



What's the Big IDEA? #22

The Individuals with Disabilities Education Act (IDEA) is a law ensuring services to children with disabilities throughout the nation. IDEA governs how states and public agencies provide early intervention, special education, and related services to more than 6.5 million eligible infants, toddlers, children, and youth with disabilities. This series is designed to offer information about IDEA as amended in 2004. Each fact sheet will focus on a different aspect of IDEA.

The Family Education Rights and Privacy Act (FERPA)

If your child receives special education services, you no doubt have many educational records on your child – evaluations, IEPs, medical records, report cards, etc. Your child's school and other agencies have these same records. Much of the information in these records is sensitive and you may be concerned about who has access to this information. There is an important federal law, the Family Educational Rights and Privacy Act (FERPA), which recognizes the importance of educational records and gives you rights to protect their privacy. FERPA broadly defines educational records as any record that contains personally identifiable information that is directly related to the student and is maintained by an educational agency or institution. This includes items such as written documents, video or audio tapes, and photographs as well as records and files.

Since FERPA applies to educational agencies that receive funding from the US Department of Education, most parochial and private elementary schools do not have to follow FERPA. Public schools must notify parents annually of FERPA regulations. The notice does not have to be given individually to parents. It can be printed in the school newspaper or handbook or in any other form that parents are likely to see. The notice must inform parents of their rights under FERPA and give parents guidance regarding the type of information that is protected and not protected. For example, directory information, which is general information such as a student's name and address, dates of school attendance, and grade level can be given out without parental consent. However, the annual FERPA notice provided by the school must give parents the choice to opt out of the release of directory information.

- **FERPA** guarantees you the right to inspect and review your child's file. Schools must give you access to the records within 45 calendar days of receiving your request. You may also receive copies of the information contained in the files. Be sure to check with your child's school to find out their procedures for accessing records. The school may charge you a standard fee for copying records unless the cost would prevent you from being able to obtain a copy of your child's records. If that is the case, they can not charge you for copies.
- **FERPA** states that only people who need to see the file can. This would include people who have legitimate educational interests. Some examples of people who would be allowed to see the records are: teachers, principals, therapists; staff from a school the student plans to attend; or state or local education authorities. The school would have to provide educational records to comply with a court order or a subpoena.



- **FERPA** allows you to challenge information in the file if you feel it is inaccurate or misleading. If you disagree with something in the file, you can ask the school to remove it. If the request is denied you have three options:
 1. You may attach a letter to the page telling why you disagree, OR
 2. You may request mediation, OR
 3. You may request a due process hearing

Schools are not required to consider requests to: change a grade or disciplinary decision; change the written opinions of school personnel; or change a child’s special education program.

- **FERPA** requires school districts to have your written permission to release records - except to another school district. The law requires districts to transfer records to each other. A school may disclose all records, including disciplinary records and special education records, to another school where the student intends to enroll. The school must make a reasonable attempt to notify a parent about the release of records, unless the parent initiated it. You can request a copy of the information that was provided to the other school.

Transfer of rights

When a student turns 18 years old, or enters a postsecondary institution at any age, the rights under FERPA transfer from the parents to the student. However, the institution *may*, but doesn’t have to, share information with parents without the student’s consent under the following conditions:

1. If the student is claimed as a dependent for tax purposes. If not a dependent, the student has to give consent for parents to receive information.
2. If there is a health or safety emergency.
3. If the student is under 21, schools can inform parents of any violation of the law or school’s policy regarding possession of alcohol or controlled substance. If the student is a dependent, the school can disclose this information regardless of the student’s age.
4. A school official can share information that is based on that person’s personal knowledge or observation of the student.



Complaints

If you feel your child’s FERPA rights have been violated, you may file a complaint. Complaints must be submitted within 180 days from the date you learned of the alleged violation. Your complaint must give specific dates, names, and titles. It should include a description of the education record that was involved in the violation, and a record of any contact you had with school officials regarding the matter – a telephone log or copies of e-mails or letters.

Complaints should be sent to:

Family Policy Compliance Office
 U.S. Department of Education
 400 Maryland Avenue SW
 Washington, DC 20202-5901
 1-202-260-3887 / TDD 1-202-260-8956

For more information about FERPA or to discuss your own situation, contact Parents Reaching Out at 505-247-0192 or 1-800-524-5176. Ask to speak to a PTI Family Liaison.

“What’s the Big IDEA?” fact sheets are developed by Parents Reaching Out under a grant from the US Department of Education, Office of Special Education. Views expressed do not necessarily represent the policy of the US Department of Education and should not be assumed to be an endorsement by the federal government.