

**160-4-7-.08 CONFIDENTIALITY OF PERSONALLY IDENTIFIABLE INFORMATION.**

**(1) CONFIDENTIAL INFORMATION**

(a) Education records means the type of records covered under the definition of “education records” in 34 C.F.R. part 99 (the regulations implementing the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g (FERPA)). [34 C.F.R. § 300.611(b)]

(b) Each LEA shall provide a description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the LEA intends to use in gathering the information, and the uses to be made of the information. [34 C.F.R. § 300.612(a)(2)]

(d) Confidentiality information shall be given in native languages appropriate to population groups served by the LEA. [34 C.F.R. § 300.612(a)(1)]

(e) Each LEA shall provide notice that is adequate to fully inform all parents concerning the policies and procedures which the LEA follows regarding storage, disclosure to third parties, and retention and destruction of personally identifiable information. [34 C.F.R. § 300.612(a)(3)]

(f) Each LEA shall provide a description of all of the rights of parents and children regarding this information, including the rights under FERPA and implementing regulations in 34 C.F.R. Part 99. [34 C.F.R. § 612(a)(4)]

**(2) ACCESS RIGHTS AND REQUIRED PROCEDURES.**

(a) Each LEA must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the LEA. The LEA must comply with a request without unnecessary delay and before any meeting regarding an IEP, any due process hearing, or resolution session, and in no case more than 45 days after the request has been made. [34 C.F.R. § 300.613(a)]

1. The rights of parents regarding education records are transferred to the adult student at age 18. [34 C.F.R. § 300.625(b)]

(b) The right to inspect and review all education records includes:

1. The right to a response from the LEA to reasonable requests for explanations and interpretations of the records;

2. The right to request that the LEA provide copies of the records containing the information if failure to provide those copies would effectively prevent the parents from exercising the right to inspect and review the records; and

3. The right to have a representative of the parents inspect and review the records. [34 C.F.R. § 300.613(b)]

(c) Each LEA may presume that the parents have the authority to inspect and review all records relating to their child unless the LEA has been advised that the parents do not have the authority under applicable State law governing such matters as guardianship, separation, and divorce. [34 C.F.R. § 300.613(c)]

(d) Record of Parties Obtaining Access. Each LEA must keep a record of parties obtaining access to education records collected or maintained (except access by the parents and authorized employees of the LEA), including the name of the party, the date access was given, and the purpose for which the party is authorized to review or use the records. [34 C.F.R. § 300.614]

(e) Records on More Than One Child. If any education record includes information on more than one student, the parent(s) of those students have the right to inspect and review only the data relating to their child or be informed of that specific information. [34 C.F.R. § 300.615]

(f) List of Types and Locations of Information. Upon request, the LEA must provide the parents a list of the types and locations of education records collected, maintained, or used by the LEA. [34 C.F.R. § 300.616]

(g) Fees. Each LEA may charge a fee for copies of records that are made for parents under this Rule if the fee does not effectively prevent the parents from exercising their right to inspect and review those records. The LEA may not charge a fee to search for and retrieve information. [34 C.F.R. § 300.617(a) – (b)]

### (3) AMENDMENT OF RECORDS AT PARENT'S REQUEST.

(a) The parents who believe that information contained in the education records collected, maintained, or used is inaccurate or misleading or violates the privacy or other rights of the student may request that the LEA amend the information. [34 C.F.R. § 300.618(a)]

(b) The LEA must decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request. [34 C.F.R. § 300.618(b)]

(c) If the LEA decides to refuse to amend the information in accordance with the request, it must inform the parents of the refusal and advise the parents of the right to a hearing provided under this Rule, paragraph (3)(d) below. [34 C.F.R. § 300.618(c)]

(d) The LEA must, on request, provide an opportunity for a hearing to challenge information in education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child. [34 C.F.R. § 300.619] The hearing held must be conducted according to the procedures under FERPA and its regulations [34 C.F.R. § 99.22]

#### (4) RESULTS OF HEARING.

(a) If, as a result of the hearing, the LEA 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 so inform the parents in writing. [34 C.F.R. § 300.620(a)]

(b) If, as a result of the hearing, the agency decides the information is accurate and not misleading or otherwise in violation of the privacy or other rights of the student, it must inform the parents of their right to place in the records it maintains on the child, a statement commenting on the information and setting forth the reasons for disagreeing with the decision of the LEA. [34 C.F.R. § 300.620(b)]

(c) Any explanation placed in the records of the student must be maintained by the LEA as part of the records of the child as long as the record or contested portion thereof is maintained by the LEA. If the records of the child, or the contested portion thereof, are disclosed by the LEA to any party, the explanation must also be disclosed to the party. [34 C.F.R. § 300.620(c)]

#### (5) CONSENT.

(a) Parental consent must be obtained before personally identifiable information is disclosed to other parties in accordance with 34 C.F.R. § 99.30, unless the disclosure is authorized without parental consent under 34 C.F.R. § 99.31. Under 34 C.F.R. § 99.31, prior consent is not required to release information to:

1. Parents or eligible children; [34 C.F.R. §§ 99.4, 99.5, 99.31(a)(8)]
2. Other school officials, including teachers, within the agency or institution whom the agency or institution has determined to have legitimate educational interests. This includes teachers within the LEA, legally constituted cooperating agencies or other agencies providing shared services; [34 C.F.R. § 99.31(a)(1)]
3. Officials of another school, school system, or institution of postsecondary education in which the child seeks or is eligible to enroll, upon condition that the student's parents be notified of the transfer, receive a copy of the record, if desired, and have an opportunity for a hearing to challenge the content of the record; [34 C.F.R. § 99.31(a)(2)]

4. Authorized Federal, State or local representatives in connection with an audit or evaluation of Federal or State supported education programs, or for the enforcement of or compliance with Federal legal requirements which relate to those programs. The information must be protected in a manner that does not permit personal identification of individuals by anyone except the officials referred to above and must be destroyed when no longer needed. [34 C.F.R. § 99.31(a)(3)]

5. In connection with a child's application for or receipt of financial aid for which the child has applied or which the student has received, if the information is necessary; [34 C.F.R. § 99.31(a)(4)]

6. State and local officials or authorities to whom this information is specifically allowed to be reported or disclosed pursuant to a State statute concerning the juvenile justice system; [34 C.F.R. § 99.31(a)(5)]

7. Organizations conducting studies for, or on behalf of, educational agencies or institutions to develop, validate, or administer predictive tests; administer student aid programs; or improve instruction. Information may only be disclosed if the study is conducted in a manner that does not permit personal identification of parents and students by individuals other than representatives of the organization and the information is destroyed when no longer needed; [34 C.F.R. § 99.31(a)(6)]

8. Accrediting organizations to carry out their accrediting functions; [34 C.F.R. § 99.31(a)(7)]

9. In compliance with a judicial order or a lawfully issued subpoena. The LEA must make a reasonable attempt to notify the child's parents of the judicial order or subpoena before releasing the records, unless the disclosure is in compliance with a Federal grand jury subpoena or other subpoena issued for law enforcement purposes and the 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; [34 C.F.R. § 99.31(a)(9)]

10. Disclosure in connection with a health or safety emergency, if the knowledge of the information is necessary to protect the health or safety of the child or other individuals. [34 C.F.R. § 99.31(a)(10)]

11. The disclosure is information the LEA has designated as "directory information" and the LEA has given public notice to parents and eligible students of the types of personally identifiable information that the LEA has designated as directory information, a parent's or eligible student's right to refuse to let the LEA to designate any or all of those types of information about the student as directory information, and the period of time within which a parent or eligible student has to notify the LEA in writing that he or she does not want any or all of those types of information about the student designated as directory information. [34 C.F.R. § 99.31(a)(11)]

12. The Office for Civil Rights; [34 C.F.R. § 99.31(a)(3)]

13. Officials within the Department of Human Resources (DHR), Department of Corrections (DOC), Department of Juvenile Justice (DJJ) and Department of Labor (DOL) for the purpose of making appropriate educational decisions regarding placements. [34 C.F.R. § 99.31(a)(1)]

**(6) SAFEGUARDS.**

(a) Each LEA must protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction states. The LEA's superintendent or designee must ensure the confidentiality of any personally identifiable information. Access of unauthorized persons to personally identifiable information without parent's consent is forbidden. [34 C.F.R. § 300.623(a) – (b)]

(b) All persons collecting or using personally identifiable information must receive training or instruction regarding department policies and procedures concerning personally identifiable information. [34 C.F.R. § 300.623(c)]

(c) Each LEA must maintain, for public inspection, a current listing of the names and positions of employees within the LEA who may have access to personally identifiable information. [34 C.F.R. § 300.623(d)]

**(7) DESTRUCTION OF INFORMATION.** Destruction means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable. [34 C.F.R. § 300.611(a)]

(a) The LEA must establish a procedure for destruction of information and must inform parents that personally identifiable information collected, maintained, or used in the provision of a FAPE is no longer needed to provide educational services to the child. These procedures must be in accordance with FERPA and its regulations (34 CFR part 99) and the Georgia Open Records Act (O.C.G.A. § 50-18-70 et seq.).

(b). The information must be destroyed at the request of the parents when the information is no longer needed to provide educational services to the child. However, a permanent record of a child's name, address and telephone number, grades, attendance record, classes attended, grade level completed and year completed may be maintained without time limitation. [34 C.F.R. § 300.624(b)]

**(8) ENFORCEMENT.** Through the compliance review and general supervision process, the Georgia Department of Education (GaDOE) shall ensure that these policies and procedures are followed and that the requirements of these rules are met. [34 C.F.R. §§ 300.610 - .627]

**(9) This rule shall become effective July 1, 2007.**

Authority O.C.G.A. § 20-2-152; 20-2-240; 20-2-270.

**Adopted: June 14, 2007**

**Effective: July 1, 2007**