

Book: Policy Manual
Section: 100 Programs
Title: Confidentiality of Student Education Information
Code: 113.4
Adopted: January 24, 2024



Authority

The Board recognizes the need to protect the confidentiality of personally identifiable information in the education records of students with disabilities.[1][2]

LIU 18 shall maintain a system of safeguards to protect the confidentiality of students' educational records and personally identifiable information when collecting, retaining, disclosing and destroying student special education records, in accordance with Board policy, state requirements, and federal and state law and regulations.[2][3]

The rights provided by this policy apply to parents/guardians of students who receive special education programming and services from LIU 18 or an outside program provided through LIU 18.[4][5]

Definitions

Destruction shall mean the physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.[6]

Disclosure shall mean to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record.[7]

Education records, for purposes of this policy, shall include the records and information covered under the definition of education records in the Family Educational Rights and Privacy Act (FERPA) and its implementing regulations.[2][7][8]

Personally identifiable information includes, but is not limited to:[7][9]

1. The name of a student, the student's parents/guardians or other family members.
2. The address of the student or student's family.
3. A personal identifier, such as the student's social security number, student number, or biometric record.
4. Other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name.
5. Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who

does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.

6. Information requested by a person who LIU 18 reasonably believes knows the identity of the student to whom the education record relates.

Guidelines

Parental Access Rights

LIU 18 shall permit parents/guardians to inspect and review any education records relating to their child(ren) that are collected, retained, or used by LIU 18 in connection with providing special education services to the student.[10][11]

LIU 18 shall comply with a parental request to inspect and review education records without unnecessary delay and before any meeting regarding an Individualized Education Program (IEP); any impartial due process hearing relating to the identification, evaluation, educational placement, or the provision of a free and appropriate public education (FAPE) to a student; a hearing related to the discipline of the student; and a resolution meeting.

LIU 18 shall presume a parent/guardian has authority to inspect and review records relating to their child unless it has been provided documentation that the requesting parent/guardian does not have this authority under applicable state law.[11][12]

LIU 18 shall comply with a parental request for review within forty-five (45) days following receipt of the request.[10][11]

A parent's/guardian's right to inspect and review education records includes the right to:

1. A response from LIU 18 to reasonable requests for explanations and interpretations of the records;
2. Request that LIU 18 provide copies of the records if failure to provide copies would effectively prevent the parent/guardian from exercising the right to inspect and review the records; and
3. Have a representative inspect and review the records.

If an education record includes information on more than one (1) student, the parents/guardians shall have access only to the information relating to their child or shall be informed of the information in the record.[13][14]

LIU 18 shall provide parents/guardians, upon request, a list of the types and locations of education records collected, maintained, or used by LIU 18. [15]

Fees

LIU 18 may charge a fee for copies of records that are made for parents/guardians so long as the fee does not effectively prevent parents/guardians from exercising their right to inspect and review those records.[16][17]

LIU 18 shall not charge a fee to search for or to retrieve information in response to a parental request.

Record of Access

LIU 18 shall keep a record of parties obtaining access to education records collected, maintained, or used in providing special education and related services to students with disabilities, except access by parents/guardians and authorized Intermediate Unit employees.[18]

LIU 18's record of access shall include the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

Amendment of Records Upon Parental Request

If a parent/guardian believes that information in the student's education records is inaccurate, misleading or violates the privacy or other rights of the student, the parent/guardian may request that LIU 18 amend the information. If the information in question was provided by the student's school district of residence, LIU 18 shall coordinate with the school district of residence to address a request for amendment.[19][20]

LIU 18 shall decide whether to amend the information within a reasonable period of time from receipt of the request.

If LIU 18 declines to amend the information in accordance with a parental request, LIU 18 shall inform the parent/guardian of the refusal and advise the parent/guardian of the right to a hearing.

Records Hearing

LIU 18 shall, on request, provide parents/guardians with an opportunity for a hearing to challenge information in the student's education records to ensure that the information is not inaccurate, misleading, or otherwise in violation of the student's privacy or other rights. LIU 18 recognizes that parents/guardians who believe that there is a due process violation relating to an alleged violation of confidentiality may also request a special education due process hearing. If the information in question was provided by the student's school district of residence, LIU 18 shall coordinate with the school district of residence to address the request for a hearing.[21][22][23]

Hearing Procedures

A hearing to challenge information in education records must meet the following requirements:[24][25]

1. LIU 18 shall hold the hearing within a reasonable time after receiving the request for a hearing.
2. LIU 18 shall give the parent/guardian reasonable advanced written notice of the date, time, and place of the hearing.

3. The hearing may be conducted by any individual, including an LIU 18 official, who does not have a direct interest in the outcome of the hearing.
4. LIU 18 shall give the parent/guardian a full and fair opportunity to present relevant evidence. The parent/guardian may, at their own expense, be assisted or represented by one (1) or more individuals of their choice, including an attorney.
5. LIU 18 shall inform parents/guardians of its decision in writing within a reasonable period of time after the hearing.
6. The decision must be based solely on the evidence presented at the hearing, and must include a summary of the evidence and the reasons for the decision.

Result of Hearing

If, as a result of the hearing, LIU 18 decides that the information is inaccurate, misleading, or otherwise in violation of the student's privacy or other rights, LIU 18 shall amend the information accordingly and inform the parent/guardian in writing. [21][26]

If, as a result of the hearing, LIU 18 decides that the information is not inaccurate, misleading, or otherwise in violation of the student's privacy or other rights, LIU 18 shall inform the parent/guardian of the parent's/guardian's right to place in the student's records a statement commenting on the information and/or providing any reasons for disagreeing with LIU 18's decision.

Any explanation placed in the student's records shall be:

1. Maintained by LIU 18 as part of the student's records as long as the record or contested portion is maintained by LIU 18; and
2. Included with the record or contested portion if the record or contested portion are disclosed to any party.

Storage, Retention and Destruction of Information

LIU 18 shall store all education records and personally identifiable information of students receiving special education services in such a way as to protect the confidentiality and integrity of the records and information, prevent unauthorized access to and disclosure of records and information, and ensure compliance with other legal and regulatory requirements regarding records retention.[27]

LIU 18 shall maintain, for public inspection, a current listing of the names and positions of those LIU 18 employees who have access to personally identifiable information.[27]

In order to comply with state compliance monitoring requirements, LIU 18 shall maintain education records for students receiving special education services for at least six (6) years. [2]

LIU 18 shall inform parents/guardians when personally identifiable information collected, maintained, or used is no longer needed to provide educational services to

the student. After notice, such information shall be destroyed upon parental request. [28]

No education record shall be destroyed if there is an outstanding request to inspect or review the record or if a litigation hold exists. [10]

LIU 18 may maintain a permanent record of the student's name, address, phone number, grades, attendance record, classes or programs attended, grade level or program completed, and year completed. [28]

LIU 18 shall ensure the destruction of education records in a manner that protects the confidentiality and privacy rights of the student and the student's family. [27]

Students with a Local Education Agency other than LIU 18

LIU 18 only maintains student records for students that LIU 18 serves as the dedicated LEA. Student records not kept by LIU 18 are forwarded to the participating home district LEA for retention. Requests for records are forwarded to the home district LEA for review.

Disclosure to Third Parties

LIU 18 shall obtain parental consent before disclosing personally identifiable information to parties other than LIU 18 officials with a legitimate educational interest or other educational institutions that provide special education services to the student for the purposes of meeting a requirement of law or regulation unless the information is contained in education records and the disclosure is permitted without parental consent under law and regulations. [2][29][30][31][32][33][34]

Parental consent must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services.[32]

Disclosure to Law Enforcement

When reporting an incident committed by a student with a disability to the appropriate authorities, in accordance with applicable law, regulations and Board policy, LIU 18 shall provide the information required by state and federal laws and regulations and shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by these authorities. LIU 18, in coordination with the student's school district of residence, shall ensure compliance with the Family Educational Rights and Privacy Act when transmitting copies of the student's special education and disciplinary records. [2][8][33][35][36][37][38][39][40][41][42]

Delegation of Responsibility

In order to maintain the confidentiality of the educational records and personally identifiable information of students with disabilities, the Board designates the Director of Student Services to coordinate LIU 18's efforts to comply with this policy and applicable laws and regulations.[27]

All LIU 18 employees collecting or using personally identifiable information shall receive training or instruction regarding Board policy, administrative regulations, and state and

federal law and regulations regarding confidentiality of education records and personally identifiable information.[27]

Legal

1. Pol. 113
2. Pol. 216
3. 34 CFR 300.611-300.627
4. 34 CFR 300.520
5. 34 CFR 300.625
6. 34 CFR 300.611
7. 34 CFR 99.3
8. 20 U.S.C. 1232g
9. 34 CFR 300.32
10. 34 CFR 99.10
11. 34 CFR 300.613
12. 34 CFR 99.4
13. 34 CFR 99.12
14. 34 CFR 300.615
15. 34 CFR 300.616
16. 34 CFR 99.11
17. 34 CFR 300.617
18. 34 CFR 300.614
19. 34 CFR 99.20
20. 34 CFR 300.618
21. 34 CFR 99.21
22. 34 CFR 300.510-300.516
23. 34 CFR 300.619
24. 34 CFR 99.22
25. 34 CFR 300.621
26. 34 CFR 300.620
27. 34 CFR 300.623
28. 34 CFR 300.624
29. 34 CFR 99.30
30. 34 CFR 99.31
31. 34 CFR 300.154
32. 34 CFR 300.622
33. Pol. 113.1
35. 22 PA Code 10.2
36. 22 PA Code 10.21
37. 22 PA Code 10.22
38. 22 PA Code 10.23
39. 20 U.S.C. 1415
40. 34 CFR Part 99
41. 34 CFR 300.535
42. Pol. 805.1
- 20 U.S.C. 1400 et seq
- 34 CFR Part 300

Bureau of Special Education Letter to School Entities on Retention of Records, Dated November 9, 2009

Pennsylvania Department of Education Individuals With Disabilities Education Act Part B
LEA

Policies and Procedures under 34CFR §§300.101 - 300.176 (2018)