

ANCHORAGE SCHOOL DISTRICT
ANCHORAGE, ALASKA

MEMORANDUM

September 20, 2010

TO: CAROL COMEAU, SUPERINTENDENT
ED GRAFF, ASSISTANT SUPERINTENDENT, INSTRUCTION
MIKE HENRY, EXECUTIVE DIRECTOR, HIGH SCHOOL EDUCATION
LINDA CARLSON, EXECUTIVE DIRECTOR, ELEMENTARY EDUCATION
LESLIE VANDERGAW, EXECUTIVE DIRECTOR, MIDDLE SCHOOL ED
DOUG GRAY, DIRECTOR, E.C.E. SPECIAL EDUCATION
LINDA GRIFFITH, DIRECTOR SECONDARY SPECIAL EDUCATION
DIANE POAGE, DIRECTOR, RELATED SERVICES
NANCY EDTL, DIRECTOR, HEALTH SERVICES
SCHOOL PRINCIPALS



FROM: CINDY ANDERSON, EXECUTIVE DIRECTOR, SPECIAL EDUCATION

SUBJECT: General Guidance on Student Records Privacy and Disclosure Under FERPA, the IDEA and Alaska Regulations

Q. What is FERPA and why does it affect the District records procedures?

A. The Family Educational Rights and Privacy Act is a federal law that protects the privacy of student education records. Under FERPA, the district may not permit access to, or permit the release, transfer or communication of an education record or personally identifiable information of a student.

Q. How does FERPA relate to the District?

A. FERPA grants rights to parents of all children who attend or have attended a school or facility that receives federal funding. Those rights are transferred to the student when he or she "has attained the age of 18 or is attending an institution of postsecondary education."

Q. How does best practice within our profession guide the confidentiality of student information?

A. Best practice encourages all staff to understand the following:

- Students' medical, personal and educational histories are confidential and are not to be discussed in the community or with non-members of the student's team or disclosed to any person unless a parental release has been signed or an exception applies.

- Caution should be used when collaborating with other professionals, presenting case studies, etc. that full names are not shared and that identifying characteristics specific to one individual are not used.
- Student information, including working files, should be kept in a secured file cabinet or in such a manner, so that others do not have access to confidential information.
- If specific student information is kept on a computer system, it should not be accessible to the general public.
- FERPA also restricts verbal disclosures of information that could allow someone to identify a student, such as names of family members, identifiers like a student's place of birth, mother's maiden name, or a student's social security number.

IMPORTANT DEFINITIONS UNDER FERPA AND IDEA

Q. Who is the "parent" according to FERPA and IDEA?

A. The definition of a "parent" under FERPA is relatively straightforward, "A parent is the student's "natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian."

The IDEA provides a more expansive definition of the parent:

1. A biological or adoptive parent of a child.
2. An affirmed foster parent recognized by ASD.
3. A guardian generally authorized to act as a child's parent, or authorized to make educational decisions for the child. Other persons involved with a student in state custody (GAL, OCS social worker, probation officer and CASA) are not considered the "parent" for purposes of making special education decisions.
4. An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare.
5. A surrogate parent who has been appointed by ASD.

Q. How do I know who should make special education decisions?

A. The IDEA provides a more expansive definition of the parent than FERPA and guides our procedures:

1. A biological or adoptive parent of a child.
2. An affirmed foster parent recognized by ASD.
3. A guardian generally authorized to act as a child's parent, or authorized to make educational decisions for the child. Other persons involved with a student in state

custody (GAL, OCS social worker, probation officer and CASA) are not considered the “parent” for purposes of making special education decisions.

4. An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent or other relative) with whom the child lives, or an individual who is legally responsible for the child’s welfare.
5. A surrogate parent who has been appointed by ASD.

Q. What if parents are unmarried, divorced or separated?

A. FERPA regulations direct schools to give full rights to either parent, unless the school has been provided with evidence of a court order, statute or binding document specifically revoking parental rights.

Q. What are educational records?

A. Educational records are those that contain information directly related to a student and which are maintained by the district or by someone acting for the district. District electronic systems maintain education records. Zangle and the IEP program serve as the “official” system of records for our educational records.

Education records include, but are not limited to:

1. Attendance records
2. Student assessment information (including statewide and district assessment)
3. Health records
4. Professional working files
5. Nursing health care plan database

PARENT ACCESS TO EDUCATIONAL RECORDS AND RELEASING EDUCATIONAL RECORDS TO OUTSIDE PARTIES

Q. How does a parent access educational records?

A. The District must comply with a request to inspect, review, or obtain a copy of a record within a reasonable period not to exceed 10 business days, and in any case, before any meeting or hearing relating to the identification, evaluation, placement, or program of a child in which the parent may participate.

The rights available to a parent depend in some cases on whether the child is disabled or not (i.e. whether the child is covered by FERPA or both FERPA and IDEA), The rights a parent is entitled to are set out in the chart below:

	Students	Students with Disabilities
Respond to any reasonable request of a parent for explanation and interpretation of a record	X	X
District may assume a parent has authority to inspect and review a record relating to his child unless the District has been provided reasonable grounds to believe the parent does not have authority to do so.	X	X
Permit a representative of the parent to inspect and review records		X
Provide a parent, upon request, a list of types and locations of records collected, maintained or used by the District		X
Provide a parent with a copy of the record upon request	If inspection not feasible	X

Q. How are records requests handled in ASD?

Requests for copies of a cumulative folder are typically handled at the building level unless the student's file is no longer at a school. Requests for special education records should be referred to the Special Education Records Department at 742-6072. Typically ASD will prepare a copy of the records for the parent or requesting party who is authorized to receive the records.

Q. Are test protocols protected from disclosure to the parent?

A. Because ASD maintains a copy of the child's protocol that contains personally identifiable information, a completed student protocol would constitute an educational record and the parent would have a right to see the protocol and receive an explanation/interpretation.

Blank test protocols do not contain personally identifiable information and are not considered an educational record. Blank test protocols are not disclosed to parents.

Q. How does the District appropriately release educational records to someone other than the student's parent or guardian?

A. Typically, the District must obtain prior written consent of a parent before disclosing personally identifiable information relating to his or her child that is collected, maintained, or used by the District. District personnel should utilize the release of information forms provided on the ASD Special Handbook web section at: <http://www.asdk12.org/depts/sped/policy/part7.asp>

Q. Is a Release of Information required any time personally identifiable information is shared?

A. FERPA includes numerous exceptions to the prior written consent requirement that are applicable to elementary and secondary schools, and the District may release personally identifiable information if one of those exceptions applies.

In addition, Alaska regulations allow the District to release personally identifiable information pertaining to a child with disabilities to:

1. A school employee, including contracted service providers, who has a legitimate educational interest.
2. Employees of a school in which the child is to enroll upon condition that the parent be notified of the disclosure, offered a copy of the record, and notified of his or her right to request amendment of the record.¹
3. A representative of the United States Department of Education, or Alaska Department of Education & Early Development.

Q. What should I do if I have questions about FERPA?

A. This memo provides general guidance only, and is not an exhaustive explanation of either FERPA or IDEA. If you have questions regarding disclosure of student information that are not addressed by this memo, or if a situation arises where you are unsure of your obligations, contact Special Education Compliance Director (742-4272) at the Anchorage School District for additional guidance.

Questions about health records go the Director of Health Services (742-4136); such questions would include questions about OCS referrals and protected health records.

¹ ASD gives this mandatory notice to parents regarding their FERPA rights and District disclosures to other school districts annually via the Elementary, Middle and High School Handbooks.