

Confidentiality - Education Records of Students with Disabilities

1. Confidentiality of Student Records

- a. The district shall designate an employee to coordinate special education records (designated coordinator). In addition to all procedures and safeguards detailed in Board policies JO, JOA, JOB and JOD and accompanying administrative regulations, the designated coordinator shall ensure that the district provides access to and protects the confidentiality of student education records.
- b. The designated coordinator ensures that the confidentiality of personally identifiable information is protected at collection, storage, disclosure and destruction stages.
- c. The district ensures that each person collecting or using personally identifiable information shall receive training or instruction regarding the policies and procedures governing confidentiality of personally identifiable information.
- d. The district maintains for public inspection a current listing of the positions which may have access to personally identifiable information and keeps a record of any authorized personnel not on the listing who review the record.
 - (1) The student's regular education teacher(s);
 - (2) The student's special education teacher(s);
 - (3) The student's related services provider(s) and other service provider(s); and
 - (4) Others as authorized by the director of special education.
- e. The district provides parents or eligible students, on request, a list of the types and locations of education records collected, maintained or used by the district.
- f. The district will comply with a request from a parent or eligible student to inspect and review an education record without unnecessary delay and:
 - (1) In no case more than 45 calendar days after the request has been made; and
 - (2) Before any meeting regarding an individualized education program (IEP) or hearing relating to the identification, evaluation or placement of the student.
- g. The designated coordinator shall ensure that a parent or eligible student who requests an explanation or interpretation of any information contained in an education record receives an appropriate explanation or interpretation.
- h. The district presumes that the parent has authority to inspect and review records relating to his/her student unless the district determines that the parent does not have the authority under applicable state law governing such matters as guardianship, separation and divorce.
- i. If a parent or eligible student requests a copy of the student's records, the district will give the parent or eligible student a copy except that:

- (1) The district will not provide a copy of test protocols, test questions and answers and other documents unless authorized by federal law;
- (2) The district may charge a copying fee subject to the Fees section, below.

2. Fees

- a. If requested by a parent or eligible student, the designated coordinator shall provide copies of the records containing the information without a fee if the designated coordinator determines that a failure to provide those copies would effectively prevent the person from exercising the right to inspect and review the records.
 - (1) The designated coordinator shall determine that a parent or eligible student will be effectively prevented from exercising the right to inspect and review an education record if the person cannot inspect and review the education record at the location at which it is normally maintained (or at any other location where the district offers to produce it) without incurring significant expense or personal hardship.
 - (2) The designated coordinator may charge a fee for copies of records which are made for a parent or eligible student if the fee does not effectively prevent the person from exercising his/her right to inspect and review those records.
- b. The designated coordinator may not charge a fee to search for or to retrieve information.

3. Destruction of Information

- a. The district sends written notice to inform parents or eligible students when personally identifiable information collected, maintained or used by the district is no longer needed to provide educational services to the student. This notice requirement applies only to information that would otherwise be retained under the State Archives Rules.
- b. The determination as to whether personally identifiable information is needed to provide educational services to a student is made by the district after careful review of the information and with the concurrence of the student's current teacher or teachers, if the student is currently enrolled in the district.
- c. The written notice sent to the parent or eligible student describes the personally identifiable information that the district intends to destroy and informs the parents that the information will be destroyed no earlier than 60 days from the date of the notice. The notice also outlines the procedure which the parent or eligible student may follow if they wish to formally object to the destruction of the records in question.
- d. Upon request of the parent or eligible student, the district will destroy such personally identifiable information provided that the district may maintain a permanent record without time limitation of the student's name, address and phone number, grades, attendance records, classes attended, grade level completed and year completed.
- e. The district will not destroy any education records if there is an outstanding request to inspect and review the records.

4. Referral to and Action by Law Enforcement and Judicial Authorities

- a. The district may disclose personally identifiable information or other information allowed to be disclosed under the Family Educational Rights and Privacy Act (FERPA) from a student's education records to courts and state and local juvenile justice agencies including, but not limited to, law enforcement agencies when:
 - (1) Disclosure relates to these agencies' ability to serve the needs of a student prior to the student's adjudication under ORS Chapter 419C;
 - (2) The person receiving the information certifies, in writing, that he/she will not disclose the information to a third party other than another court or juvenile justice agency or a person or organization providing direct services to the student on behalf of a juvenile justice agency.

- b. If the district reports a crime committed by a student with a disability, the district will transmit a copy of the student's special education and disciplinary records to the appropriate authorities for consideration, only if:
 - (1) The disclosure is with consent of the parent or eligible student; or
 - (2) The disclosure is permitted under one of the exceptions to consent.