

Confidentiality Under IDEA

The Fort Payne City School System ensures that the educational records of all children referred for evaluation and/or identified as disabled will be stored, retrieved, and utilized in a manner that will insure confidentiality and privacy rights.

1. Education agencies must appoint one person to assume the overall responsibility for ensuring that personally identifiable information will be safeguarded and confidential.
2. The educational records of all children referred for evaluation and/or identified as disabled will be maintained in a limited access location that will ensure confidentiality
3. Parents may inspect and review all educational records relating to identification, evaluation, and educational placement for their child.
4. Parents must be given the opportunity to review their child's records without necessary delay (within forty-five days) and before any meeting regarding an IEP or before a due process hearing is conducted.
5. Parents must be provided copies of their child's records, when failure to do so would effectively prevent the parents from exercising their right to access.
6. Parents must be given explanations and interpretations regarding their child's records
7. Parents may have a representative review their child's records under the same access rights afforded to them.
8. The educational agency may presume that the parents have the authority to review the records unless the agency has been advised that authority has been removed unless laws governing guardianship, separation, and divorce.
9. When a record contains information on more than one child, the parents may review only the data regarding their child.
10. The parents must be provided with a list of the types and locations of educational records collected, maintained, or used by the agency pertaining to their child.
11. The educational agency may charge the parents a reasonable fee for copies of educational records, but not an amount that would prevent them from exercising their rights to access the record.
12. The educational agency must maintain for inspection a current listing of the names and postings of those employees within the agency who have access to personally identifiable information.
13. Parental consent must be obtained before personally identifiable information is disclosed to anyone other than the officials of federal, state, or local educational agencies collecting or using information in conjunction with the child's special education program.
14. Parental consent is not required as a condition of disclosure of records to:
 - Educational employees who have a legitimate interest.
 - Educational employees of other schools, school systems, or other state agencies to which the child has enrolled.
 - Authorized state or federal officials in conjunction with monitoring
 - Authorities in response to a judicial order or pursuant to a legal subpoena.
 - Appropriate parties in connection with an emergency.
 - Law enforcement and judicial authorities when the child has committed a crime.

15. Upon request from the parent, an educational agency must transfer a copy of all special education records no later than thirty calendar days from receipt of request.
16. Parental consent is not required as a condition for a transfer of special education records from one educational agency to another, however, the parents must be given prior notice of the transfer, receive a copy of the records (if requested), and have an opportunity for a hearing to challenge the content of the records.
17. Except when the transfer of records has been initiated by the parents, the educational agency must make a reasonable attempt to notify the parents prior to the transfer, i.e. written notice to the last known address or by other notice procedures normally utilized by the education agency.
18. A parent who believes that the special education records are inaccurate or misleading or violate the privacy or other rights of the child may request that the educational agency amend the records. (Within 15 days of receipt of request)
19. If the educational agency decides to amend the records in accordance with the request, the parent must be notified in writing of the decision.
20. If the educational agency decides not to amend the records, written notices must be provided to the parent. The notice must advise the parent of their right to a local hearing before the educational agency within fifteen calendar days from receipt of request.
21. If, as a result of the hearing, the educational agency decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it must amend the information accordingly and inform the parent in writing.
22. If, as a result of the hearing, the educational agency decides that the information should not be amended, the educational agency must inform the parent of the right to place in the records a statement commenting on the information or setting forth reasons for disagreeing with the decision.
23. If the records on the contested portion are disclosed by the education agency to any party, then the explanation must also be disclosed.
24. The hearing must be conducted according to the procedures in the Family Educational Rights Privacy Act. (34 CFR 99.22)
25. The educational agency must retain a copy of the education records containing personally identifiable information for a period of 5 years after the termination of the special education program for which they were used.
26. A permanent education record that contains the child's name, address, telephone number, his/her grades, record of attendance, for special education services, classes attended, grade level completed, and year completed may be maintained without a time limitation. At the end of the five-year retention period, the education agency must provide written notice to parents that inform them that the special education records are no longer needed. The educational agency is not prohibited from retaining special education records indefinitely as long as confidentiality is ensured. Confidentiality of the information to be destroyed must be maintained.