Confidentiality of Information

Under the Family Educational Rights and Privacy Act (FERPA) each educational agency must:

* Protect the confidentiality of personally identifiable information at the collection, storage, disclosure, and destruction stages; and
* Maintain for public inspection a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

Special Education Eligibility Folder

Each educational agency must maintain an eligibility folder for each student receiving special education services, in addition to the student's cumulative record. The eligibility folder must include, but need not be limited to:

* Copies of referral data;
* Documentation of notices and consents;
* Evaluation reports and supporting data;
* Admission, review and dismissal (ARD) committee reports;
* The student's individualized education program (IEP).

Documentation of Record Requests

Each educational agency must maintain a record of each:

* Request for access
* Disclosure of information

*Anytime an education agency receives a request for access to an education record, the agency must document this request.*

Documentation of Record Requests

For each request, the record of access must include:

* The name of the person who requested or received personally identifiable information from the education records
* The [legitimate interests](javascript:togglecomments('Rights')) the person had in requesting or obtaining the information
* The date access was given

This record must be kept with the education records of each student as long as the records are maintained.

Who Has Automatic Access?

* The [parent or eligible student;](javascript:togglecomments('One'))
* A school official with legitimate educational interest;
* A party with written consent from the parent or eligible student;
* A party seeking [directory information](javascript:togglecomments('Two')); or
* A party seeking or receiving the records by Federal grand jury or other law enforcement subpoena and the issuing court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed.

### Record of Access

A **record must be maintained** anytime an educational agency receives a **request to access education records**, unless the request comes from the parent or someone else who has **automatic access**.

Annual Notification

Each educational agency must notify parents/eligible students of their rights under FERPA annually. Annual notification must inform parents/eligible students of the right to:

* Inspect and review the student's education records;
* Seek amendment of the student's education records
* Consent to disclosures of personally identifiable information contained in the student's education records
* File a complaint with the Family Policy Compliance Office
* An amendment may be requested if the parent or eligible student believes the information contained in the student record is inaccurate, misleading, or otherwise in violation of the student's privacy rights.
* Parents and eligible students who need assistance or who wish to file a complaint about an alleged failure by the education agency to comply with the requirements of FERPA should do so in writing to the Family Policy Compliance Office.

# Closing/Summary

Parents and eligible students have **specific rights to privacy** under FERPA and IDEA and confidentiality of student information must be **maintained at all times**. Only individuals with legitimate educational interest **should have access** to this information without specific consent and the school must **keep a record of access** to show who has accessed this information.