

Confidentiality

Special education educators come in contact with a variety of information pertaining to students. Information could include test scores, behavior reports, information about family problems, attendance, etc. By *School Board Policy* and law, school personnel are required to keep this information confidential.

The school shall protect records containing, confidential information at collection, storage, disclosure and destruction stages, even those students who are not enrolled, but, on whom information is collected (nonpublic, zero (0) through four (4), eighteen (18) through twenty-one (21) year olds).

Educational records

Records that are:

1. Directly related to a student; and
2. Maintained by an educational agency or institution or by a party acting for the agency or institution.

All notes and data gathered to make educational decisions about a student are considered part of the educational record. It would be appropriate for a parent to ask to examine the data collection forms when discussing student progress.

**Educational records are not:**

1. Records that are kept in the sole possession of the maker, are used only as a personal aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record.
2. Records of the law enforcement unit of an educational agency or institution, subject to provisions of *Family Education Rights and Privacy Act (FERPA)* that apply to law enforcement units.
3. Records relating to an individual who is employed by an educational agency or institution that,
   1. Are made and maintained in the normal course of business.
   2. Related exclusively to the individual in that individual’s capacity as an employee.
   3. Are not available for use for any other purpose.

**Federal Law: P.L. 90-247: *Family Education Rights and Privacy Act (FERPA)***

The federal law addresses the issues of parent rights, and controls access to records and the confidentiality of those records. Its intent is to protect the privacy of parents and students. For the most part, all information regarding a student is considered confidential except for directory information. Confidential information is accessed with permission from the parent of a student. A non-custodial parent may inspect and review a student’s record unless the school has received a court order indicating the court has terminated or restricted the non-custodial parent’s right to have access to the educational record.

When a student reaches the age of eighteen (18) years old, the rights regarding access to and disclosure of confidential student information transfers to the student unless the student has been adjudicated incompetent by a court. Parents continue to have the right to access those records.

**Under this law:**

1. Parents have the right to inspect and review school records.
2. Parents have an opportunity to challenge records.
3. Access to personally identifiable information is strictly controlled. Personally identifiable information is defined as, but not limited to information which includes:
   1. The student’s name;
   2. The name of the student’s parent or other family member;
   3. The address of the student or student’s family;
   4. A personal identifier, such as the student’s social security number or student number;
   5. A list of personal characteristics that would make the student’s identity easily traceable;
   6. Other information that would make the student’s identity easily traceable.
4. Written consent is required for release of information.
5. Transfer to third parties is limited after release.
6. Rights are transferred to students over the age of eighteen (18), unless parents have legally obtained guardianship.

Information about a student is confidential and should be only shared with teachers, paraprofessionals, and other school staff and substitutes who directly work with the student. Only relevant information should be shared. Examples include:

* The present level of educational performance (PLEP);
* Relevant goals and objectives;
* Progress tracking sheets;
* The positive behavior intervention plan (PBIP).
* Accomodations

Paraprofessionals should be given information that will assist them in working with each student. Teachers should ensure that paraprofessionals are informed regarding their responsibility in maintaining confidentiality at all times. Paraprofessionals should not talk directly with parents about a student’s school performance. Information about a student or a student’s family should never be disclosed by school personnel to anyone without educational need to know while in a group (i.e. lounge, community, etc), or include opinions or other information that is not contained in the student’s educational record.

The release of education records, including any personal information or personally identifiable information of students, other than directory information, without the written consent of their parents, to any individual, agency, or organization, is prohibited, other than to the following:

* Other school officials and professional personnel of the Elkhart Community Schools who have legitimate educational interests, including persons or companies with whom the Elkhart Community Schools has contracted to perform a specific task (e.g. an attorney, auditor, medical consultant, or therapist). *Board Policy JO*

If a student moves from your class to another building or school district, it is appropriate for the current teacher to discuss the student’s individualized education plan (IEP) with the receiving teacher. Make sure that the information discussed is contained in the student’s educational record.

In situations when a teacher or staff member wishes to share information with an outside agency, such as a doctor or counselor, an *authorization for the release and exchange of information (doc.1.2)* must be signed. Once signed, these forms should be placed in the student’s confidential file.

**Confidential Files**

For currently enrolled students, confidential records are maintained at the school the student attends and in the Student Services Department. In the school, confidential records, including IEP’s, are maintained in the confidential file. Records more than three years old may be permanently removed from the confidential file in the school provided they are destroyed. In the Student Services Department, all confidential records, including IEP’s, are maintained until at least five years after the date the student has or could have completed his/her secondary schooling.

For students receiving special education, additional confidential information is maintained by the teacher of record (TOR). This includes paperwork associated with the IEP, copies of parent communications, teacher notes, collaboration notes or emails, data tracking sheets, and other progress monitoring records.

When students transfer to other schools within the district:

1. The student confidential file should be provided to the school building office to send to the receiving school.
2. The TOR will provide the student file to the receiving building TOR.

When elementary and middle school students are withdrawn from the school system, the confidential file and TOR file should be provided to the school office for inclusion in the student cumulative record, which is sent to be housed in the Student Services Department. When high school students are withdrawn from the school system, the confidential file and TOR file should be provided to the school registrar for inclusion in the student cumulative record, which is stored at the high school until five (5) years following the student’s withdrawal, when it is sent to the Student Services Department. Confidential records stored by the high school’s registrar and in the Student Services Department are maintained at least five (5) years after the date the student has or could have completed his/her secondary schooling or, in the case of students who continue receiving secondary schooling beyond their eighteenth (18th) birthday, until five (5) years after special education services have been discontinued. At this time, confidential files are destroyed.