

DIVISION OF SPECIALIZED EDUCATION (DSE)

**POLICY IN PRACTICE WEBINAR SERIES:
Confidentiality of Student Information**





Agenda

- A. Family Educational Rights and Privacy Act (FERPA) and Key Terms**
- B. Parent Notice and Consent Requirements**
- C. Parent Access to Education Records**
- D. Right to Inspect and Review**
- E. Right to Request to Amend**
- F. Opportunity for Hearing**
- G. Transfer of Rights**
- H. LEA Maintenance Responsibilities**



FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA) & KEY TERMS

FERPA & Key Terms

Family Educational Rights and Privacy Act (FERPA)

- ❖ **Federal law that protects education records and grants parents the right to:**
 - **Access their child's education records,**
 - **Request amendments to their child's education records, and**
 - **Consent to disclosure of their child's education records.**

34 C.F.R. §§ Part 99

For more information, visit:

<http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html>

FERPA & Key Terms

Education Records

- ❖ The term *education records* refers to those records that are directly related to a student and maintained by an educational or applicable public agency or institution, or by a party acting on behalf of the agency or institution.

34 C.F.R. §99.3

FERPA & Key Terms

❖ **Education records do not include:**

- **Records used as a personal memory.**
- **Records of the law enforcement unit of the LEA.**
- **Records related exclusively to an individual employed by the LEA.**
- **Records of a student who is over 18 years of age and maintained by a physician or recognized professional used in connection with the treatment of the student.**
- **Records created or received by an LEA or applicable agency after the student no longer attends the LEA.**
- **Grades or peer-graded papers before they are collected and recorded by a teacher.**

FERPA & Key Terms

Personally Identifiable Information

- ❖ The term *personally identifiable information* refers to any information that would enable the identification of a student.
- ❖ This information includes, but is not limited to:
 - Student's name
 - Student's date of birth
 - Student's place of birth
 - Student's ID number
 - Student's social security number
 - Student's biometric record
 - Mother's maiden name
 - Name of the parent or family member

34 C.F.R. §99.3

ASK: Would a “reasonable person” who does not have knowledge of the student be able to identify the student?

FERPA & Key Terms

Directory Information

- ❖ Under FERPA, the following information from a student's record is considered *directory information*:
 - Name
 - Address / telephone number
 - Date and place of birth
 - Honors and awards
 - Dates of attendance

34 C.F.R. §99.30

FERPA & Key Terms

Directory Information

- ❖ **An LEA may disclose directory information if it has given notice to parents and students of:**
 - **The types of information designated as directory information,**
 - **The parent's right to refuse to let the LEA designate any of that information about the student as directory information; and**
 - **The period of time a parent or student has to notify the LEA in writing that he or she does not want any or all of those types of information about the student designated as directory information.**



PARENT NOTICE & CONSENT REQUIREMENTS

Parent Notice & Consent Requirements

Individuals with Disabilities Education Act (IDEA)

- ❖ Requires that States have policies in place to protect the confidentiality of any personally identifiable information collected under Part B of the Act.

34 C.F.R. §300.123

OSSE issued a Confidentiality of Student Information Policy on January 27, 2014. LEAs can access the Policy online at:

<http://osse.dc.gov/publication/confidentiality-student-information-policy>

Parent Notice & Consent Requirements

❖ Parent Notice Requirements Under IDEA

- A state education agency (SEA) must give notice to parents that fully informs them about the requirements to protect the confidentiality of personally identifiable information.

34 C.F.R. §300.612

- This notice must be provided before any major identification, location, or evaluation activity (child find), and the notice must be published or announced in newspapers or other media, or both, with circulation adequate to notify parents throughout the State of the activity.

34 C.F.R. §300.612

Parent Notice & Consent Requirements

- ❖ **Signed and dated parental consent required...**
 - **When an LEA or applicable public agency discloses personally identifiable information in an education record to parties other than officials of participating agencies.**
 - **Written consent must:**
 - ✓ **Be documented in writing,**
 - ✓ **Specify the records that may be disclosed,**
 - ✓ **State the purpose of the disclosure, and**
 - ✓ **Identify the party or class of parties to whom the disclosure will be made.**

34 C.F.R. §99.30

Parent Notice & Consent Requirements

Parental Consent Required (continued):

- ❖ **A parent's consent must be obtained before personally identifiable information is released to officials of agencies providing or paying for transition services.**
- ❖ **If a student is attending or going to attend a private school not located in the District of Columbia, the LEA or applicable public agency must obtain the parent's consent before any personally identifiable information about the student is released between officials in the LEA or applicable public agency where the private school is located and the District of Columbia Public Schools (DCPS).**

34 C.F.R. §300. 622(b)(3)

Parental Consent Requirements

❖ Parental consent not required when...

- Disclosure among school officials with legitimate educational interests.
- Disclosure to officials of another school where the student seeks to enroll or transfer.
- Disclosure to officials of participating agencies for the purposes of meeting a requirement of Part B of IDEA.
- Disclosure for health or safety emergencies.

34 C.F.R. §99.31



PARENT ACCESS TO EDUCATION RECORDS

Parent Access to Education Records

❖ Parental Right to Inspect and Review Records

- Right to be given an opportunity to inspect and review their child's education records.
 - ✓ If any record includes information on more than one child, the parent may only inspect, review, and be informed of the information relating to the parent's child
- Right to a response from an LEA to reasonable requests for explanations and interpretations of the records.
 - ✓ LEAs must comply with a parent's request to inspect and review their child's education records within a reasonable period of time, and before any IEP meeting, or any impartial due process hearing, *and in no case more than 45 calendar days* after receiving request.
- Right to have a legal representative inspect and review the records.

34 C.F.R. §99.10

- Right to obtain copies of the information in a child's education records at no cost.

34 C.F.R. §300.617

Parent Access to Education Records

❖ Parental Rights (continued)

- **Request to Amend Records**

- ✓ **If a parent believes that information in the education records is inaccurate, misleading, or violates the privacy or other rights of the child, the parent has a right to request that the LEA or applicable public agency change the information.**
- ✓ **An LEA or applicable public agency must decide whether to change the information as requested within a reasonable amount of time after the request is received. If an LEA or applicable public agency decides not to amend the education record, notice of this decision must be sent to the parent.**

34 C.F.R §99.20

Parent Access to Education Records

❖ Parental Rights (continued)

- **Opportunity for a Hearing**

- ✓ Upon request, an LEA or applicable public agency must provide a parent with an opportunity to challenge information in a student's education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child.

34 C.F.R §99.21

Accessing Education Records

- ❖ **A hearing to challenge information in education records must meet the following requirements:**
 - **The hearing may be conducted by any individual, including an official of the LEA or applicable public agency, who does not have a direct interest in the outcome of the hearing.**
 - **The LEA or applicable public agency must:**
 - ✓ **Hold the hearing within a reasonable time after it has received the hearing request from the parent.**
 - ✓ **Give the parent notice of the date, time and place, reasonably in advance of the hearing.**
 - ✓ **Give the parent a full and fair opportunity to present evidence relevant to the issues raised. The parent may be assisted or represented by an attorney or an individual of their choice.**
 - ✓ **Make its decision in writing within a reasonable period of time after the hearing. (The decision must be based solely on the evidence presented at the hearing, and must include a summary of the evidence and the reasons for the decision.)**

34 C.F.R §99.22

Accessing Education Records

❖ Result of Hearing

- If, as a result of the hearing, an LEA or applicable public agency decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it must change the information accordingly and inform the parent in writing.
- If an LEA or applicable public agency decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, the LEA or applicable public agency must inform the parent of their right to place a statement in the records commenting on the contested information or stating the why the parent disagrees with the decision of the LEA or applicable public agency. This Statement must:
 - ✓ Be maintained as a part of the records of the child.
 - ✓ Be disclosed whenever the relevant portion of the student's records is disclosed.

34 C.F.R §99.21

Parent Access to Education Records

- ❖ **Parental rights regarding educational records transfer to adult students at the age of majority:**
 - **This includes all rights afforded to parents under Part B of the IDEA, including the right to consent to personally identifiable information being released.**
34 C.F.R. §300.625(b)
 - **The age of majority in the District of Columbia is eighteen (18) years old. All educational rights transfer to the student unless the student has been determined to be incompetent under State law.**
 - **LEAs must provide notice to both the student and parent of this transfer of rights.**

5-E DCMR §3023



EDUCATION RECORDS MAINTENANCE

Education Records Maintenance

❖ LEA Record Maintenance Responsibilities

- LEAs must protect the confidentiality of personally identifiable information at the collection, storage, disclosure, and destruction stages.
- One official at each LEA must assume responsibility for ensuring the confidentiality of any personally identifiable information.
- Every person collecting or utilizing personally identifiable information must receive training from the LEA regarding confidentiality.
- LEAs must maintain a list of all LEA employees who may have access to personally identifiable information and make that list public.

34 C.F.R. §300.623

Education Records Maintenance

❖ LEA Record Maintenance Responsibilities

- LEAs must inform a parent when personally identifiable information collected, maintained, or used under Part B of IDEA is no longer needed to provide educational services to their child.
 - ✓ Under these circumstances, this information must be destroyed at the request of the parent.

34 C.F.R. §300.624

Additional Resources

❖ Family Educational Rights and Privacy Act (FERPA)

- 34 C.F.R. §§ Part 99
- <http://www2.ed.gov/policy/gen/reg/ferpa/index.html>

❖ Individuals with Disabilities Education Act (IDEA)

- 34 C.F.R. §§300.123, §300.520, §300.610-625.
- <http://idea.ed.gov>

❖ Confidentiality of Student Information Policy

- <http://osse.dc.gov/publication/confidentiality-student-information-policy>

❖ Confidentiality of Student Information Frequently Asked Questions (FAQ)

- <http://osse.dc.gov/publication/confidentiality-student-information-frequently-asked-questions-faq>

Thank You

For questions, please contact the
Training and Technical Assistance Unit:

osse.tta@dc.gov

