

WHAT IS CONFIDENTIALITY?

WHY IS IT IMPORTANT?

What is confidentiality? Simply stated, confidentiality is the obligation to not disclose private information without appropriate permission. Confidentiality is an ethical responsibility to respect an individual's right to control personal information and access to it. Everyone in education has a professional and legal responsibility to safeguard the confidentiality of students and their families.

Confidentiality is very important. Everyone in education is expected to be aware of the privacy rights of individuals. Everyone in education is expected to respect the confidential nature of information concerning students.

What information is considered confidential? Confidential information includes private or "personally identifiable information" such as the student's name, names of the student's family, address, social security number, or any personal characteristics or other information that would make the student's identity easily traceable. Information regarding physical, mental, or emotional abuse; family problems; substance abuse; criminal behavior; sexual activity; or suicidal thoughts or acts are considered to be very sensitive topics and are therefore treated with particular consideration. Confidentiality pertaining to an individual's Special Education history is another sensitive topic, which is carefully addressed under federal laws, state laws, and regulations.

Why is protecting confidentiality important? Protecting the confidentiality of an individual assures personal privacy and builds trust.

It safeguards against the disclosure of information that may be embarrassing or may cause discrimination against the individual or family. It ensures protection against prejudicial treatment by administration, teachers, other staff members, and peers.

Each member of the school staff, including volunteers, is required to participate in confidentiality training each year. At that time, information regarding the importance of confidentiality and proper maintenance of Special Education records is disseminated. In order to make responsible decisions about the disclosure of confidential information, school personnel must be made aware of privacy requirements.

THE FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT

What is FERPA? It sounds funny . . . but what does it mean?

FERPA is the Family Educational Rights and Privacy Act. This is a federal law that protects the privacy of student education records.

FERPA gives parents (and guardians or adult students) certain rights with respect to their children's education records. Parents and eligible students have the right to the following:

- To inspect and review the student's education records. Schools are not required to provide copies of records unless it is impossible for parents or eligible students to review the records. Schools may charge a fee for copies.
- To request that a school correct records which the parent believes to be inaccurate or misleading. If the school decides not to amend the record, the parent then has the right to a formal hearing. After the hearing, if the school still decides not to amend the record, the parent has the right to place a statement with the record setting forth his or her view regarding the contested information.

Schools are required to maintain a record of each request, access, and disclosure of personally identifiable information from the records of each student. Generally, schools must have written permission from the parent in order to release any information from a student's education record. However, FERPA allows schools to disclose those records without consent when there is a legitimate educational

interest or when the student enrolls in another school. Records may also be released to authorities who are enforcing laws.

Schools are allowed to release "directory" information without parental consent. Directory information includes basic data such as a student's name, address, telephone number, date and place of birth, honors and awards, and dates of attendance. Schools must tell parents about directory information and provide an opportunity for parents to request that the school not disclose directory information. Each year, parents are to be notified of their rights and provided with school contact information.

A school is not required to consider requests for amendment under FERPA that

- Seek to change a grade or disciplinary decision;
- Seek to change the opinions or reflections of a school official or other person reflected in an education record;
- Seek to change a determination with respect to a child's status under Special Education programs.

THE PROTECTION OF PUPIL RIGHTS AMENDMENT

The Protection of Pupil Rights Amendment (PPRA) protects the rights of parents and students, ensuring that schools and contractors allow parents to inspect instructional materials and that written parental consent is obtained before minor students participate in surveys, the collection and use of information for marketing purposes, and certain physical exams.

School personnel are obligated to provide accurate and unbiased information that is being disclosed. School personnel shall guard against sharing confidential information in halls, staff rooms, or other public places where other people can overhear. School personnel shall not leave reports, student service records, computer files, or log books where unauthorized people can have access to them. However, school personnel may consult with other professionals for purposes of more effectively helping the student. If there is doubt about the sharing of confidential information, school personnel should consult the school counselor or school administrator before making a decision.

School personnel are required to keep accurate and objective records, the failure to keep records is negligence. Personal records are kept in secure locations. School personnel should record enough information to meet students' needs and to document appropriate and professional actions. Notes should be written as soon as possible after an occurrence, and the original notes should never be changed. Any additions should be initialed, signed, and dated.

School personnel must respect the confidential nature of information concerning students and only give such information to authorized personnel who are directly concerned with student welfare. There is no inherent right of a probation officer or the police to access confidential information without legitimate authorization.

School personnel who have reason to believe that a child is or might be in need of protection are required to report that information to the appropriate authorities.

School personnel are required to be aware of custody court orders and policies regarding the rights of non-custodial parents to information and access to a child. If non-custodial parents or other individuals involved with the student request information or access, school personnel should consult the school administrator. No information should be given without a documented request.

INDIVIDUALS WITH DISABILITIES EDUCATION ACT

The Individuals with Disabilities Education Act (IDEA) is a federal law that provides for a free and appropriate public education in the least restrictive environment to all children experiencing disabilities. Children with disabilities and their parents, as well as adult students, are guaranteed certain rights under the 2004 Re-authorization of IDEA. Parents or adult students are given a written document, referred to as "Procedural Safeguards," that informs them of these rights. It is important for all school personnel to know this information in order to better serve children with disabilities and their families.

It is generally required that parents give permission before their child is initially evaluated or placed in a Special Education program (including related services). In most cases, within 60 days of the school's receipt of consent, the evaluation must be conducted.

Before a child can be considered for placement in a Special Education program, a full and individual evaluation of the child's educational needs must be conducted. Additionally, a re-evaluation must be conducted every three years or more frequently if conditions warrant or if the child's parent or teacher requests an evaluation. Written notice is required before evaluation or a change in the student's program. Communication with parents and students is to be made in their native language.

An annual meeting must be held to review the student's Individual Education Program (IEP). Parents must receive prior written

notice of the meeting, or they may consent to waive the right to prior notice. The parents, along with the Special Education teacher, the regular education teacher, and a representative of the school, usually an administrator, form the basic IEP team.

Students receiving Special Education services are, to the maximum extent appropriate, to be educated along with children who do not experience disabilities. Removal from the regular educational environment should occur only when the student is not progressing and needs such instruction, services, and aids that cannot be provided in the regular education classroom.

The records of students receiving Special Education services are secured. With the exception of certain individuals (e.g. school officials and teachers with legitimate educational interests), no one may view educational records unless parents give their written permission.

Parents have the right to view records pertaining to their child. Parents are to be provided with copies of Special Education evaluations and the student's Individual Education Program.

Parents have the right to refuse Special Education services for their child. Additionally, a parent who believes that information in their child's records is inaccurate, misleading, or violates the privacy or other rights of the child may request that the district amend the information. If at any time parents do not agree with the educational decisions made concerning their child, they have additional rights.

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quiz on the material
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