



Georgia Department of Education

Policies and Procedures

Policy Title:	<i>Student Records/Identifiable Information, State Schools</i>		
Policy Number:	<i>SS-6000 Descriptor Code-IHAE</i>		
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Purpose

To provide guidelines for the release, distribution, and/or use of student records/information at the State Schools.

Applicability

This policy applies to all student records/identifiable information at the Atlanta Area School for the Deaf, the Georgia Academy for the Blind, and the Georgia School for the Deaf.

Policy

The release, distribution, and/or use of student records/identifiable information shall follow provisions as set forth in the Educational Rights and Privacy Act.

General Provisions

Any discussion of confidentiality of student information must start with the Family Educational Rights and Privacy Act (FERPA). The provisions of FERPA apply to any institution that receives federal education funds. The provisions are as follows:

Right of Inspection and Review

FERPA specifically guarantees that parents have the right to inspect and review the education records of their children. "Educational records" are any records which are directly related to a student and are maintained by the educational systems or by a party acting for the educational institution, such as a contractor or attorney. These would include any information recorded in any way including video and audiotapes, as well as written material.

The right to inspect and review the education records belongs to custodial and non-custodial parents, incarcerated parents, and parents who live out-of-state or out of the country. Only a court order specifically revoking the right of a parent to review educational records will prohibit a parent from

access to their child's records. Parents may assign FERPA rights to another person, such as a grandparent or stepparent, by providing written consent to the educational records holder.

There are two exceptions to the right to view educational records.

1. The "teacher note" exception—Records maintained by instructional, supervisory, and administrative personnel kept in the sole possession of the person making the notes used solely as a personal memory aid, and are not revealed to others (other than temporary substitutes) are not considered to be accessible educational records for parents. *(Please note: For the "teacher notes" exception to apply to counselor's records, the notes taken by the counselor must be kept apart from all other student records and the information may not shared with others.)* Testing Protocols are copyrighted materials and cannot be copied and distributed. Parents may be allowed to review testing protocols with a qualified examiner who can answer questions and provide appropriate test interpretations, but may not be provided copies of the protocols.
2. Records of law enforcement units of an educational agency—Records created for and maintained by law enforcement units within the educational setting that enforce local, state and /or federal law and maintain the physical security and safety of the agency or institution are not considered educational records.

Once a parent requests to inspect and review his or her child's education records, the school system must comply within 45 days. If the parent cannot actually come to review the records, the school system must provide a copy or make other arrangements. The system can charge a fee to copy the records, but may not charge a fee to retrieve the records. If the cost effectively prevents a parent from inspecting the records, the system may not charge.

Under FERPA, a parent or other assigned person not only has the right to inspect or review records, he or she also has the right to request that the records be amended if the parent believes they contain information that is inaccurate, misleading, or in violation of the student's right of privacy. If the school does not agree to amend the records, the school must notify the parent of his or her right to a hearing. If the parent decides to request a hearing, the school must hold the hearing within a reasonable time. The hearing may be conducted by anyone who does not have a direct interest in the outcome of the hearing. The parent must be given a full and fair opportunity to present evidence. The educational agency must make its decision in writing, based solely on the evidence presented at the hearing. The decision must include a summary of the evidence and the reason(s) for the decision and a copy shall be sent to the parent(s) or legal guardian(s).

The right to challenge an educational record, however, does not grant a parent the right to contest the grade a teacher assigns to a student. FERPA gives parents the right to challenge a record in which a grade had been improperly recorded, but parents cannot contest whether the teacher should have assigned a higher grade.

For amendments to records of students no longer enrolled (name changes, sex changes, etc), schools are not required to change the record or provide a hearing if the record was accurate at the time it was made.

Right of Confidentiality

In addition to guaranteeing a parent's right to his or her child's record, FERPA offers one other important protection to the student and his or her parent. FERPA provides that a school system may not disclose personally identifiable information about the student without a parent's signed written consent.

Personally identifiable information about a student includes, but is not limited to:

- (a) The student's name.
- (b) The name of the student's parent or other family members.
- (c) The address of the student or the student's family.
- (d) A personal identifier, such as the student social security number or student number.
- (e) A list of personal characteristics that would make the student's identity easily traceable or apparent.
- (f) Other information that would make the student's identity easily traceable.

Parental consent must be obtained before information may be released to anyone other than the student's parent.

A school **may** disclose personally identifiable information about a student without parental consent under the following conditions:

- (1) The disclosure is to other school officials, including teachers within the school, whom the school district has determined to have legitimate educational interests. (State Board of Education Regulation 160-1-3-.03(I) states that a local system shall not disclose medical information about a student or employee with an HIV infection or other communicable diseases without the consent of the employee or the student or his or her parent or guardian.)
- (2) The disclosure is to the officials of another school or school system where the student seeks or intends to enroll.
- (3) The disclosure is to the authorized representatives of state and local educational authorities, federal educational officials, the Attorney General of the United States, or the Comptroller

General.

- (4) The disclosure is in connection with financial aid if the information is necessary for the receipt of the aid.
- (5) The disclosure is to State and local officials if state statutes allow reporting or disclosure concerning the juvenile justice system. (Note: In Georgia, the Department of Juvenile Justice (DJJ) is considered under state law to be a school system, and records can be transferred to and from DJJ without parental consent under exception number 2 above.
- (6) The disclosure is to organizations conducting studies for, or on behalf of, educational agencies or institutions to develop, validate, or administer tests, student aid programs, or to improve instruction. Such studies must be conducted in a manner that does not permit personal identification of parents and students by individuals other than representatives of the organization. The information must be destroyed when no longer needed.
- (7) The disclosure is to accrediting agencies.
- (8) The disclosure is to parents of a dependent student, as defined in section 152 of the Internal Revenue Code. This allows student information of students 18 years old and over to be released to their parents, if their parents are claiming them as dependents for tax purposes.
- (9) The disclosure is to comply with a judicial order or subpoena as long as the school system makes reasonable attempts to notify the parent of the subpoena in advance of compliance. If the school system initiates legal action against a parent or student or if the parent initiates action against the school system, the system may disclose relevant student information without a court order or subpoena. (A subpoena may order that the contents or the existence of the subpoena not be disclosed. In that event, the school system must comply with the terms of the subpoena.)
- (10) The disclosure is in connection with a health or safety emergency. This exception should be strictly construed and is intended to apply to those situations where it is necessary to protect the health and safety of a student or other individuals. The risk of harm must be immediate.
- (11) The disclosure is designated as “directory information.”

Directory information is information which would not generally be considered harmful or an invasion of privacy if disclosed. (This could include such information as name, address, telephone listing, e-mail address, date and place of birth, major field of study, grade level, enrollment status, participation in extracurricular activities, weight and height of members of athletic teams, dates of attendance, degrees, honors or awards received, and the most recent educational agency attended.)

In order to disclose information of this type, parents must be given notice of this policy and be given the right to refuse to allow directory information about their children to be released without their prior written consent.

School systems are not required to publish any type of directory information, but any system which contemplates routinely releasing information about student, such as student accomplishments or student athlete ages and measurements should have a directory information policy.

Miscellaneous Issues

Schools must get parental permission before releasing educational records to the Department of Family and Children's Services (DFACS) or others involved in the child welfare system.

Local school systems are required to annually notify parents of their rights under FERPA. The notice must specify the procedure by which parents can exercise their rights to inspect and review education records. The notice must contain the procedure for requesting amendment of the records and must contain the procedure designating who in the system has legitimate educational interests to review student information. This notice must be effectively provided to parents with disabilities and to parents who speak a language other than English.

Special education records follow the same procedures and are afforded the same protections FERPA gives to other records. One additional procedure must be in place for special education records. Schools are required to inform parents when personally identifiable information collected, maintained, or used is no longer needed to provide educational services to the child. The information must be destroyed at the request of the parents. However, a permanent record of a student's name, address, phone number, grades, attendance record, classes attended, grade level completed, and year completed may be sustained without time limitation.

FERPA is designed to address perceived abuses by school districts regarding either (a) withholding information from their student's school records from the parents, and/or (b) disclosing student information to third parties about students without permission. The Family Policy Compliance Office is charged with the responsibility of enforcing FERPA. Ultimately, federal funds can be withheld from any system that violates FERPA provisions.

**Authority and/or
Cross-Reference**

- State Board of Education Rule 160-5-1-.14
- Family Educational Rights and Privacy Act (FERPA)
- O.C.G.A. 20-2-720