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Statutory Provisions Governing Special Education: A Guide for Beginning Special Education Teachers

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**Statutory Provisions Governing Special Education: A Guide for Beginning Special
Education Teachers**

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SPED 696: Capstone Project in Special Education

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Abstract

Special education law is complex and ever-changing. Despite receiving a formal education, beginning special education teachers often lack the knowledge of these policies and procedures, as well as any updated provisions relating to these laws (Brookshire & Klotz, 2002). In order to provide a legally compliant education to all students, teachers must be held accountable for the proper implementation of these laws (Sanders, 2011). Current research suggests that a large majority of teachers overestimate their knowledge of special education law, when in reality, a significant knowledge gap exists (Sanders, 2011 & Horner, Mrachko, O'Connor & Yasik, 2020). It is imperative that related legal education information is readily available to teachers and administrators, both in general and special education (Couvilon, Yell, & Katsiyannis, 2018, & Brown, 2009). The proposed handbook will benefit beginning Special Education teachers by providing a greater insight into the current statutory provisions governing special education in the United States.

Keywords: Special Education Law, litigation, compliance.

Literature Review

Despite the undeniable importance of state and federal law compliance in schools, much literature has shown that there is an overall lack of educator and administration understanding of special education law. This lack of understanding not only has negative ramifications for student success, but can result in lengthy litigation proceedings that could otherwise have been avoided had appropriate training and coursework been offered. In special education, this is of particular importance as there are additional statutory provisions that regulate classroom policies and practices, as well as those found in regular education. Literature continues to show a gap in the knowledge of both special education teachers and regular education teachers, as well as a consistent pattern of misperceptions of their knowledge in special education law. In order to better understand the current state of special education, it is important for educators to be familiar with case studies that have shaped the law. As reported in literature, some of the case studies that have been the most influential in shaping special education law are *Pennsylvania Association for Retarded Children (PARC) v. Pennsylvania*, *Mills v. District Columbia Board of Education*, *Hendrik Hudson Central School District Board of Education v. Rowley*, and *Andrew F. v Douglas County School District*.

Litigation and the American School System

According to Brown (2009), special education is one of two areas in school law with the greatest number of court cases in the U.S each year. The majority of litigation in special education are in the areas of failing to: 1) follow the procedural requirements of the law, 2) develop an educational program that is reasonably calculated to enable a student to make educational progress, or 3) implement a student's special education program (Couvillon, Yell & Katsiyannis, 2018). Families are suing school districts much quicker than ever before, with

Brown (2009, p. 65) stating that “the litigious nature of the American public makes it prudent for educators to possess a working knowledge and understanding of the basic law principles affecting schools and the educational environment as a whole”. Much research believes that the escalation in lawsuits is due in part to the case of *Tinker v. Des Moines Independent Community School District* because it was highly publicized and encouraged society to hold schools accountable for decisions and omissions in a child’s education (Brown, 2009). Whilst this can be considered a landmark step in student advocacy, it also resulted in schools paying between \$5,000 and \$1 million annually to protect themselves from the risk of lawsuits (Smith, 2000 as cited in Brown, 2009). In addition to this, the number of teachers purchasing liability insurance has increased 25% in the past five years, with some reports finding that 65% of principals have ended employment or changed school districts out of concerns for lawsuits (Brown, 2009).

Teacher Preparedness and Knowledge of Special Education Law

Mitello, Schimmel and Eberwein (2009, as cited in Sanders, 2011), state that due to the variety of inclusive practices, the complexity of special education law, and the constant changes and updates to these laws by federal and state agencies, many educators are ill-equipped and lack the necessary knowledge to work with students with disabilities. Teachers are placed in situations requiring proper action and documentation in order to provide a legally compliant education, therefore, they must be held accountable for the proper implementation of that law. This is true not only for special education teachers, but for regular educators too. Horner, Mrachko, O’Connor and Yasik (2020), state that Section 602 of the Individuals with Disabilities Education Act (IDEA) mandates that teachers who provide instruction to students with disabilities in core academic subjects, must meet the same Highly Qualified Teacher (HQT) requirements that apply to special education teachers. Literature clearly indicates that there is a

knowledge deficit in special education law, with the recurring theme for this deficit being inadequate undergraduate programs, and insufficient professional development for practicing teachers.

One such study was that conducted by Mrachko, O'Connor and Yasik (2020). The purpose of the study was to investigate whether coursework had an influence on participants' knowledge of special education law by comparing participants who reported having some coursework, to those who had not had any coursework. In addition to this, the study also investigated whether majoring in a degree with a special education component was related to participants' special education law knowledge. Finally, the study examined the participants' perceptions or confidence in their knowledge of special education law. The study comprised of undergraduate degree students, 122 females and 15 males. The study began by asking the respondents nine demographic questions. Following this, they were quizzed on special education law, IDEA, and Section 504. The final component asked respondents about their overall confidence on their IDEA and Section 504 answers and whether or not they had taken any coursework in the aforementioned areas. Overall, when asked about the main provisions of IDEA, responses fell into four categories: 1) free appropriate public education (FAPE) (33%), 2) least restrictive environment (LRE) (15%), student and family rights including confidentiality (13%), and 4) school provided services (13%). When asked how IDEA influences their work with children, approximately 24% said it would allow them to follow students IEPs, 22% said that it would allow them to provide accommodations, modifications, or appropriate resources, and 20% said that it was the teacher's responsibility to the student (Mrachko, O'Connor & Yasik, 2020). The remainder of responses were irrelevant to the question. Interestingly, Horner, Mrachko, O'Connor and Yasik (2020), found that five participants who cited working on IEP

goals, also incorrectly stated that IDEA required them to work on 504 plans. Section 504 related results were even more alarming, with participants, on average scoring significantly below 70%. If the survey was a course grade, the average participant would have failed (Mrachko, O'Connor & Yasik, 2020). Some participants mistakenly said that 504 plans were for students with “less severe” impairments, or made incorrect statements such as “students with learning disabilities could not be on 504 plans”. Participants of the study reported greater confidence levels on both IDEA and Section 504 questions when they had completed prior coursework in special education law than their peers who had not. Prior knowledge on IDEA and Section 504 did correlate with increased participant scores, but scores still remained very low. Overall, Mrachko, O'Connor and Yasik (2020) conclude that the reason for such low scores was because colleges and universities provided little to no preparation in the area of special education law. This supports research by Schimmel and Militello (2008, as cited in Mrachko, O'Connor & Yasik, 2020) that found 75% of the 1,300 teachers surveyed did not take a course related to education law as a preservice teacher. Additional studies have found that most information and advice that teachers received on special education law, came from other teachers and principals who also had inadequate knowledge of said law (Curtis, 2014, as cited in Mrachko, O'Connor & Yasik, 2020).

A similar study conducted by Sanders (2011) sought to identify teacher candidate's knowledge of special education policies and procedures and explored some of the factors associated with that knowledge. In order to answer the research question, Sanders (2011), provided 195 education students with a survey, of which 111 were completed. Data on student perception was obtained through a five-point Likert scale, and assessment of knowledge was obtained on a four-point Likert scale. 85% of respondents were majoring in regular education, whilst 14% were majoring in special education. 65.7% of respondents felt that they had sufficient

knowledge of special education policies and procedures as mandated under IDEA. Despite this perception, findings showed poor teacher knowledge of special education policies and procedures, which Sanders (2011) states as alarming because this may result in incorrect actions in future situations. Interestingly, results also showed that both regular and special education teachers had similar perceptions of their knowledge and attitudes towards inclusion. Findings also found that completing special education courses resulted in more accurate knowledge of special education policies and procedures. With this in mind, Sanders (2011) suggests that states alter their teaching certification requirements to have a minimum of one special education course for regular education teachers.

The question of why educators do not have a working knowledge of current law and policies was also answered by Brown (2009) in two ways: 1) legislative acts and judicial decisions are estimated to change every 5-years, making coursework studied during college obsolete after this time; and 2) the knowledge of school law is rarely seen as a requirement for teachers at the baccalaureate level, only at the Masters level. In order to better equip educators with a working knowledge of special education law, school districts need increased communication among stakeholders, strengthened consistency in implementation of policies and procedures, periodic internal review of school district policy, and the development of external preventative legal audit (Brown, 2009). Subsequently, law courses need to be offered to educators both at the graduate level and the undergraduate level. Studies conducted by Patterson and Rossow (1996, as cited in Brown, 2009) support this statement as it was found that of the 221 institutions surveyed that offered teacher preparation programs, only 18 offered undergraduate courses in education law. The reasoning behind this was the lack of room in curriculum, and that the topic was covered in other courses.

Case Studies that have Shaped Special Education Law

Case studies in special education law are vital in understanding how the legal rights of students with disabilities have emerged over time. This includes the development of both a Free Appropriate Public Education (FAPE), and the enactment of the Individuals with Disabilities Education Act (IDEA). Subsequently, case law can aid our understanding of how guidelines work in particular statutes whilst allowing for a clearer and succinct interpretation of an otherwise grey area.

Pennsylvania Association for Retarded Children (PARC) v. Pennsylvania (hereinafter PARC)

The case of PARC, as stated in LaNear and Frattura (2007), was a class action lawsuit challenging statutes that ‘relieve[d] the State Board of Education from any obligation to educate a child whom a public school psychologist certifies as uneducable and untrainable’. What propelled this case through the court was that this exclusion violated rights to due process and equal protection. The Court reached a settlement in 1971, with findings saying that ‘each mentally retarded child was entitled to a free, public program of education and training appropriate to their said capacity’ (LaNear & Frattura, 2007). The case of PARC undeniably led to increased access to free, appropriate public education.

Mills v. District of Columbia Board of Education (hereinafter Mills)

Similar to the case of PARC, in 1972, the case of Mills addressed the exclusion of ‘exceptional children (mentally retarded, emotionally disturbed, physically “handicapped”, hyperactive and other children with behavioral problems)’ from public schools (LaNear & Frattura, 2007). This class action lawsuit in Washington D.C. claimed that students’ due process and equal protection rights were violated. Although the court reached a settlement where the Board of Education agreed to provide the plaintiff children with a ‘publicly supported education

suited to their needs.’, they failed to comply. Later the Board of Education stated that their defense was that the ‘diversion of funds’ necessary to effectuate the settlement would be ‘inequitable’ to children outside the alleged plaintiff class (LaNear & Frattura, 2007).

Both the case of PARC and Mills have been recognized as milestones in the history of special education law. Within three years of both decisions, at least 46 lawsuits in 28 states were brought on behalf of the educational rights of students with disabilities (LaNear & Frattura, 2007). Subsequently, both cases prompted the change of special education law and aided in the development of the Education for All Handicapped Children Act (EAHCA); which was later renamed IDEA (LaNear & Frattura, 2007).

Hendrik Hudson Central School District Board of Education v. Rowley (hereinafter Rowley)

According to LaNear and Frattura (2007), the case of Rowley has been identified as one of the most important of the U.S Supreme Court’s seven rulings under IDEA and continues to guide special education legal analysis today. The case of Rowley was the first time that the Supreme Court interpreted portions of the EAHCA and referenced both PARC and Mills. Initially, the case came about when the plaintiff’s parents objected to portions of their child’s IEP, requesting that the school provide a sign language interpreter instead of other forms of assistance for their daughter; a student who was deaf. The parents argued that their child would be denied the educational opportunity available to her classmates, and whilst the District Court and Court of Appeals agreed, the decision was reversed by the Supreme Court (LaNear & Frattura, 2007). The Supreme Court concluded that the obligation to provide FAPE was satisfied by ‘providing personalized instruction with sufficient support services to permit the child to benefit educationally from that institution’ as demonstrated by her grade-to-grade progress. The decision came about by developing a two-part test, which later became known as the Rowley

test. First, the question of whether the school district complied with the procedures set for in the law was asked, followed by the question of whether the IEP was reasonably calculated to provide educational benefit (Couvillon, Yell & Katsiyannis, 2018). The final ruling was not without controversy though, with literature stating that the majority opinion of the Rowley case was that it was limited to the statutory construction of the EAHCA and that the case presented merely ‘a question of statutory interpretation’ (LaNear & Frattura, 2007).

Andrew F. v. Douglas County School District (hereinafter Andrew)

The case of Andrew was heard in the U.S Supreme Court in 2017, after the plaintiff’s parents alleged that their child failed to progress academically or functionally in a public school. The Andrew case is of particular importance in understanding special education law, because it helps to clarify the second part of the Rowley test (Couvillon, Yell & Katsiyannis, 2018). The decision for the U.S Supreme Court to review the case was initially heard because the U.S Court of Appeals continued to be split regarding the second part of the Rowley test, with some circuit courts using a lower standard of educational benefit, referred to as *de minimis*, to determine whether FAPE had been met, while other circuits held that *de minimis* was too low a standard (Couvillon, Yell & Katsiyannis, 2018). The Supreme Court rejected the Tenth Circuit Court’s decision which found that Andrew had been provided with FAPE. The case was sent back to the Tenth Court where they were to apply the new standard of the second part of the Rowley test; now referred to as the Andrew Standard (Couvillon, Yell & Katsiyannis, 2018). The Andrew Standard states that a student’s special education program must be reasonably calculated to enable a student to make progress appropriate in light of the student’s circumstances. The ruling came about after the following statement was made: “when all is said and done, a student offered

an education program providing merely more than de minimis progress from year to year can hardly been said to have been offered an education at all” (Couvillon, Yell & Katsiyannis, 2018).

Conclusion

Special education law is multifaceted in scope, but a fundamental component of education. Equally as important, is a teachers understanding of special education law, not only to reduce the risk of litigation, but to ensure state and federal compliance, and to safeguard students’ basic educational rights. The need for further and continued training in special education law is evident. Subsequently, the ability to understand how case law has shaped the current legal climate is necessary in understanding how far we have come, and where we still need to go.

Statutory Provisions Governing Special Education: A Guide for Beginning Special Education Teachers



SPED 696: Capstone Project in Special Education

Hannah Sagvold

This handbook serves as a comprehensive guide for beginning special education teachers, and can be used as a point of reference during professional practice.

* Current as of May 11, 2022 *



This handbook details the following:

The Law: An Overview

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THE LAW: AN OVERVIEW

Individuals with Disabilities Education Act (IDEA) (2004)



Purpose

- Ensures all children with disabilities have access to a free appropriate public education that emphasizes special education and related services. These services are designed to prepare them for further education, employment, and independent living.
- Ensures that the rights of children with disabilities and parents of those children are protected.
- Assists States, localities, educational service agencies, and Federal agencies to provide for the education of all children with disabilities.

History

- In 1990, the Education for All Handicapped Children Act (EAHCA) (Public Law 94-142) was amended and the title was changed to IDEA.
- In 1997, IDEA went through a number of amendments focusing on the quality of services provided to students with disabilities and access to “general curriculum”.
- IDEA was again amended in 2004 and is now called Individuals with Disabilities Education Improvement Act (IDEIA), although Congress notes that it can still be referred to as IDEA.

IDEA statute includes four parts

Part A: General Provisions

Outlines IDEA’s general provisions, including the purpose of IDEA and the definitions used throughout the statute.

Part B: Assistance for All Children with Disabilities

Includes provisions related to formula grants that assist states in providing a free appropriate public education in the least restrictive environment for children with disabilities ages three through 21.

Part C: Infants and Toddlers with Disabilities

Includes provisions related to formula grants that assist states in providing early intervention services for infants and toddlers birth through age two and their families.

Part D: National Activities to Improve Education of Children with Disabilities

Includes provisions related to discretionary grants to support state personnel development, technical assistance and dissemination, technology, and parent-training and information centers.

IDEA regulations include two parts

Part B (Part 300)

Implements the Assistance for the Education of Children with Disabilities and Preschool Grants for Children with Disabilities.

Part C (Part 303)

Implements the Early Intervention Program for Infants and Toddlers with Disabilities.



Key Components of IDEA Regulation Part B

Disability Categories

Under IDEA, there are 13 recognized disability categories of which 3-year olds to 21-year olds may be eligible for services. Section 300.8 - Child with a disability recognizes them as:

1. Autism Spectrum Disorder
2. Deaf-Blindness
3. Deafness
4. Emotional Disturbance
5. Hearing Impairment
6. Intellectual Disability
7. Multiple Disabilities
8. Orthopedic Impairment
9. Other Health Impairment
10. Specific Learning Disability
11. Speech or Language Impairment
12. Traumatic Brain Injury
13. Visual Impairment



Free Appropriate Public Education (FAPE)

FAPE ensures that special education and related services are 1) provided at public expense, under public supervision and direction, and without charge, 2) meet the standards of the state educational agency, 3) include an appropriate preschool, elementary school, or secondary school in the state, and 4) are provided in conforomity with the IEP established for the child.

Least Restrictive Environment (LRE)

LRE allows children with disabilities to be educated with their peers in the regular classroom to the greatest extent possible.

Evaluations

In general, an educational agency is required to conduct a full and individual initial evaluation to determine if a child has a disability. This evaluation must be conducted within 60-days of receiving parental consent.

Determination of eligibility and educational need

Upon completion of the administration of assessment and other evaluation measures, the team must: a) determine whether the child has a disability, and detail the educational needs of the child, and b) provide a copy of the evaluation report and the documentation of determination of eligibility to the parent.

Reevaluations

Reevaluations are completed no more frequently than once a year, unless the parent and the local educational agency agree otherwise. At a minimum, they need to be conducted at least once every 3 years, unless the parent and the local educational agency agree that a reevaluation is unnecessary.

Procedural Safeguards

Procedural protections are in place at all stages of the special education process, from identification and evaluation, to IEP development, placement decision making, and implementation. Protections fall into four general categories 1) the right to notice about meetings, 2) the right to participate in decisions, 3) the right to consent or to not consent to proposed actions, and 4) the right to have disagreements about decisions and proposals.



Individualized Education Program (IEP)

An IEP is a crucial document that is developed by the parents of the child with a disability, the child's teacher, and related service personnel. It outlines how said child will receive a FAPE in the LRE. Specifically, an IEP details the child's academic achievement and functional performance, describes how the child will be included in the general education curriculum, establishes annual goals and describes how these goals will be measured, states what special education and related services are needed, describes how the child will be appropriately assessed (including alternate assessment where necessary), and determines what accommodations may be appropriate for instruction and assessment. IEP documentation is reviewed periodically, but no less frequently than annually.

***IEP team***

The IEP team consists of 1) the parents of a child with a disability, 2) no less than one-regular education teacher, 3) no less than one-special education teacher, 4) a representative of the local educational agency, 5) an individual who can interpret the instructional implications of evaluation results, 6) at the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, and 7) whenever appropriate, the child with the disability.

* An IEP can also be facilitated, meaning that a team member may request the assistance of an external neutral facilitator.

Transfer of Parental Rights

Age of majority - prior to a child's 18th birthday, the school must notify the parent and the child that all rights held by the parents under IDEA will transfer to the child, unless the child is determined not to be competent under state law.

Section 504 of the Rehabilitation Act (1973)

Purpose

- States that recipients of federal financial assistance, such as schools, should not discriminate on the basis of disability.
- Set the stage for enactment of Americans with Disabilities Act.



Eligibility under Section 504 of the Rehabilitation Act

Section 504 of the Rehabilitation Act states that “no otherwise qualified individual with a disability ... shall solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” Those who are protected under Section 504 include any person who:

- (i) has a physical or mental impairment which substantially limits one or more major life activities
- (ii) has a record of such an impairment, or;
- (iii) is regarded as having such an impairment.

A physical or mental impairment is defined as having (a) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; endocrine; or (b) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

Major life activities include caring for one’s self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

Responsibilities of the Education Department

(in Preschool, Elementary, Secondary, and Adult Education)

1. Identification must be undertaken annually to identify and locate all unserved handicapped children.
2. Provide FAPE.
3. Ensure that each student with a handicap is educated with nonhandicapped students to the maximum extent appropriate.
4. Establish nondiscriminatory evaluation and placement procedures to avoid the inappropriate education that may result from the misclassification or misplacement of students.
5. Establish procedural safeguards.
6. Provide handicapped children an equal opportunity to participate in nonacademic and extracurricular services and activities.



Americans with Disabilities Act (ADA) (1974)

Purpose

- Prohibits discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation, and all public and private places that are open to the general public.



ADA includes five sections

ADA is divided into five titles that relate to different areas of public life. The two major provisions applicable to the special education context are Title II and Title III.

Title I – Employment

Title II – Public Services: State and Local Government

- Prohibits discrimination on the basis of disability by public entities.
- Requires public entities to make their programs, services, and activities accessible to individuals with disabilities.
- Outlines requirements for self-evaluation and planning; making reasonable modifications to policies, practices, and procedures where necessary; identifying architectural barriers; and communicating effectively with people with hearing, vision and speech disabilities.

Title III – Public Accommodations and Services Operated by Private Entities

- Prohibits places of public accommodation from discriminating against individuals with disabilities (inc. private schools, and day care centers).

- Sets the minimum standard for accessibility for alterations and new construction of commercial facilities and privately owned public accommodations.
- Directs businesses to make “reasonable modifications” to their usual ways of doing things.
- Requires that businesses take steps necessary to communicate effectively with customers with vision, hearing, and speech disabilities.

Title IV – Telecommunications

Title V – Miscellaneous Provisions



No Child Left Behind Act (NCLBA) (2001)

Purpose

- To close student achievement gaps by providing all children with fair, equal, and significant opportunities to obtain a high-quality education.
- It focused on four key groups: 1) students in poverty, 2) students of color, 3) students receiving special education services, and 4) English language learners (ELL).



History

- The NCLBA was enacted in 2002 as a federal statute that reauthorized Title 1 of Elementary and Secondary Education Act (ESEA).
- NCLB is no longer the law. In 2015, it was replaced by the Every Student Succeeds Act (ESSA).
- There were three categories of requirements that were most relevant to special education:
 1. Developing state education standards with high expectations for all students.
 2. Statewide assessment testing
 3. Personnel requirements.
- NCLBA was considered a controversial law because it did not allow for flexibility, particularly for students who received special education and related services.
 1. There was a strong focus on academic achievement and test scores without allowing for other measures of achievement.

2. It required all students (including those with disabilities), to be brought to certain proficiency standards with penalties for schools when that did not occur.
3. Required states to adopt a statewide assessment program to measure student proficiency in meeting state content and proficiency standards.
4. The law divided students into various subgroups and required each of those subgroups to make adequate yearly progress (AYP) on statewide assessment tests. Schools that did not make AYP were subject to various sanctions.



Every Student Succeeds Act (ESSA) (2015)

Purpose

- ESSA replaced and updated NCLBA.
- To provide all children significant opportunity to receive fair, equitable, and high-quality education, and to close educational achievement gaps.



History

- In 2015, President Obama reauthorized the ESEA with the ESSA and included in that reauthorization significant changes to the NCLB's requirements.

Revisions

- ESSA reduces the amount of federal intervention in state decision making.
- Requires that states develop a comprehensive system of standards, assessments and accountability for all schools.
- Students with disabilities are able to participate in alternative assessment programs (when deemed necessary), and mandates that general education teachers and special education teachers be able to administer alternative assessment and provide accommodations.
- Removes adequate yearly progress (AYP) requirements and penalties for schools that do not make AYP requirements.
- Provides a mean of reporting data on special education students.
- One controversial aspect of ESSA is that it allows for separate reporting of disability subgroups.

Family Educational Rights and Privacy Act (FERPA) (1974)

Purpose

- It is intended to provide protection in two major areas:
 1. Access to and accuracy of school records. Schools subject to FERPA must allow parents and students over 18 to have access to their records.
 2. Provides protections against unauthorized disclosure of school records to third parties.
- FERPA must read in conjunction with student record requirements under IDEA.



What is an education record?

FERPA defines an educational record as a record that directly relates to the student and is maintained by an educational agency or institution, or by a party acting for the agency or institution.

Access and Accuracy

FERPA applies to schools that receive federal funds, and provides parents and students with certain rights regarding their ability to inspect, review and request amendments to education records. An educational agency must respond to a request for access to records, usually within 45-days. Agencies cannot disclose personally identifiable information without parental consent, including oral, written or electronic means. Personally identifiable information includes student and parent names, addresses, other personal identifiers, and/ or personal characteristics. There are exceptions to the consent requirements including disclosure to other school officials, including teachers within the school who: 1) have a legitimate educational interest, or 2) in emergency situations where there is an ‘articulable and significant threat’ to the health or safety of the student or others.

FERPA prohibits educational agencies from destroying education records when there is an outstanding request to inspect and review records.

Violations

Parents can file a complaint with the Family Policy Compliance Office (FPCO) of the United States Department of Education. If the school does not comply with the FPCO order, the agency can withhold further federal funds.

Notice Requirements

FERPA requires educational agencies to annually notify parents of their rights under the act. The notice must inform parents or eligible students that they have the right to:

1. Inspect and review student's education records.
2. Amend the student's education records if the parent believes part of the record to be inaccurate, misleading, or in violation of the student's privacy rights.
3. Consent to disclosure of personally identifiable information.
4. File a complaint with the Department of Education concerning alleged failures by the educational agency to comply with FERPA.



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