

Confidentiality

Professional Development

Presented by the Green River
Regional Educational Cooperative

Laws, Compliance, Policies & Procedures

Applicable Laws

➤ *Family Education Rights and Privacy Act*

■ FERPA

- Also known as the **Buckley Amendment**

➤ *Individuals with Disabilities Act*

■ IDEA

➤ *Kentucky Safe Schools Legislation*

■ HB 330

Compliance

- Any school district that receives federal or state funds must **comply** with privacy acts.
 - Federal funds may be withheld
 - Parents may seek redress

Policies & Procedures

- State and federal guidelines require written **policies and procedures** regarding confidentiality of records.
 - Found in district policy & procedure manuals.

Policies & Procedures

- Directory Information may be disclosed if:
 - Parents are **annually** given public notice of the types of information designated as directory information
AND
 - Given the opportunity to refuse.

Policies & Procedures

Directory Information includes a student's:

- Name
- Address
- Telephone Number
- Date of Birth
- Dates of attendance
- Participation in officially recognized sports & activities
- Weight, height if member of athletic team
- Awards Received

Terms

Confidentiality

- Protecting all personally identifiable data, information, & records collected, used, or kept by the LEA about a student.

Confidentiality

- **Confidentiality** requirements also apply to discussions about a student or a student's records.

Disclosure

- Permitting access to or the release, transfer, or other communication of student education records or personally identifiable information.
 - Orally,
 - In writing, or
 - By any other means.

Educational Record

- A student's **educational record** includes:
 - anything that the district collects, uses, or maintains relating to individual students.

Educational Record

- Health Information
- School picture
- Photos
- Attendance reports
- Work samples
- Test results
- Progress monitoring data
- Personal data
- Family data
- Discipline reports

Educational Record

➤ Includes:

- Data or **information** that is handwritten, drawn, or typed.
- Photograph, audio or videotape, or on computer disk.

Educational Record

- Educational records are not:
 - Personal notes **not** shared with others;
 - Law enforcement records;
 - Medical records;
 - Statistical data compilations.

Eligible Student

- An eligible student is a student who:
 - Has reached the age of 18, or
 - Is attending a postsecondary education institution.

Eligible Student

- If a court has established limited or full guardianship, a student at the age of 18 is not an eligible student.

LEA

- **LEA—Local Education Agency**
 - Local school district

Personally Identifiable

Personally identifiable information includes:

- Student's name,
- Parent's name(s), or
- Name of another family member;
- A student's address;

Personally Identifiable

- A personal identifier
 - social security/student number;
- A list of personal characteristics or other information that makes it possible to identify a student with reasonable certainty.

Records Amendment

- Amendment of records pertains to changing, deleting, or destroying information.

Public Notice

Notice

- School districts must provide public notice ***annually***.
- ***Before*** any major identification, location, or evaluation activity.
 - Also know as ***Child Find***

Notice

- Notice must be announced in ***newspapers*** or other media, or ***both***, with circulation adequate to notify parents.

Notice

- Notice must be published in all known languages and means of communication of the population known within the district.

Access Rights

Access Rights

Who has the right to review and inspect educational records?

- Parents
- Eligible students
- Guardians
- Surrogate parents
- Foster parents**
- Authorized parent representative

Access Rights

- The right to inspect and review education records shall include:
 1. Explanation and interpretation
 2. Copies
 3. Authorized representative to review records

Access Rights

- The LEA shall comply with a parent's request without unnecessary delay and before any meeting regarding:
 - an IEP,
 - dispute resolution,
 - due process hearing, and
 - no more than forty-five (45) calendar days after the request has been made

Access Rights

- If an education record includes information on more than one child, the parents shall have the right to inspect and review only the information relating to their child.

Access Rights

- Private notes created by staff members become part of the educational record and must be available for inspection and review if they are orally communicated to others.

Record of Access

Record of Access

- An LEA shall keep a record of parties obtaining access to education records collected, maintained, or used, including:
 1. The name of the party;
 2. The date access was given; and
 3. The purpose for which the party is authorized to use the records.

Record of Access

- The LEA must ensure individuals accessing a student's record have a legitimate educational interest.
- Those with a legitimate educational interest, except parents, eligible students, and school officials, must sign the record of access form.

Record of Access

- Each LEA must maintain a current list of names and positions of those employees who may have access to personally identifiable information.

Record of Access

- An LEA shall provide parents, on request, a list of the types and location of education records regarding their child with disabilities that is collected, maintained, or used by the LEA.

Amendment of Records

Amendment of Records

- A parent or eligible student who believes information in the education records collected, maintained, or used is inaccurate, misleading, or otherwise violates the student's privacy may request the LEA to amend the information.

Amendment of Records

➤ The LEA must:

1. Decide whether to amend the information in accordance with the parent's request,
2. Notify the parent regarding the LEA's decision within ten (10) school days, and

Amendment of Records

3. Advise the parent of their right to a records amendment hearing along with the amendment hearing procedures used by the school district.

Amendment of Records

- If requested, a hearing must be held in accordance with the LEA's policies and procedures.
- If the hearing results in the records being amended:
 - the record is amended
 - Parent/eligible student is given a copy

Amendment of Records

- If the hearing decision is to NOT amend the records, the parent is notified of:
 - The decision and
 - The right to include a statement of disagreement.

Amendment of Records

- If the parent or eligible student provides a statement of disagreement, the statement is to be added to the record(s) and must be maintained and disclosed as part of the record from that point forward

Consent

Consent

- Parental consent is needed to disclose records to individuals/agencies other than those listed on the disclosure without consent list.

Consent

- Prior consent is not needed for:
 - Directory information;
 - School officials with legitimate educational interest;
 - Other schools to which a student is transferring;
 - Audit or evaluation purposes;
 - Organizations conducting certain studies for or on behalf of the school;

Consent

- Prior consent also not needed for :
 - Accrediting organizations;
 - Financial aid
 - Subpoenas or judicial order
 - Health and safety emergencies
 - State & local authorities within a juvenile justice system

Consent

- Prior consent is also not needed:
 - For disclosure within the LEA to individuals with legitimate educational interest.
 - For officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll.

Consent

If a parent refuses to provide consent for release of personally identifiable information, a party may request a due process hearing.

Safeguards

Safeguards

- The LEA shall protect the confidentiality of personally identifiable student information at collection, storage, disclosure, and destruction stages.
- The LEA shall assign a staff member to assume responsibility for ensuring the confidentiality of any personally identifiable student information.

Safeguards

- An LEA employee collecting or using personally identifiable information shall receive training or instruction regarding the requirements of this administrative regulation.
- An LEA shall maintain, for public inspection, a current listing of the names and positions of employees within the LEA who may have access to personally identifiable student information.

Records Retention

Records Retention

- School districts must ensure staff members are familiar with and follow the Kentucky recordkeeping requirements specified in the Kentucky Department of Archives Retention and Disposal Schedule.

Destruction of Records

Destruction of Records

- The LEA shall inform the parent when personally identifiable student information collected, maintained, or used is no longer needed to provide education services to a child.

Destruction of Records

- A parent may request that information be destroyed.
 - Only information no longer needed may be destroyed.
 - The district must notify the parent of records that may be needed for social security eligibility determination.

Destruction of Records

- A permanent record of a child's name, address & phone number, grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitations.

Destruction of Records

- When a parent requests destruction of records, the district does not destroy records if:
 - There is an outstanding request to inspect or review the records, or
 - They are needed for compliance with applicable state and federal requirements.

Child's Rights

Child's Rights

- At least one year prior to the child reaching the age of majority, parent and child must be informed of:
 - The child's rights and
 - That these rights transfer to the child upon reaching the age of majority.

Child's Rights

- This transfer of rights is automatic unless the school district is provided with evidence that there is a court order or legal document indicating the parent is the guardian or youth's representative in educational matters.

Professional Sharing

Professional Sharing

➤ When discussing a student with a colleague, four W's should be applied to your conversation:

- **Who?**
- **What?**
- **Where?**
- **Why?**

Who?

- **Who** is listening to your conversation?
 - If you are discussing a student with a colleague who has a legitimate educational interest in an appropriate location, confidentiality has not been violated.
 - If others are listening and they do not have a legitimate educational interest, you are violating confidentiality.

What?

- **What** is being discussed?
 - If personally identifiable information is being discussed, it must be for a legitimate educational purpose with someone who has a legitimate educational interest.

Where?

- **Where** is the conversation taking place?
 - Any discussion should take place in private and not in a public place where other staff members without a legitimate educational interest or where students could overhear.

Why?

- **Why** is the conversation occurring?
 - The conversation should have a legitimate educational interest.
 - If the discussion involves sharing rumors, opinions, or hearsay, the speech has moved from professional to gossip.

Scenarios

Scenario #1

- You have additional access rights to Infinite Campus and look up your neighbor's child to compare their progress (grades, attendance, behavior) with your own child's progress.
- Is this appropriate?

Scenario #1 Answer

- No.
- Curiosity is not a legitimate educational interest.

Scenario #2

- During a disciplinary conference regarding a physical altercation, a parent requests that you disclose the consequences given to the other student involved in the incident. You tell the parents that you are unable to disclose that information due to confidentiality laws.
- Was this the correct action to take?

Scenario #2 Answer

- Yes
- If an education record includes information on more than one child, the parents shall have the right to inspect and review only the information relating to their child.

Scenario #3

- Juanita and Jim are the natural parents of Maryann, a student on your due process caseload. Juanita and Jim have separated and are in the process of getting a divorce. Juanita sends a note to school stating Jim is not allowed access to Maryann's records.
- Can the school honor Juanita's request?

Scenario #3 Answer

- No
- Unless the school has on record a court order or other legal action that states otherwise, both natural parents have the right to access Maryann's records.

Scenario #4

- While shopping at the grocery store, you run into a coworker and begin discussing a student you both work with who is having difficulties with reading.
- Is this appropriate?

Scenario #4 Answer

- No
- Although you both have a legitimate educational interest, the place of the discussion is not private. Therefore, you are violating confidentiality.

Thank you for
completing this
professional
development.

Certificate of Completion
Awarded to:

For Completing:
Online Confidentiality Training
2015-2016

DISTRIC:

Sponsored by
Green River Regional Educational Cooperative, Inc.
250 Technology Way
Boulder Green, KY 40019

Sources

- <http://education.ky.gov/specialed/excep/Documents/Guidance Documents/Parent Confidentiality Information.doc>
- <http://education.ky.gov/specialed/excep/Documents/IDEA%20FERPA%20Confidentiality%20Comparison.pdf>
- <http://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html>
- <https://www2.ed.gov/policy/gen/guid/fpco/pdf/ferparegs.pdf>