shall be documented on the Teacher Input Form and provided to the ARD Committee to consider in the development of the student's IEP.

After receipt of a student's IEP by a regular education teacher, the regular education teacher may request a review of the student's IEP by appropriate Special Education Personnel. The regular education teacher shall fill out the IEP Review Request Form and provide that form to the student's Special Education Case Manager. The Special Education Case Manager, within 5 school days of receipt of the IEP Review Request Form, shall schedule an IEP review meeting with the regular education teacher conducted by appropriate personnel. Although the IEP review meeting is not a formal ARD meeting, the Case Manager shall also notify the student's parent of the meeting and invite the student's parent to attend the meeting. The Special Education Case manager will document the meeting on the IEP Review Meeting Form and provide a copy of the IEP Review Meeting Form to the regular education teacher and the student's parent within 3 school days of the meeting.

Record of Access

A student's special education eligibility folder, which includes the student's original IEP, should include an Access Log that lists all individuals who have accessed and reviewed any information in the student's eligibility folder. The Access Log, which will list those individuals having direct access to the folder, should be in close proximity to the eligibility folder. *See* [RECORD OF ACCESS]. Any District Campus Personnel who review the folder must sign the Access Log in the student's folder, indicating their name, their position, the date, and their reason for viewing the

records. If the student’s original special education eligibility folder is maintained electronically only, electronic access, including the reason for the access, may be automatically recorded in an Access Log via the online platform.

Evidence of Implementation

- ARD/IEP
- Distribution of IEP Form
- IEP Implementation Assistance Request
- Response to IEP Implementation Assistance Request
- Teacher Input Form
- IEP Review Request Form
- IEP Review Meeting Form
- Access Log
- Training on IEP Implementation
- Review of ARD/IEP with Teachers and Providers

Resources

[The Legal Framework for the Child-Centered Special Education Process: School Personnel and the Individualized Education Program - Region 18](#)

[IEP Development - TEA](#)

[Standards-Based IEP Guidance - TEA](#)

[SPED TEX - Instruction](#)

[SPED TEX - IEP](#)

[Specially Designed Instruction: A Resource for Teachers - TEA](#)

CITATIONS

Board Policy FL; 34 CFR 300.323(d); 19 Texas Administrative Code 89.1075(c)–(d); Texas Education Code 29.001(11)

STAFF RESPONSIBLE

For questions about Records: School Personnel and the IEP contact the Department of Special Education.

(281) 396-2630

Updated 2022

SPECIAL EDUCATION OPERATING PROCEDURES

Records

SPECIAL EDUCATION ELIGIBILITY FOLDER

June 2022



Special Education Eligibility Folder

What is Required

In addition to the student's cumulative record, the District must maintain an eligibility folder for each student receiving special education services. At a minimum, the eligibility folder must include:

- Copies of referral data;
- Documentation of notices and consents;
- Evaluation reports and supporting data;
- ARD Committee reports; and
- The student's IEP, which must include all required information in compliance with the IDEA. *See* [ADMISSION, REVIEW, AND DISMISSAL COMMITTEE SECTIONS OF MANUAL].

Additional Procedures

Collection and Maintenance

District or Campus Administration must keep all original copies of each student's special education eligibility folder in a secure, locked location (i.e. a locked filing cabinet) assigned at the student's campus—or in a location otherwise designated by the District. For students who have withdrawn or graduated from the District, the eligibility folders will be maintained by District Administration at a central location. For those students who are referred and evaluated for special education, but who do not qualify and/or those students who are DNQ'd from special education, a special education eligibility folder shall be created and maintained in a location designated by the District.

The special education eligibility folder should be made available for review by professional staff. The access record, which will list those individuals who have directly accessed the folder, should be in close proximity to the eligibility folder. *See* [RECORD OF ACCESS]. Any District or Campus Personnel who has an educational need to review the folder must sign the folder review access form in the student's folder, indicating their name, their position, the date, and their reason for viewing the records. If the student's original special education eligibility folder is maintained electronically only, electronic access, including the reason for the access, may be automatically recorded in an Access Log via the online platform.

Eligibility folders should only be removed from the secure, locked location after formally documenting the removal through a check-in/check-out process. These folders should be returned

the same day if possible. Otherwise, they must be stored in another locked filing cabinet overnight. Unless done by a District or Campus Assessment Personnel or Administration as needed, an eligibility folder should never leave the area designated by the District for eligibility folders. Should an eligibility folder need to be delivered to another campus/area in the District, District or Campus Assessment Personnel or Administration should personally deliver the folder rather than sending it in the mail. Likewise, only District or Campus Assessment Personnel or Administration at the other campus/area may accept the folder. When the folder is received by the other campus/area, the receiving individual should sign and date the transfer of records on a Transfer of Special Education Student Record form.

Personally identifiable student information that is maintained by individual teachers, counselors, or other staff may be kept in their individual offices or classrooms and do not need to be placed in the student's eligibility folder. These individuals are responsible for protecting the confidentiality of this personally identifiable student information.

Cumulative Record File

In addition to the special education eligibility folder, a student's cumulative record file will typically contain personally identifiable information, including, but not limited to: enrollment applications; standardized test scores; attendance data; results of intelligence, aptitude, or psychological testing; interest inventory results; medical and/or health data; family background information; teacher or counselor ratings and observations; behavior reports or disciplinary information. Such information shall be maintained on the campus in which the student is enrolled.

Testing Protocols

Testing protocols are considered educational records and therefore are protected under FERPA and the IDEA. The District must preserve all raw test data and protocols in the event a parent or eligible student wishes to exercise the right to review the protocols and test questions. A test answer sheet is considered an education record which the parent may request to review. Further, the parent may request that the District provide an explanation of the test results in addition to or instead of reviewing the protocols. However, testing protocols should not be maintained in the student's eligibility folder, but instead, should be maintained in a file maintained by Campus or District Assessment Personnel.

A parent who wants to review protocols should schedule an appointment with the Campus or District Assessment Personnel, where the Campus or District Assessment Personnel will be present to answer any questions asked by the parent or eligible student. The District should respond to this request within a reasonable period of time, but no more than 45 days after the request has been received.

A parent or eligible student may not be provided a copy of the protocols or copy protocol information, such as test questions or content, as this violates copyright laws.

Evidence of Implementation

- Referral Data in Eligibility Folder
- Notices and Consents in Eligibility Folder
- Evaluation Reports and Supporting Data in Eligibility Folder
- ARD Committee Reports in Eligibility Folder
- ARD/IEP in Eligibility Folder
- Eligibility Folder Maintained in Locked, Secure Location
- Access Record
- Folder Review Form
- Meeting Log for Reviewing Testing Protocols
- Check-In/Check-Out Documentation
- Transfer of Special Education Student Record Form

Resources

[The Legal Framework for the Child-Centered Special Education Process: Special Education Eligibility Folder - Region 18](#)

[FPCO Letter to Tobias \(May 8, 2015\) - U.S. Department of Education](#)

[Information Security Handbook: A Guide for Managers - National Institute of Standards and Technology](#)

[Security and Privacy Controls for Federal Information Systems and Organizations - National Institute of Standards and Technology](#)

[Memorandum to Heads of Federal Agencies from the Office of Management and Budget \(May 22, 2007\) - U.S. Department of Education](#)

[OSEP Letter to Anonymous \(Jan. 18, 1989\) - U.S. Department of Education](#)

[OSEP Letter to Price \(Oct. 13, 2010\) - U.S. Department of Education](#)

CITATIONS

Board Policy FL; 19 Texas Administrative Code 89.1075(a),(d)

STAFF RESPONSIBLE

For questions about Records: Special Education Eligibility contact the Department of Special Education.

(281) 396-2630

SPECIAL EDUCATION OPERATING PROCEDURES

Records

WHEN CONSENT IS NOT REQUIRED TO DISCLOSE INFORMATION

June 2022



When Consent Is Not Required to Disclose Information

What is Required

The District does not need to obtain consent for the disclosure of confidential information before releasing personally identifiable information from a student's education records in the following circumstances. *See* [CONSENT FOR DISCLOSURE OF CONFIDENTIAL INFORMATION].

- The disclosure is to officials of IDEA Part B participating agencies to meet a requirement under IDEA, except as otherwise provided in this section.
- The disclosure is to other school officials, including teachers, within the District whom the District has determined to have legitimate educational interests.
- The disclosure is to officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll, is enrolled, or is receiving services, subject to conditions that apply to the disclosure of information to other educational agencies or institutions (see below).
- The disclosure is to authorized representatives who may have access to education records in connection with an audit or evaluation of federal or state supported education programs, or for the enforcement of or compliance with federal legal requirements which relate to those programs (see below).
- The disclosure is in connection with financial aid for which the student has applied or which the student has received, if the information is necessary to determine eligibility for the aid, determine the amount of or conditions for the aid, or enforce the terms and conditions of the aid.
- Unless further limited by state law, the disclosure is to state and local officials or authorities to whom this information is specifically allowed to be reported or disclosed if the allowed reporting or disclosure concerns the juvenile justice system and the system's ability to effectively serve the student whose records are released or allowed to be reported or disclosed pursuant to conditions that apply to disclosure of information concerning the juvenile justice system (see below).
- The disclosure is to organizations conducting studies for, or on behalf of, educational agencies or institutions, subject to the conditions that apply to disclosure of information to organizations conducting studies (see below).
- The disclosure is to accrediting organizations to carry out accrediting functions.
- The disclosure is to the parent of a dependent student, as defined by the Internal Revenue Code.
- The disclosure is to comply with a judicial order or lawfully issued subpoena, subject to

the conditions that apply to a judicial order or lawfully issued subpoena (see below).

- The disclosure is to appropriate parties in connection with a health or safety emergency under the conditions that apply to disclosure of information in health and safety emergencies (see below).
- The disclosure is to an agency caseworker or other representative of a state or local child welfare agency, or tribal organization, who has the right to access a student’s case plan, as defined and determined by the state or tribal organization, when the agency or organization is legally responsible, in accordance with state or tribal law, for the care and protection of the student, provided that the education records—or the personally identifiable information contained in such records—of the student will not be disclosed by the agency or organization, except to an individual or entity engaged in addressing the student’s education needs and authorized by the agency or organization to receive such disclosure, and such disclosure is consistent with the state or tribal laws applicable to protecting the confidentiality of a student’s education records.
- The disclosure is information that the District has designated as directory information in compliance with requirements related to the disclosure of directory information, *see* [DISCLOSURE OF DIRECTORY INFORMATION].
- The disclosure is to the parent of a student who is not an eligible student or to the student. An “eligible student” is a student who has reached 18 years of age or is attending an institution of postsecondary education.
- The disclosure concerns sex offenders and other individuals required to register under section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. 14071, and the information was provided to the District under 42 U.S.C. 14071 and applicable Federal guidelines.

The District may also release records or information without the consent of the parent or eligible student after the removal of all personally identifiable information (i.e., redacted records) provided that the District has made a reasonable determination that a student’s identity is not personally identifiable, whether through single or multiple release, and taking into account other reasonably available information.

While the District may release student records and information in the above circumstances, except for disclosure to the parent of a student who is not an eligible student or in response to a signed consent for release from the parent, the District is not required to disclose education records or information from education records to any party.

The District must use reasonable methods to identify and authenticate the identity of parents, students, school officials, and other parties to whom the District discloses personally identifiable information from education records.

Disclosure of Information to Other Educational Agencies or Institutions

If the District discloses an education record to officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll, is enrolled, or is receiving services, it must make a reasonable attempt to notify the parent or eligible student at the last known address of the parent or eligible student. This notification is not required if the disclosure is initiated by the parent or eligible student or the District's annual notification includes a notice that the District forwards education records to other agencies or institutions that have requested the records and in which the student seeks or intends to enroll or is already enrolled, so long as the disclosure is related to the student's enrollment or transfer. *See* [ANNUAL NOTIFICATION].

Upon request, the District must also give the parent or eligible student a copy of the record that was disclosed and an opportunity for a hearing related to the amendment of education records. *See* [PROCEDURES FOR AMENDING EDUCATION RECORDS].

Disclosure of Information for Federal or State Program Purposes

The District may disclose education records to the following officials and authorized representatives in connection with an audit or evaluation of federal or state supported education programs, or for the enforcement of or compliance with federal legal requirements relating to those programs:

- The comptroller general of the United States;
- The attorney general of the United States;
- The secretary of education of the United States; or
- State and local educational authorities.

Unless there has been consent for disclosure of confidential information or if the collection of personally identifiable information is specifically authorized by federal law, the information that is collected for disclosure for federal and state program purposes must be protected in a way that does not allow personal identification of individuals by anyone except authorized individuals. *See* [CONSENT FOR DISCLOSURE OF CONFIDENTIAL INFORMATION]. The information that is collected for disclosure must be destroyed when it is no longer needed for the audit or evaluation of federal or state supported education programs, or for the enforcement of or compliance with federal legal requirements relating to those programs.

Disclosure of Information Concerning the Juvenile Justice System

The District may disclose education records where reporting or disclosure of information allowed by state statute concerns the juvenile justice system and the system's ability to effectively service the student whose records are released prior to adjudication. Should the juvenile service provider request confidential information contained in the student's educational records, the District must disclose the information if the student has been taken into custody by a law enforcement officer or probation officer in connection with a proceeding in juvenile or family court or referred to a juvenile court for allegedly engaging in delinquent conduct or conduct indicating a need for

supervision.

Before disclosing confidential information, the District must obtain certification in writing from officials and authorities to whom the records will be disclosed that the information will not be disclosed to any other party, except as provided under state law, without the prior written consent of the parent of the student. Unless the parent or eligible student has given written consent for disclosure of confidential information, the District must also maintain a record of access for information disclosed to a juvenile justice provider for seven (7) years from the date the information is disclosed.

A fee equal to the fee charged under the Public Information Act (“PIA”) may be charged for records provided to a juvenile service provider, unless there is a memorandum of understanding between the requesting provider and the District that prohibits the payment of a fee, provides for a waiver of a fee, or provides an alternate method of accessing a fee.

Disclosure of Information to Organizations Conducting Studies

The District may disclose information to organizations conducting studies for, or on behalf of, the District to develop, validate, or administer predictive tests; administer student aid programs; or improve instruction. Under FERPA, an organization includes, but is not limited to, federal, state, and local agencies, and independent organizations.

The District may disclose personally identifiable information to organizations conducting studies, and a state or local education authority or agency headed by the comptroller general of the United States, the attorney general of the United States, the secretary of education of the United States, or state and local educational authorities may redisclose personally identifiable information if:

- The study does not allow personal identification of parents and students by individuals other than representatives of the organization that have legitimate interests in the information;
- The information is destroyed as soon as it is no longer needed for the study; and
- The District entered into a written agreement with the organization that:
 - Specifies the purpose, scope, and duration of the study or studies and the information to be disclosed;
 - Requires the organization to use personally identifiable information for education records only to meet the purpose or purposes of the study as stated in the written agreement;
 - Requires the organization to conduct the study in a way that does not allow personal identification of parents and students by anyone other than representatives of the organization with legitimate interests; or
 - Requires the organization to destroy all personally identifiable information when

the information is no longer needed for the study and specifies the time period in which the information must be destroyed.

Disclosure in Compliance with a Judicial Order or Lawfully Issued Subpoena

The District may disclose information to comply with a judicial order or lawfully issued subpoena if the District first makes a reasonable effort to notify the parent or eligible student of the order or subpoena prior to complying with the order or subpoena, so that the parent or eligible student may first seek protective action.

However, notice is not required if the disclosure is in compliance with a federal grand jury subpoena where the court has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed. The District also does not need to provide the notice if the disclosure is in compliance with any other subpoena issued for a law enforcement purpose and the court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed. Finally, notice is not necessary when a parent is a party to a court proceeding involving child abuse and neglect or dependency matters, and the order is issued in the context of that proceeding.

If the District initiates legal action against a parent or student, the District may disclose, without a court order or subpoena, the student's education records that are relevant for the District to proceed with the legal action as the plaintiff. Similarly, if a parent or eligible student initiates legal action against the District, the District may also disclose the student's education records that are relevant for the District to defend itself to the court without a court order or subpoena.

Disclosure of Information in Health and Safety Emergencies

The District may also disclose personally identifiable information from an education record to appropriate parties, including the parents of an eligible student, in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals.

The District may not be prevented from including in the student's education records appropriate information concerning disciplinary action taken against the student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community. The District also cannot be prevented from disclosing this information to teachers or school officials within the District or in other schools who the District has determined have legitimate educational interests in the behavior of the student.

When deciding whether to disclose information in health and safety emergencies, the District may consider the totality of the circumstances related to a threat to the health or safety of a student or other individuals. If the District believes there is an articulable and significant threat to the health or safety of a student or other individuals, it may disclose information from education records to any person whose knowledge of the information is necessary to protect the health or safety of the student or other individuals. If there is a rational basis for the District's decision based on the information available at the time of the determination of a health or safety emergency, the U.S.

Department of Education will defer to the District’s judgment in evaluating the circumstances and making its determination.

Definitions

“Parent” as defined by FERPA means a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian.

“School official” includes individuals employed by the District as well as contractors, consultants, volunteers, or other outside parties to whom the District has outsourced institutional services or functions provided that the outside party performs an institutional service or function for which the District would otherwise use employees; the outside party is under the direct control of the District with respect to the use and maintenance of education records; and the outside party is subject to the same requirements under FERPA governing the use and redisclosure of personally identifiable information from education records.

“Dependent student” is a qualifying child or relative.

- A qualifying child, with respect to any taxpayer for any taxable year, is an individual who bears a relationship to the taxpayer (i.e. is a child of the taxpayer or a descendant of such a child, or a brother, sister, stepbrother, or stepsister of the taxpayer or a descendant of any such relative); has the same principal place of abode as the taxpayer for more than one-half of such taxable year; meets the age requirements (has not reached the age of 19 as of the close of the calendar year in which the taxable year of the taxpayer begins or is a student who has not reached the age of 24 as of the close of such calendar year); has not provided over one-half of such individual’s own support for the calendar year in which the taxable year of the taxpayer begins; and has not filed a joint return (other than only for a claim of refund) with the individual’s spouse.
- A qualifying relative, with respect to any taxpayer for any taxable year, is an individual who bears a relationship to the taxpayer (i.e. is a child or descendant of a child; a brother, sister, stepbrother, or stepsister; the father or mother, or an ancestor of either; a stepfather or stepmother; a son or daughter of a brother or sister of the taxpayer; a brother or sister of the father or mother of the taxpayer; a son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law; or an individual who, for the taxable year of the taxpayer, has the same principal place of abode as the taxpayer and is a member of the taxpayer’s household); whose gross income for the calendar year in which such taxable year begins is less than the exemption amount; with respect to whom the taxpayer provides over one-half of the individual’s support for the calendar year in which such taxable year begins; and who is not a qualifying child of such taxpayer or of any other taxpayer for any taxable year beginning in the calendar year in which such taxable year begins.
- It does not include an individual who is not a citizen or national of the United States, unless such individual is a resident of the United States or a country contiguous to the United States.

Additional Procedures

Access by Parents and Eligible Students

Access to the education records of a student who is or has been in attendance at a school in the District shall be granted to the parent of the student who is a minor or who is a dependent for tax purposes. A parent is entitled to access to all written records of a district concerning the parent's child, including all special education records.

Whenever a student has attained 18 years of age or is attending an institution of postsecondary education, the rights accorded to, and consent required of, parents transfer from the parents to the student. However, the District may disclose the educational records of the eligible student to the student's parent without the eligible student's consent if the disclosure meets one of the conditions above, including if the student is the parent's dependent for tax purposes or in the case of a health or safety emergency.

Access by School Officials

School officials to whom access to education records may be given without consent may include, but are not limited to the following individuals who have been determined to have a legitimate educational interest in accessing the records: professionals, paraeducators, Campus and District Administration, Trustees, school transportation officials (including bus drivers), school nurses, consultants, contracted employees, practicum and fieldwork students, unpaid interns, student or parent volunteers over whom the District exercises direct control, and attorneys.

School officials have a "legitimate educational interest" in a student's records when they are working with the student; considering academic or disciplinary actions, the student's case, or an IEP for a student with disabilities; compiling statistical data; or investigating or evaluating students, staff or programs.

Members of the District's law enforcement unit will only be considered "school officials" if the law enforcement official is an employee of the district and the District appropriately provided parents and eligible students notice that its law enforcement unit officials are school officials with legitimate educational interest in those education records.

Note that the College Board does not qualify as a school official within the District or an individual providing services on behalf of the District for FERPA purposes.

Access Record

Any disclosure of personally identifiable information other than to the student's parent, the eligible student, or designated school district officials must be recorded in the record of access. *See* [RECORD OF ACCESS]. The record of access must indicate the party or parties requesting the disclosure, their legitimate interest in the disclosure, the date of access, and the purpose for which the person is authorized to use the records.

Disclosure of Information to Other Educational Agencies or Institutions

When a student’s ARD Committee searches for an appropriate placement for a student with a disability, Campus Administration may have to discuss the student’s needs with officials from other schools where the student seeks to enroll. These discussions may require the disclosure of personally identifiable information. Before doing so, the District must notify the parents that the education records will be provided to other institutions where the student seeks admission.

Disclosure of Information in Health and Safety Emergencies

The health and safety emergency exception does not provide the District the right to make a blanket release of sensitive information. For example, with respect to health concerns caused by a pandemic, the District may release only the information necessary to address those concerns.

Additionally, the requirement that there must be an “articulable and significant threat” does not mean that the threat must be verbal. It simply means that the District can articulate what the threat is when it makes and records the disclosure.

In joint guidance, the U.S. Department of Education and U.S. Department of Health and Human Services has stated, “For example, if a student stormed out of a teacher’s office stating that, ‘I know where my parents keep their guns, and someone is going to pay’ and the teacher believes that the student is on his way home and may try to use the weapons, FERPA’s health or safety exception would permit the teacher to contact the parents, police, or others in a position to help.”

Regarding threat assessments, the District may disclose the results of a student’s threat assessment to other schools and local law enforcement without parental consent if there is an articulable and significant threat to the health or safety of the student or other individuals.

Evidence of Implementation

- Disclosure to Authorized Parties
- Consent for Release of Confidential Information
- Record of Access
- Notice to Parents Prior to Disclosure to Other School (Where Necessary)
- Annual Notification to Parent or Eligible Student
- Destruction of Disclosed Information by Authorized Parties Once No Longer Needed
- Certification from Juvenile Service Provider Officials and Authorities
- Written Agreement with Organizations Conducting Studies
- FERPA Notice to Parent Prior to Subpoena Compliance

Resources

[The Legal Framework for the Child-Centered Special Education Process: When Consent Is Not Required to Disclose Information - Region 18](#)

[Dear Colleague Letter \(Dec. 17, 2008\) - U.S. Department of Education](#)

[FPCO Letter to Anonymous \(Feb. 12, 2010\) - U.S. Department of Education](#)

[FPCO Letter to Anonymous \(June 6, 2014\) - U.S. Department of Education](#)

[FPCO Notice to Chief State School Officers \(Dec. 1, 2014\) - U.S. Department of Education](#)

[Joint Guidance on the Application of HIPAA and FERPA to Student Health Records \(Dec. 19, 2019\) - U.S. Department of Education and U.S. Department of Health and Human Services](#)

[Protecting Student Privacy While Using Online Educational Services: Requirements and Best Practices \(Feb. 2014\) - U.S. Department of Education](#)

CITATIONS

Board Policy FL; 20 USC 1232g; 25 USC 5304(l); 26 USC 152; 34 CFR 99.31, 99.34–99.36, 99.38, 300.622(a)–(b); 73 Fed. Reg. 74,838 (2008); Texas Education Code 37.084(a); Texas Family Code 52.01(a), 58.0051(a)–(b)

STAFF RESPONSIBLE

For questions about Records: When Consent Is Not Required to Disclose Information contact the Department of Special Education.

(281) 396-2630