

Confidentiality

Questions & Answers

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Confidential Records

The dos and don'ts of confidentiality are often confusing and misleading. The following booklet provides answers to the most frequently asked questions regarding student confidentiality.

When in doubt, always remember: **DO send/give out directory information to an educational institution using informed consent. DO NOT send/give out any other kind of information without the expressed permission of the parents (or the student if over eighteen).**

Questions & Answers

Question 1: What is directory information?

Directory information refers to the following:

A student's **name, address and telephone number, date of birth, participation in school clubs, activities and sports, the weight and height of students who are members of athletic teams, dates of attendance and degrees or awards received. In addition directory information includes the most recent previous educational institution or agency attended by a student.**

Question 2: To whom can directory information be given?

Federal regulations provide that an educational agency or institution may disclose directory information if it has given public notice to parents of students and eligible young children of the types of information designated as directory information; the parent's or eligible student's right to prohibit disclosure of directory information; and the time period a parent/guardian has to notify the educational agency or institution that he/she prohibits the

disclosure of directory information to the following:

- school employees within the local school system who have a legitimate educational interest in records,
- to school officials in the district where a student intends to transfer, and
- to federal or state education authorities

Therefore, as long as the educational agency gives the required notice, "directory information" is not confidential and may be shared, even though it includes personally identifiable information about the student.

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Question 3: What are considered education records?

The term "education records" includes records of an exceptional student whom:

1. receives or has received special education and related services from a school district or an intermediate unit; and/or
2. is enrolled or has been enrolled in an approved private school for exceptional students, a program of special education operated by the PA Department of Education (PDE) or is enrolled in the Scranton State School for the Deaf.

Question 4: What is an educational agency?

An educational agency is a term used to describe the following entities:

- a school district or an intermediate unit,
- an approved private school,
- the PA Department of Education
- the Scranton School for the Deaf

Question 5: What is personally identifiable data or information?

- The name of a student or the name of any of the student's family members;
- The address of the student;
- A personally identifying piece of information which would make a student's identity easily traceable;
- Any other information which would make a student's identity easily traceable

Question 6: What does release mean?

The giving of access or the transfer, disclosure or communication of a student's education records, in whole or in part, which contain personally identifiable information to any party by any means.

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Question 7: What is an Education Records Plan?

A plan that contains policies and procedures for the collection, maintenance, release and subsequent destruction of education records.

Question 8: What must the plan contain?

The plan shall reflect the relevant provisions of the regulations and standards, shall be updated or revised as necessary and submitted to the PA Department of Education prior to the start of the school year or as requested by the PDE.

Question 9: What is protection of confidentiality?

An agency shall protect the confidentiality of personally identifiable information at the collection, storage, disclosure and destruction stages of that information.

Storage of personally identifiable information will protect the confidentiality of this student information. Only school employees who have legitimate educational interest in the records will be permitted to access this information.

Question 10: What are parent access rights?

An education agency, upon request of a parent, shall permit the parent to inspect, review or copy education records relating to an exceptional child of that parent when the record is collected, maintained or used by the agency.

The agency shall comply with the request without unnecessary delay but not exceeding 45 calendar days after the request is received.

There is no fee for copies up to ten pages. After ten pages, the copying fee is twenty-five cents per page.

When the request is made to a school district or an intermediate unit, it shall be complied with prior to a conference regarding and IEP and prior to a hearing relating to identification, evaluation or placement of the child.

Question 11: What are student access rights?

Whenever a student has attained 18 years of age or is attending an institution of post-secondary education the rights accorded to and the consent required of the parent of the student shall there after be accorded to and required of only the student.

Question 12: What is required to document access of records?

An agency shall keep a record of parties who have obtained access to those education records of a student that are collected, maintained or used by the agency. The access record shall include the name of the party, the date access was given and the purpose for which the party was allowed to use the records.

A parent shall have the right to inspect the access record kept for the education records of his child.

A record of the authorized employees of the agency or the student's parents who have gained access to the education records of a student is not required.

An agency shall maintain, for public inspection, a current list of the names and positions of agents and employees of the agency who are authorized by the agency to have access to personally identifiable information.

Question 13: What is maintenance of records?

An agency maintaining education records on students shall designate an official who shall be responsible for insuring that the education records' confidentiality policies and procedures are enforced. Dr. Joseph Carroll, Assistant Superintendent, is the Penn Hills School District agency official responsible for ensuring confidentiality.

Question 14: What does a "maintenance official" do?

1. Annually notifies parents of the policies and procedures of the agency regarding student education records and the rights of parents under both state and federal laws regarding the confidentiality of education records of exceptional students.
2. Develops a system of safeguards, which will protect the confidentiality of personally identifiable information at the point of collection, storage, release and destruction.
3. Provides training and instruction in the implementation of federal, state and local records policy requirements for agency personnel who collect or use personally identifiable information.
4. Maintains for public inspection a current listing of the names and positions of agents and employees of the agency who are authorized by the agency to have access to personally identifiable information.

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Question 15: What are the procedures for the destruction of records?

1. The agency shall inform the parents of the student when personally identifiable information in the records of the student is no longer relevant to and necessary for the provision of educational services to the student.
2. A written record of a student's name, address, telephone number, grades, attendance records, classes attended, grade level completed and year completed shall be maintained for at least 100 years beyond the date the student attains the age of 24.
3. Nothing requires an agency to destroy education records except upon written request of the parents to destroy information no longer relevant to and necessary for the provision of educational services to the student.
4. The agency shall send written notification to the parents, which shall

inform the parents of their right to receive a copy of the material to be destroyed, prior to the destruction of the information.

5. An agency may not destroy education records containing information necessary for the education of a student who is enrolled or has been enrolled in an education program operated by that agency.

Question 16: What are the standards for releasing information?

Written parental or adult student consent shall be obtained by the agency before education and health records or personally identifiable information contained therein is released by the agency to any party unless one of the following applies:

- Information authorized under FERPA;
- Directory information
- To an approved private school (APS) from the school district of residence;
- From the school district of residence to an intermediate unit or APS; and
- To a school district in which the student seeks to be enrolled.
- The written consent of parent or adult student must specify the records that may be disclosed, purpose of the disclosure and identify the party or class or parties to whom the disclosure may be made. A written record of the disclosure must be maintained by the school district.

Question 17: What is public notice?

Public notice is the process of designating the categories of personally identifiable information that the agency has determined to be directory information. In addition the public notice must inform parents of their right to refuse to permit the designation of one or more of the categories with respect to that student.

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Question 18: What are the procedures for a parent to request that the records be amended?

1. A parent may request in writing that the student's records be amended because they contain inaccurate or misleading information or because they violate the privacy rights or other rights of the child.
2. The agency may agree to amend within 45 calendar days of receipt of the request.
3. The agency may refuse to amend the information and notify the parent in writing of the right to request and receive a hearing.
4. The hearing shall be held at a mutually agreed upon time and place within 30 calendar days of the request.
5. The hearing shall be conducted by a party who does not have a direct interest in the outcome of the hearing.
6. The party conducting the hearing may be an official of the educational agency.
7. The parent may be assisted at the hearing, at his/her expense, by persons of his/her choice including legal counsel.
8. The agency shall render a written decision on the issues presented at the hearing and shall render a decision within 30 calendar days after the conclusion of the hearing.

Question 19: What records are sent when an agency reports a crime?

An agency reporting a crime committed by a child with a disability shall ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom it reports the crime.

The agency will transmit copies of the child's special education and disciplinary records only to the extent that the transmission is permitted by the FERPA (Family Education Right to Privacy Act) (CFR Part 99)

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Question 20: What are the uses to be made of the information?

An agency would have various uses of the information depending on whether the student is or is not currently attending that educational agency.

- If the student is attending, then information can be used to assist the student in order to successfully complete his/her education programs.
- School employees within the local school system who have a legitimate educational interest in records would have access to them.
- If the student is attending, the information may be used for analysis of any systemic issues. i.e., to determine program effectiveness; to analyze trends in student needs or exceptionality; review success of IST; evaluate child find process; and determine accuracy of referral process.
- If the student is no longer attending that agency, the information may also be used for systemic issue analysis. For example: to compare past and present student needs; to identify any student patterns or trends over time and to analyze data for program strengths as well as needs for program changes.
- Student information is also sent to school officials in the receiving district when a student transfers there.

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Referenced from Chapter 14 of the Pennsylvania School Code and the Family Educational Rights and Privacy Act (FERPA) 20 USC 1232 g: 34 CFR part 99