

Confidentiality of Personally Identifiable Information

Safeguards

The Board recognizes the importance of maintaining student records and preserving their confidentiality. Student records containing personally identifiable information shall be kept confidential at collection, storage, disclosure, and destruction stages. The records custodian shall assume responsibility for ensuring the confidentiality of any personally identifiable information. The AEA personnel who collect or use personally identifiable information shall receive training or instruction regarding confidentiality of personally identifiable information. The AEA Director of Special Education shall keep for public inspection a current listing of names and positions of those AEA staff that are authorized to view a special education student's record without the permission of parent or eligible student.

Access Rights

Parents and eligible students shall have access to student's records during the regular business hours of the AEA. An eligible student is a student who has reached 18 years of age or is attending an institution of post-secondary education at the post-high school level. Parents of an eligible student are provided access to the student records only with the written permission of the eligible student unless the eligible student is defined as a dependent by the Internal Revenue Code. In that case, the parents may be provided access without the written permission of the student. A representative of the parents or eligible student, who has received written permission from the parents or eligible student, may inspect and review a special education student's records. Parents, other than parents of an eligible student, may be denied access to a student's records if the school district has a court order stating such or when the district has been advised under the appropriate laws that the parents may not access the student records.

A student record may contain information on more than one student. Parents will have the right to access the information relating to their student or to be informed of the information. Eligible students will also have the right to access the information relating to themselves or be informed of the information.

Parents and eligible students will have a right to access the student's records upon request without unnecessary delay and in no instance more than 45 calendar days after the request is made. Parents, an eligible student, or an authorized representative of the parents will have the right to access the student's records prior to an Individualized Education Program (IEP) or Individualized Family Service Plan (IFSP) meeting or hearing.

Copies and Fees

Copies of student records will be provided if failure to do so would effectively prevent the parents or student from exercising the right to access the student records. Fees for copies of the records are waived if it would prevent the parents or student from accessing the records. A fee may not be charged to search or retrieve information from student records.

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Upon the request of parents or an eligible student, the AEA will provide an explanation and interpretation of the student records and a list of the types and locations of education records collected, maintained, or used.

Amendment of Records

If the parents or an eligible student believes the information in the student's record is inaccurate, misleading, or violates the privacy or other rights of the student, the parents or an eligible student may request that the AEA amend the student's record. This request is to be made in writing, clearly identifying the part of the record they want amended and stating why the record is inaccurate, misleading, or in violation. The AEA will decide whether to amend the student's record within a reasonable time after receipt of the request. If the AEA determines an amendment is made to the student's record, the AEA will make the amendment and inform the parents or the eligible student of the decision in writing, as well as the LEA.

If the AEA determines that amendment of the student's record is not appropriate, it will inform the parents or the eligible student of their right to a hearing. If the parents' and the eligible student's request to amend the student's record is further denied by the AEA following the hearing, the parents of the eligible student are informed that they have a right to place an explanatory letter in the student's record commenting on the AEA's decision or setting forth the reasoning for disagreeing with AEA. Additions to the student's record will become a part of the student's record and be maintained like other student's records. If the record of the student or the contested portion is disclosed by the AEA to any party, the explanation shall also be disclosed to the party, the explanation by the parents will also be disclosed.

Disclosure of student records may be limited in circumstances without parental or eligible student's written permission. This disclosure is made on the condition that the student's record will not be disclosed to a third party without the written permission of the parents or the eligible student. This disclosure may be made to the following individuals or under the following circumstances:

- To school officials within the school district and AEA personnel whom the Director of Special Education has determined to have a legitimate educational interest.
- To officials of another school district or AEA in which the student wishes to enroll, provided the other school district or AEA notifies the parents the student records are being sent and the parents have an opportunity to receive a copy of the records and challenge the contents of the records unless the parent's right annual notification includes a provision that records will automatically be transferred to new school districts.
- To the U.S. Comptroller General, the U.S. Attorney General, the U.S. Secretary of Education, or state and local educational authorities.
- In connection with financial aid for which the student has applied or which the student has received if the information is necessary to receive the financial aid.
- To organizations conducting educational studies and the study does not release personally identifiable information.
- To accrediting organizations.

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- To parents of a dependent student as defined in the Internal Revenue Code.
- To comply with a court order or judicially issued subpoena.
- Consistent with an interagency agreement between the agency and juvenile justice agencies.
- In connection with a health or safety emergency.
- As directory information.

The AEA Director of Special Education or designee shall keep a list of the individuals and their positions who are authorized to view a special education student's record without the permission of the parents or the eligible student. Individuals not listed are not allowed access without parental or an eligible student's written permission. This list must be current and available for public inspection and updated as changes occur.

Record of Access

The AEA Director of Special Education or designee shall also keep a list of individuals, agencies, and organizations which have requested or obtained access to a student's records, the date access was given and their legitimate educational interest or purpose for which they were authorized to view the records. It is not required, however, to keep a list of the parents, authorized educational employees, officers, and agencies of the AEA who have accessed the student's record. This list for a student's record may be accessed by the parents, the eligible student, and the custodian of student records.

Permanent student records, including a student's name, address, phone number, grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

Destruction of Records

The AEA must maintain special education records for at least five years after an individual is determined to be no longer eligible for special education. The special education records can then be destroyed unless the parent and/or eligible student requests that the records be released to them. Notification must be provided to the parent and/or eligible student that the records could be destroyed unless they request them. This notification is usually provided when the student graduates or exits special education services.

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Agreement-Juvenile Justice

The AEA will cooperate with the juvenile justice system in sharing information contained in permanent student records regarding students who have become involved with the juvenile justice system. The agency will enter into an interagency agreement with the juvenile justice agency [agencies] involved. The purpose of the agreement is to allow for the sharing of information prior to a student's adjudication in order to promote and collaborate between the AEA and the agencies to improve school safety, reduce alcohol and illegal drug use, reduce truancy, reduce in-school and out-of-school suspensions, and to support alternatives to in-school and out-of-school suspensions and expulsions which provide structured and well supervised educational programs supplemented by coordinated and appropriate services designed to correct behaviors that lead to truancy, suspension, and expulsions and to support students in successfully completing their education.

The AEA may share any information with other agencies contained in a student's permanent record, which is directly related to the juvenile justice system's ability to effectively serve the student. Prior to adjudication, information contained in the permanent record may be disclosed by the AEA to the parties without parental consent or court order. Information contained in a student's permanent record may be disclosed by the AEA agencies after adjudication only with parental consent or a court order. Information shared pursuant to the agreement is used solely for determining the programs and services appropriate to the needs of the student or student's family or coordinating the delivery of programs and services to the student or student's family. Information shared under the agreement is not admissible in any court proceedings which take place prior to a disposition hearing, unless written consent is obtained from a student's parent, guardian, or legal or actual custodian.

Confidential information shared between the AEA and other agencies will remain confidential and will not be shared with any other person, unless otherwise provided by law. Information shared under the agreement is not admissible in any court proceedings which take place prior to a disposition hearing, unless written consent is obtained from a student's parent, guardian, or legal or actual custodian.

Agencies will contact the administrator of the attendance center where the student is currently or was enrolled. The principal or Director of Special Education will then forward copies of the records within 10 business days of the request.

The AEA will provide training or instruction to employees about parents and eligible students' rights under this policy. Employees will also be informed about the procedures for carrying out this policy.

Annual Notice

It is the responsibility of the Director of Special Education to annually notify parents and eligible students of their right to inspect and review the student's records. The notice is given in a parents' or eligible student's native language.

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The AEA shall annually notify parents of students currently in attendance, and eligible students currently in attendance, at the agency or institution of their rights. The notice must include a statement that the parent or eligible student has a right to:

1. Inspect and review the student's educational records.
2. Request the amendment of the student's educational records to ensure that they are not inaccurate, misleading, or otherwise in violation of the student's privacy or other rights.
3. Consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that the law authorizes disclosure without consent.
4. Obtain a copy of the policy adopted.

The notice provided must also indicate the places where copies of the policy are located.

The AEA may provide this notice by any means that are reasonably likely to inform the parents and eligible students of their rights, including the *Procedural Safeguards Manual for Parents*.

The notice will include a statement that the parents have a right to file a complaint alleging the AEA failed to comply with this policy. Complaints are forwarded to Family Policy Compliance Office, U.S. Department of Education, 400 Maryland Avenue, Washington, D.C. 20202-4605.

Use of Student Records

Student records are all official records, files, and data directly related to students, including all material incorporated into each student's cumulative record folder and intended for school use or to be available to parties outside the school or AEA including, but not necessarily limited to, dates of attendance; academic work completed; level of achievement (grades, standardized test scores); attendance data; scores on standardized intelligence, aptitude, and psychological tests; interest inventory results; health data; family background information; teacher or counselor ratings and observations; and verified reports of serious or recurrent behavior patterns.

The intent of this regulation is to establish procedures for granting requests from parents for access to their child's records, use of the data, and procedures for its transmittal within 45 calendar days.

A. Access to Records

1. The parent or legal guardian of a student will have access to these records upon written request to the Director of Special Education.

The parent or legal guardian will, upon written request to the Director of Special Education or LEA superintendent, have the opportunity to receive an interpretation of the records, have the right to question the data, and, if a difference of opinion is noted, is permitted to file a letter in the cumulative folder stating the dissenting person's position. If further challenge is made to the record, the normal appeal procedures established by school policy will be followed.

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A student, 18 years or older, has the right to determine who, outside the AEA, has access to the records. Parents of students who are 18 years or older but still dependents for income tax purposes may access the student's records without prior permission of the student.

2. School officials having access to student records are defined as having a legitimate educational interest. A school official is a person employed by the AEA as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel); a person serving on the Board of Directors of the AEA; a person or company with whom the AEA has contracted to perform a special task (such as an attorney, auditor, AEA employee, medical consultant, or therapist); or a parent or student serving on an official committee, such as disciplinary or grievance committee or student assistance team, or assisting another school official in performing his or her tasks.

B. Release of Information Outside the School

1. To release the student records to other school(s) or AEA in which the student intends to enroll, the parents, legal guardian, or eligible student must be notified of the transfer and the kinds of information being released unless the AEA annually notifies parents that the records will be sent automatically.
2. Student records may be released to official education and other government agencies only if allowed by state or federal law.
3. To release student records to other persons or agencies, written consent is given by the parent, legal guardian, or a student of majority age. This consent form will state which records are released, to whom they are released, and the reason for the release. A copy of the specific records being released will be made available to the person signing the release form if requested.

Before furnishing student records in compliance with judicial orders or pursuant to any lawfully issued subpoena, the school district will make a reasonable attempt to notify the parents, legal guardian, or eligible student in advance.

Student records may be shared with juvenile justice agencies with which the school district has an interagency agreement. This information is shared without prior parental consent. The agreement is a public document available for inspection.

Hearing Procedures

1. Upon parental request, the AEA will hold a hearing regarding the content of a student's records which the parent believes to be inaccurate, misleading, or in violation of the privacy rights of students.

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2. The hearing will be held within a reasonable time after receipt of the parent or eligible student's request. The parent or eligible student will receive reasonable advance notice of date, time, and place of the hearing.
3. The hearing officer may be an employee of the AEA so long as the employee does not have a direct interest in the outcome of the hearing.
4. The parent or eligible student will be given a full and fair opportunity to present evidence relevant to the issues. The parent or eligible student may be represented by an individual at their choice at their own expense.
5. The hearing officer will render a written decision within a reasonable period after the hearing. The decision will be based upon evidence presented at the hearing and must include a summary of the evidence and the reasons for the decision.
6. The parent may appeal the hearing officer's decision to the Director of Special Education within 10 business days if the Director of Special Education does not have a direct interest in the outcome of the hearing.
7. The parents may appeal the decision, or the hearing officer's decision if the Director of Special Education was unable to hear the appeal, to the Board within 30 days. It is within the discretion of the Board to hear the appeal.

Student Directory Information

Student directory information is designed to be used internally within the education agency. Directory information is defined in the annual notice. It may include the student's name, address, telephone number, date and place of birth, e-mail address, grade level, enrollment status, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, the most recent previous educational agency or institution attended by the student, photograph and other likeness, and other similar information.

Prior to developing a student directory or to giving general information to the public, parents will be given notice annually of the intent to develop a directory or to give out general information and have the opportunity to deny the inclusion of their child's information in the directory or in the general information about the students.

Amended: 7-12-17