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## Annual Notices Required by Federal Law<sup>1</sup> August 2022

Numerous federal laws require school districts to provide students, parents, and/or the public with notices, many of which must be presented at the beginning of the school year. Federal agencies or other entities often create “model” notices (or offer guidance useful to the development of these required notices) that can easily be tailored to meet individual district needs. This document outlines many of the notices required by federal law, including the methods required to give notice where specified in the statutes and/or regulations. Where available, links to model notices or guidance documents designed to assist in drafting such notices are provided. This document does not include employment-related notices required by federal or state law.

### Every Student Succeeds Act

The Every Student Succeeds Act of 2015 (ESSA), requires state education agencies, school districts, and individual schools to provide numerous notices to parents, the public, and others. ESSA reauthorizes the Elementary and Secondary Education Act (ESEA), the national education law and longstanding commitment to equal opportunity for all students. Several ESSA provisions are summarized in the U.S. Department of Education’s [Transitioning to the Every Student Succeeds Act Frequently Asked Questions](#) (January 2017), which also has information about ESSA notice requirements that differ from those under No Child Left Behind Act (NCLB).

ESSA requires that states and school districts engage families and parents in the work of ensuring positive outcomes for all students. School districts that receive Title I funds must have written family and parent engagement policies with expectations and objectives for implementing meaningful family and parent involvement strategies. They are required to involve family members and parents in developing district plans and to provide technical assistance to schools on planning and implementing effective family and parent involvement activities to improve student academic achievement and school performance. ESSA requires all school districts that receive Title I funds to implement effective outreach to parents of English learners and hold regular meetings for those parents. See the U.S. Department of Education’s [Policy Statement on Family Engagement](#) for more information. Also, see the Department’s guidance on [ESSA Assessments under Title I, Part A and Title I, Part B: Summary of Final Regulations](#) and [chart](#), which compares drafted guidance with relevant prior guidance on Title I.

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<sup>1</sup>See also National School Boards Association, *Policies Required by Federal Law* (August 2022), available to COSA members.



Under ESSA, SEAs and LEAs that receive Title I funds must publish state and local [report cards](#) on their websites that are concise and in an accessible format. ESSA makes Title I funds accessible to private schools and the Department of Education has provided non-regulatory guidance on this topic. See the non-regulatory guidance here: [Title I, Part A of the Elementary and Secondary Education Act of 1965, as Amended by the Every Student Succeeds Act: Providing Equitable Services to Eligible Private School Children, Teachers, and Families](#) (October 7, 2019). For additional guidance, see also the U.S. Department of Education's [Crosswalk Between Draft Title I, Part A Guidance on Equitable Services and Prior Non-Regulatory](#) (March 28, 2019) and [Dear colleague letter on state plan amendments, school identification, reporting, and technical assistance](#) (October 24, 2019).

The supplement not supplant requirement under Title I changed under ESSA, but the U.S. Department of Education has not issued draft regulations. Instead, in 2019 the Department provided a [Title I, Part A Supplement Not Supplant Non-Regulatory](#) informational document along with a [summary response to comments on the informational document](#).

### **[Family Educational Rights and Privacy Act](#)**

Pursuant to the Family Educational Rights and Privacy Act (FERPA), school districts must provide parents/guardians and eligible students (students at least 18 years of age) with annual notice of their rights to inspect and review education records, amend education records, consent to disclose personally identifiable information in education records, and file a complaint with the U.S. Department of Education. [34 C.F.R. § 99.7\(a\)\(2\)](#). The notice must include the procedure to request and review education records, as well as a statement that records may be disclosed to school officials without prior written consent. This statement should define a school official and what constitutes a legitimate educational interest providing the basis for accessing a student's educational records. [34 C.F.R. § 99.7\(a\)\(3\)](#). Notice may be provided in any way that is reasonably likely to inform parents of their rights and must effectively notify parents who have a primary or home language other than English and parents/guardians or eligible students who are disabled. [34 C.F.R. § 99.7\(b\)](#). The annual notification may be published by various means, including any of the following: in a schedule of classes; in a student handbook; in a calendar of school events; on the school's website (though this should not be the exclusive means of notification); in the student newspaper; and/or posted in a central location at the school or various locations throughout the school. See the Department of Education's [Protecting Student Privacy FERPA General Guidance for Students](#) (April 2020) for information about FERPA. For an additional resource also see the [FERPA Model Notification of Rights for Elementary & Secondary Schools](#) (April 2020).

Under FERPA, school districts may disclose directory information if they have given public notice to parents/guardians and eligible students of what information has been designated as directory information, and when and how parents/guardians and eligible students may opt out of allowing the district to disclose their directory information. [34 C.F.R. § 99.37\(a\)](#). Finally, under ESSA, school districts must provide notice that they routinely release the names, addresses, and phone numbers of secondary students to military recruiters and institutions of higher instruction unless parents opt-out in writing. [20 U.S.C. § 7908](#). School districts may provide this notice as part of their general FERPA notice. The Protecting Student Privacy website provides a template notice for notifying parents and eligible students, which can be found here: [FERPA Model Notice for Directory Information](#).

FERPA regulations permit LEAs and schools to adopt limited directory information policies that allow the disclosure of directory information to specific parties, for specific purposes, or both. [34 C.F.R. § 99.37\(d\)](#). It is up to individual LEAs and schools to decide whether to adopt limited directory information policies and how to implement them.

The regulations' directory information exception makes clear that parents/guardians and eligible students may not, by opting out of the disclosure of directory information, prevent an LEA or school from requiring a student to wear or present a student ID or badge. [34 C.F.R. § 99.37\(c\)](#). While the Department does not require LEAs or schools to establish policies mandating that students wear badges, these are individual decisions that LEAs and schools should make, considering local circumstances.

The U.S. Department of Education recommends that districts post all FERPA and PPRA (see below) notices, including the directory information policy, on their websites. For more information, see the U.S. Department of Education's Privacy Technical Assistance Center's [Transparency Best Practices for Schools and Districts](#) (p. 5). The Department provides additional guidance on FERPA at <https://studentprivacy.ed.gov/>, including:

- [School Resource Officers, School Law Enforcement Units and FERPA](#);
- [A Parent's Guide to FERPA \(July 2021\)](#); and
- [A Parent's Guide for Understanding K-12 School Data Breaches \(May 2021\)](#)

### **Protection of Pupil Rights Amendment**

The Protection of Pupil Rights Amendment (PPRA) requires school districts to adopt several policies regarding surveys of students, instructional materials, physical examinations, personal information used for marketing, and the like. Parents must be notified of these policies at least annually at the beginning of the school year and within a reasonable time after any substantial change to the policies. [20 U.S.C. § 1232h\(c\)\(2\)\(A\)](#). The Department of Education's Protecting Student Privacy website provides [PPRA General Guidance \(November 2020\)](#), a [PPRA Model General Notice of Rights](#) and a [PPRA Model Notice and Consent/Opt-Out for Specific Activities](#).

If a district plans to (1) use students' personal information for selling or marketing purposes; (2) administer any survey about any of the eight topics listed in the statute (political beliefs, income, sex behavior or attitudes, etc.); or (3) administer certain non-emergency, invasive physical examinations, the district must directly notify parents, at least annually at the beginning of the school year, of the specific or approximate dates when these activities are scheduled, or expected to be scheduled. [20 U.S.C. § 1232h\(c\)\(2\)\(B\), \(c\)\(2\)\(C\)](#).

The Protecting Student Privacy website [lists policies](#) that PPRA requires LEAs to develop, with the consultation of parents. These policies concern privacy, parental access to information, and administration of physical examinations of minors.

The Department of Education's Protecting Student Privacy provides all FERPA and PPRA model notices at: <https://studentprivacy.ed.gov/annual-notices>.

## Child Nutrition Programs

If school districts participate in the National School Lunch Program, the School Breakfast Program, or the Special Milk Program, they must provide both parents and the public with information about free and reduced-price meals and/or free milk near the beginning of each school year. [7 C.F.R. § 245.5\(a\)\(1\)](#). Districts also must provide parents with an application form. Districts may not disclose children's free and reduced eligibility status, unless the requestor of such information falls into one of the categories specified in the National School Lunch Act. [42 U.S.C. § 1758\(b\)\(6\)\(A\)\(i\)-\(v\)](#).

The USDA's [Eligibility Manual for School Meals](#) contains information on federal requirements regarding the determination and verification of eligibility for free and reduced-price meals in the National School Lunch Program and the School Breakfast Program. The document notes what the application for these programs is to contain and includes a link to an online application. The document also describes to whom (pp. 83-84), and under what conditions information regarding free and reduced eligibility status may be disclosed (pp. 83-93).

Striving to reduce paperwork, Congress incorporated [three alternative provisions](#) into the standard requirements for annual determinations of eligibility for free and reduced-price school meals. Additionally, in schools where at least 80 percent of enrolled students have free or reduced-price meal eligibility, annual notification of program availability and certification only needs to occur once every 2 consecutive school years.

The 2016 amendment to the Healthy, Hunger-Free Kids Act of 2010 requires school districts to inform and update the public (including parents, students, and others in the community) about the content and implementation of their local school wellness policies. [42 U.S.C. § 1758b\(b\)\(4\)](#). School districts also must periodically measure and report on implementation of their local school wellness policies, including: (1) the extent to which schools under the jurisdiction of the local school district are in compliance with its local school wellness policy; (2) the extent to which the local school wellness policy of the local district compares to model local school wellness policies; and (3) the progress made in attaining the goals of the local school wellness policy. [42 U.S.C. § 1758b\(b\)\(5\)\(A\)](#). The USDA final rules for local school wellness policies, which became effective on August 29, 2016, appear at [7 C.F.R. § 210 and 220](#). See the USDA's [Local School Wellness Policy](#) for other child nutrition-related information.

In 2017, the USDA published [Guidance for School Food Service Professionals](#) that highlights requirements for accommodating children with disabilities who participate in School Meal Programs. With the help of school food service staff, LEAs must implement procedures to enable parents and guardians to request modifications to meal services for their children with disabilities. [7 C.F.R. §§ 15b.25, 15b.6 \(b\)](#). LEAs must notify parents and guardians of both the process (1) to request meal modifications that accommodate the child's needs; and (2) for resolving disputes. The hearing process must follow the necessary procedural requirements: notice, right to counsel, opportunity to participate, and examination of the record.

According to the [Local School Wellness Policy: Guidance and Q&As](#) (2017), the USDA does not require a specific timeline for updates to a wellness policy. Ideally, however, the policy should be updated after conducting a triennial assessment. [7 C.F.R. § 210.31\(e\)\(3\)](#). The updates are dependent on the structure of the LEA's policy. An LEA must notify the public about the content of its policy annually and discuss

any updates. [7 C.F.R. § 210.31\(d\)\(2\)](#). It also must inform the public about the progress made towards meeting the goals of the local school wellness policy. [7 C.F.R. § 210.31\(d\)\(3\)](#).

For model and sample policy language endorsed by the USDA, see the resources below.

- [Child Nutrition Sharing Site, Child Nutrition Program Resources](#)
- [UConn Rudd Center for Food Policy & Obesity, XYZ District School Wellness Policy](#)
- [CDC, School Health Guidelines](#)
- [FNS, School Meals Guidance and Resources](#)

### **Asbestos Hazard Emergency Response Act**

The Asbestos Hazard Emergency Response Act (AHERA) requires school districts to inspect their buildings for asbestos-containing building materials, and develop, maintain, and update an asbestos management plan. School districts must annually notify parents, teachers, and employee organizations in writing of the availability of the management plan and planned or in-progress inspections, re-inspections, response actions, and post-response actions, including periodic re-inspection and surveillance activities. [40 C.F.R. §§ 763.84\(c\), \(f\), and 763.93\(g\)\(2\)](#).

### **McKinney-Vento Homeless Assistance Act**

The McKinney-Vento Homeless Assistance Act requires school districts, through their homeless student liaisons, to provide public notice of the education rights of the homeless students enrolled in their districts. [42 U.S.C. § 11432\(e\)\(3\)\(C\)\(i\)](#). Such notice is to be disseminated in places where homeless students receive services under this Act, including schools, family shelters, and soup kitchens. [42 U.S.C. § 11432 \(g\)\(6\)\(A\)\(vi\)](#). The notice must be in a “manner and form” understandable to homeless students and their parents/guardians, “including, if necessary and to the extent feasible,” in their native language. [42 U.S.C. § 11432\(e\)\(3\)\(C\)\(iii\)](#).

The U.S. Department of Education has issued [guidelines](#) for states, which address ways a state may (1) assist LEAs to implement McKinney-Vento, as amended by ESSA, and (2) review and revise policies and procedures, along with LEAs, that may present barriers to the identification, enrollment, attendance, and success of homeless children and youths in school.

The U.S. Department of Education’s [Education for Homeless Children and Youths Program Non-Regulatory Guidance](#) highlights the key changes brought about by ESSA. For notice requirements under “tips for establishing an effective dispute resolution process,” see page 33.

Additional resources available from the U.S. Department of Education include: [Dear Colleague Letter: Educational Rights of Homeless Children and Youths](#) and guidance on [Supporting the Success of Homeless Children and Youths](#). Also, the National Center for Homeless Education (funded by the U.S. Department of Education) has created free [Educational Rights posters](#) (in black/white or color; English/Spanish; parents/students).

## Title VI, Title IX, Section 504, the Age Discrimination Act, Title II of the Americans with Disabilities Act, and the Boy Scouts of America Equal Access Act

Several federal statutes protect the rights of beneficiaries not to be discriminated against in programs or activities receiving federal and/or state financial assistance. Specifically, the following statutes prohibit discrimination: [Title VI, 34 C.F.R. § 100.6\(d\)](#) (race, color, ethnicity, and national origin); [Title IX, 34 C.F.R. § 106.1](#) (sex and pregnancy); [Section 504, 34 C.F.R. § 104.8](#) and [Title II, 28 C.F.R. § 35.106](#) of the Americans with Disabilities Act (disability); and the [Age Discrimination Act, 34 C.F.R. § 110.25](#) (age). [The Boy Scouts of American Equal Access Act, 34 C.F.R. § 108.6](#) requires public schools to provide equal access to the use of school property to the Boy Scouts and other designated youth groups.

The regulations implementing the above statutes require school districts to notify students, parents, and others that they do not discriminate on the basis of race, color, ethnicity, national origin, sex, pregnancy, disability, or age, and that they provide equal access to the Boy Scouts and other designated youth groups. The regulations contain minor differences relating to the required content of the notices and the methods used to publish them.

The U.S. Department of Education's [Notice of Non-Discrimination](#) describes the content requirements of notices under these statutes, including the methods of notification required by Title IX and Section 504, and contains a sample notice of non-discrimination school districts may use to meet the requirements of all of the above statutes. **NOTE:** The notice must include the name or title and contact information of the coordinators designated to handle complaints under Title IX ([34 C.F.R. § 106.8](#)), Section 504 ([34 C.F.R. § 104.7](#)), the Americans with Disabilities Act ([28 C.F.R. § 35.107](#)), and the Age Discrimination Act ([34 C.F.R. § 110.25](#)).

Pursuant to the 2020 Title IX regulations, instead of notifying only students and employees of the Title IX Coordinator's contact information, schools must also notify applicants for admission and employment, parents or legal guardians of elementary and secondary school students, and all unions of the name or title, office address, e-mail address, and telephone number of the Title IX Coordinator. Additionally, schools must prominently display the required contact information for the Title IX Coordinator on their websites. On July 12, 2022, the Department of Education released proposed amendments to its Title IX regulations. The proposed amendments establish requirements for schools to conduct an impartial investigation for all sex discrimination complaints and how complaints should be handled. Additionally, the amendments state all schools that receive federal funding must clearly and effectively communicate their nondiscrimination policies to all students, employees, and other participants in their education programs or activities. The Department's proposed Title IX regulations will be open for public comment until September 10, 2022 and are subject to change.

## Individuals with Disabilities Education Act

Under the Individuals with Disabilities Education Act (IDEA), a school district must give parents of a child with a disability a copy of its procedural safeguards one time per year, and upon initial referral or parental request for an evaluation, the filing of a first request for a due process hearing, a disciplinary action constituting a change in placement, and at the request of a parent. [20 U.S.C. § 1415\(d\)\(1\)\(a\); 34](#)



[C.F.R. § 300.504\(a\)](#). The notice must fully explain the IDEA's procedural safeguards in an easily understandable manner, and in the native language of the parents unless it is clearly not feasible to do so. [20 U.S.C. § 1415\(d\)\(2\)](#); [34 C.F.R. § 300.504\(c\), \(d\)](#). Parents may choose to receive the procedural safeguards notice and other notices under the IDEA by email, if the LEA makes this option available. [20 U.S.C. § 1415\(n\)](#); [34 C.F.R. § 300.505](#).

The U.S. Department of Education's [Model Form: Procedural Safeguards Notice](#) provides guidance on required content of forms under the IDEA. **NOTE:** The procedural safeguards notice requirements in the IDEA also apply to parents of homeless children with disabilities. For more information, see Question B-2 in [Questions and Answers on Special Education and Homelessness](#) by the Office of Special Education and Rehabilitative Services and the Office of Elementary and Secondary Education.

In 2017, the U.S. Department of Education provided guidance on when and how parents must be notified before "records containing personally identifiable information are destroyed under Part B of IDEA." Specifically, it considered whether "under [34 C.F.R. § 300.624](#), a school district must specifically notify parents at the time the district intends to destroy [a student's] records or whether such notice must be provided at the time the records are no longer needed." The Department determine through a [letter](#) that under the IDEA, parents must be informed when the personally identifiable information is no longer needed to provide services.

