



Parent Right to Confidentiality and Access to Child's Records

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from the Center for Parent Information and Resources
<https://www.parentcenterhub.org/derecho-expedientes/>

IDEA and other federal laws...

... protect the confidentiality of your child's education records. These safeguards address the following three aspects:

- the use of personally identifiable information;
- who may have access to your child's records; and
- the rights of parents to inspect their child's education records and request that these be amended to correct information that is misleading or inaccurate, or that violates the child's privacy or other rights.

Personally Identifiable Information

Personally identifiable information refers to information that includes:

- the name of the child, parent, or other family member;
- the child's address;
- a personal number (such as the social security number or a student number); or
- a list of personal characteristics or other information that would permit the child's identification with reasonable certainty.



With some exceptions, you (as a parent) must give your consent before the school system may disclose your child's personally identifiable information. These exceptions are specified by policies in your state in keeping with the regulations at §99.31 of FERPA, the *Family Educational Rights and Privacy Act*. IDEA's confidentiality regulations refer directly to FERPA.

You have the right to know the policies used in your state regarding the collection, storage, disclosure to third parties, and destruction of your child's personally identifiable information. You should be able to get this information (on your state's policies) from the director of special education in your school district or from the State Department of Education.

Access to Your Child's Records

Access to the educational records of their children is often a concern of parents. In keeping with the requirements of FERPA, only certain individuals, in addition to yourself as the parent, may have access to your child's records. These individuals may include, for example, teachers or administrators of the school or state who have a legitimate interest in the records.

The school or other participating agency must keep a record of all interested parties who have accessed your child's educational records that are collected, maintained, or used under Part B of IDEA (with the exception of parents and authorized employees of the agency). This record must include the name of the person who had access to the child's records, the date, and the purpose for which the person was authorized to use the records.



Parents' Right to Inspect Their Child's Records

IDEA guarantees you, as parents, the right to inspect and review any educational record of your child that the school system (or other participating agency) collects, maintains, or uses with respect to the identification, evaluation, and educational placement of your child, and the provision of FAPE (a free appropriate public education) to your child.

If you would like to inspect and review your child's records but aren't sure where, to whom, or how to make such a request, we invite you to use the model letter that's available in *Requesting Your Child's Records*, online at: <https://www.parentcenterhub.org/records-2/>

After the school receives your request by letter or email, the school agency must answer without undue delay and most certainly before any meeting of the IEP team or due process hearing related to your child. **In no case may the school take more than 45 days to respond to your request.**

You also have the right to ask for reasonable explanations or interpretations of information in your child's records. Among your other rights with respect to your child's records:

- You can ask the school agency to give you a copy of the records.
- The school may charge a reasonable fee to make the copies, as long as the fee does not effectively prevent you from exercising your right to inspect and review those records. However, the school may not charge you for finding or retrieving the records.
- You have the right to have your representative be given access to inspect and review the records.

Parents' Right to Ask that Their Child's Records be Amended

If you, as parents, believe that the information contained in your child's records is inaccurate or misleading or that the information there violates his or her privacy or other rights, you may ask the school system that maintains the information to amend it.

The agency must decide, within a reasonable amount of time, if it is going to comply with your request or not. If the agency decides to refuse the request, it must inform you of that decision and let you know you have the right to ask for a due process hearing on the matter.

If you, as a parent, decide to dispute the school system's decision in a due process hearing, you have the right to present evidence that shows why you think the information in your child's records should be amended. You also have the right (at your own expense) to be assisted or represented by one or more individuals selected by you, including an attorney.

The due process hearing must be conducted by an individual who has no direct interest in its result. After the hearing, the educational agency must issue its determination in writing within a reasonable amount of time. That determination must be based solely on the evidence presented in the hearing and must include a summary of the evidence and the reasons for the determination.

If the result of the hearing is favorable to you, the school system must amend your child’s records and inform you in writing that it has done so.



On the other hand, **if the result of the hearing** is that the information about your child is *not* inaccurate or misleading, or does *not* violate your child’s privacy or other rights, then the school system must inform you, as parents, that you have the right to add a statement to your child’s records commenting on the information that has been under dispute and presenting the reasons you do not agree with it.

The district must attach your statement to the records and maintain it there as long as the agency maintains the records. If your child’s records (or the part that’s under dispute) is disclosed by the agency to any other person, your statement must also be disclosed to that person.



Highly Rated Resource! This resource was reviewed by 3-member panels of Parent Center staff working independently from one another to rate the quality, relevance, and usefulness of CPIR resources. This resource was found to be of “High Quality, High Relevance, High Usefulness” to Parent Centers.



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