

## CONFIDENTIALITY

### **34 CFR § 300.123 Confidentiality of personally identifiable information.**

*The State must have policies and procedures in effect to ensure that public agencies in the State comply with §§ 300.610 through 300.626 related to protecting the confidentiality of any personally identifiable information collected, used, or maintained under Part B of the Act.*

*(Authority: 20 U.S.C. 1412(a)(8); 1417(c))*

Each local educational agency (LEA) must implement the State policies and procedures for protection of confidentiality of any personally identifiable information, collected, used, or maintained under the Individuals with Disabilities Education Act (IDEA) Part B. Each LEA must also assure, through the *Part I, LEA Implementation Agreement for Special Education in Oklahoma*, that confidentiality procedures will be in accordance with Oklahoma State law and federal regulations.

### **34 CFR § 300.32 Personally identifiable.**

*Personally identifiable means information that contains--*

- (a) The name of the child, the child's parent, or other family member;*
- (b) The address of the child;*
- (c) A personal identifier, such as the child's social security number or student number; or*
- (d) A list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty.*

*(Authority: 20 U.S.C. 1415(a))*

“Personally identifiable information” includes, but is not limited to: the child’s name; the name of the child’s parent or other family member; the address of the child or child’s family; a personal identifier, such as the child’s social security number or student number; a list of personal characteristics or other information that would make the child’s identity easily traceable.

“Directory information,” as defined by Oklahoma State law (63 O.S. § 51-24A.16), includes a child’s name, address, telephone listing, date and place of birth, major field of study, participation in recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational institution attended by the child. Any LEA making public directory information must provide public notice of the categories of information which it has designated as “directory information” with respect to each child attending the LEA. The LEA must allow a reasonable period after such notice has been provided for a parent to inform the LEA that any or all of the information designated should not be released without the parent’s or eligible young adult’s prior consent.

### **34 CFR § 300.610 Confidentiality.**

*The Secretary takes appropriate action, in accordance with section 444 of GEPA, to ensure the protection of the confidentiality of any personally identifiable data, information, and records collected or maintained by the Secretary and by SEAs and LEAs pursuant to Part B of the Act, and consistent with §§ 300.611 through 300.627.*

*(Authority: 20 U.S.C. 1417(c))*

### **34 CFR § 300.611 Definitions.**

*As used in §§ 300.611 through 300.625--(a) Destruction means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.*

*(b) Education records means the type of records covered under the definition of “education records” in 34 CFR part 99 (the regulations implementing the Family*

*Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g (FERPA)).*  
*(c) Participating agency means any agency or institution that collects, maintains, or uses personally identifiable information, or from which information is obtained under Part B of the Act.*

*(Authority: 20 U.S.C. 1221e-3, 1412(a)(8), 1417(c))*

The following definitions must be used regarding confidentiality:

“Destruction of records” means to alter the records in such a way that all information that is considered confidential is removed and destroyed. The remaining record would contain only directory information (i.e., child’s name, address, phone number, grades, attendance record, classes attended, grade level completed, and year completed).

“Education records” are defined as records that are directly related to a child and maintained by the LEA. Education records may include cumulative records, special education records, and health records.

Cumulative records include:

- Transcripts; and
- Group administered achievement and aptitude test scores.

Special education records include:

- Special education evaluation reports, recommendations, and observation of professionals who have individually screened or evaluated a child for identification of a disability or placement in a program;
- Special reports and information from outside agencies or specialists (e.g., private schools, social services agencies, rehabilitation agencies, transition service providers, hospitals, physicians);
- Special education documentation forms;
- Documentation of all actions, protests, challenges, meetings, and recommendations by the parents and LEAs for any special education purpose (e.g., taped individualized education programs [IEP] meetings, complaints, due process hearings);
- Videotapes and audiotapes of an individual child in relation to special education services; and
- Disciplinary records (in accordance with 70 O.S. § 24-101.4 and 34 CFR § 300.535).

Health records include:

- Immunizations;
- Medication; and
- \* Allergies.

Certain medical reports and information, utilized in evaluation procedures and maintained by the district, require additional confidentiality protections. As indicated by Oklahoma State law (63 O.S. § 1-502.2), all information and records that identify any person who has or may have any communicable or venereal disease (e.g., Acquired Immune Deficiency Syndrome [AIDS]) that is required to be reported and that are held or maintained by any State agency or health-care provider or facility, physician, health professional, laboratory, clinic, blood bank, funeral director, third party payer, or any other agency, person, or organization in the State must be confidential. Disclosure of such information must be limited strictly in accordance with provisions of this State statute. Any such information received by the LEA or public agency must also be protected under the confidentiality procedures outlined in this manual.

The term “education records” does not include: records of personnel that are kept in the

sole possession of the maker of the record and are not accessible or revealed to others; law enforcement records not disclosed to educational agencies or personnel; student employee records; treatment records on students 18 years of age or older, or attending a postsecondary education institution, that are made or maintained by physicians, psychiatrists, psychologists, or similar professionals only for this purpose; and records that only contain information about an individual after the person is no longer a student at the LEA. "Eligible student" is any child who has reached the age of eighteen or is attending an institution of postsecondary education and is not otherwise prevented to review and inspect education records by federal regulations, State statutes, or court orders.

"Disclosure" means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records to any party, by any means, including oral, written, or electronic means.

"Participating agencies" mean any schools, institutions (public and private), or agencies who produce, collect, maintain, or have access to any personally identifiable information of children.

**34 CFR § 300.625 Children's rights.**

- (a) The SEA must have in effect policies and procedures regarding the extent to which children are afforded rights of privacy similar to those afforded to parents, taking into consideration the age of the child and type or severity of disability.*
- (b) Under the regulations for FERPA in 34 CFR 99.5(a), the rights of parents regarding education records are transferred to the student at age 18.*
- (c) If the rights accorded to parents under Part B of the Act are transferred to a student who reaches the age of majority, consistent with § 300.520, the rights regarding educational records in §§ 300.613 through 300.624 must also be transferred to the student. However, the public agency must provide any notice required under section 615 of the Act to the student and the parents.*

*(Authority: 20 U.S.C. 1412(a)(8); 1417(c))*

At the age of eighteen, the rights guaranteed to parents concerning confidentiality of education records are transferred to the young adult. Each public agency must provide notice to the student and the parent that rights are transferred at the age of majority. Thus, a young adult of this age would become the "eligible student," granted the rights to review and inspect records, except where otherwise indicated by federal regulation, State laws, or court order.

**34 CFR § 300.612 Notice to parents.**

- (a) The SEA must give notice that is adequate to fully inform parents about the requirements of § 300.123, including--*
  - (1) A description of the extent that the notice is given in the native languages of the various population groups in the State;*
  - (2) A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods the State intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;*
  - (3) A summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and*
  - (4) A description of all of the rights of parents and children regarding this information, including the rights under FERPA and implementing regulations in 34 CFR part 99.*
- (b) Before any major identification, location, or evaluation activity, the notice must be published or announced in newspapers or other media, or both, with circulation adequate*

*to notify parents throughout the State of the activity.  
(Authority: 20 U.S.C. 1412(a)(8); 1417(c))*

Notice to parents must be in accordance with 34 CFR §§ 300.612 and 300.123. The requirements of the notice to parents under this regulation will be published at least annually prior to any major identification, location, or evaluation activities (i.e., child find) conducted by LEAs. This notice will be provided as needed in the native languages of the various population groups of the State. Accommodations for other language or means of communication will be provided by the LEA upon request for parents or eligible young adults who have disabilities or have a primary or home language other than English. LEAs must continue to provide at least annual notice in local communities regarding the rights of parents under the Family Educational Rights and Privacy Act (FERPA) prior to the LEA conducting these activities. This may be accomplished by utilizing announcements in newspapers or other media but must be adequate to reach parents in the general vicinity of the LEA.

In addition, LEAs must continue to be responsible for the annual notice of rights under the FERPA to all parents and eligible young adults currently in attendance. This may be accomplished by utilizing newspapers, student handbooks, enrollment packets, or other means that are reasonably likely to inform parents or eligible young adults of their rights.

Annual notification of the FERPA rights must inform parents or eligible young adults of the following rights to:

- Inspect and review the child's education records;
- Seek amendment of the child's education records that the parents or eligible children believe to be inaccurate, misleading, or otherwise in violation of the child's privacy rights;
- Consent to disclosures of personally identifiable information contained in the child's education records, except to the extent that the FERPA and 34 CFR § 99.31 authorized disclosure without consent; and
- File with the Family Policy Compliance Office, United States Department of Education (USDE), a complaint under 34 CFR §§ 99.63 concerning alleged failures by the LEA to comply with the requirements of the FERPA.

The notice must include all of the following:

- The procedure for exercising the right to inspect and review education records;
- The procedure for requesting the amendment of records under 34 CFR § 99.20; and
- The LEA's policy of disclosing education records under 34 CFR § 99.31(a)(1) and specific criteria for school officials, including teachers whom the LEA determines to have legitimate educational interests.

The LEA's policies and procedures must be in conformity with federal requirements for confidentiality of personally identifiable information (IDEA, 34 CFR §§ 300.123 and 300.611 through 300.625), including all of the rights of parents and eligible young adults regarding their education records and rights under the FERPA, 34 CFR Part 99.

**34 CFR § 300.613 Access rights.**

*(a) Each participating agency must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the agency under this part. The agency must comply with a request without unnecessary delay*

*and before any meeting regarding an IEP, or any hearing pursuant to § 300.507 or §§ 300.530 through 300.532, or resolution session pursuant to § 300.510, and in no case more than 45 days after the request has been made.*

*(b) The right to inspect and review education records under this section includes--*

- (1) The right to a response from the participating agency to reasonable requests for explanations and interpretations of the records;*
  - (2) The right to request that the agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records; and*
  - (3) The right to have a representative of the parent inspect and review the records.*
- (c) An agency may presume that the parent has authority to inspect and review records relating to his or her child unless the agency has been advised that the parent does not have the authority under applicable State law governing such matters as guardianship, separation, and divorce.*

*(Authority: 20 U.S.C. 1412(a)(8); 1417(c))*

Parents and eligible young adults have the following specific rights concerning education records that are ensured by the FERPA.

- Parents and eligible young adults must be permitted to access, inspect, and review the education records of the individual child, except as limited under the FERPA (34 CFR § 99.12).
- When the parent or eligible young adult requests to access records, the request must be granted without unnecessary delay (in no case later than 45 days after the request is made). Access must be ensured prior to any meeting or hearing for the purpose of developing or reviewing the IEP, identification, evaluation, or placement of the young adult.
- Parents and eligible young adults have the right to make reasonable requests for and receive an explanation and interpretation of the content of records maintained by the LEA.
- Parents and eligible young adults have the right to request and receive a copy of the individual student's records if failure to receive the copies would effectively prevent the parent or eligible young adult from reviewing and inspecting the records.
- Education records may not be destroyed if there is an outstanding request to inspect and review these records.
- Eligible young adults who do not have access to treatment records under the FERPA may have those records reviewed by a physician, psychologist, or other appropriate professional of the young adult's choice.
- Parents have the right to have a representative inspect and review the young adult's education records.

Unless otherwise notified of an exception, the LEA may presume that the parents have the right to inspect and review education records relating to their children that are collected, maintained, or used by the LEA under the IDEA. If the LEA has been notified with evidence that this right is revoked, the records must not be released to the parent. Documents such as court order, State statutes, or legally binding documents relating to such matters as divorce, separation, or custody that specifically revoke the right to inspect and review records should be accepted as legitimate evidence.

The IDEA and the FERPA provide that an LEA must respond to reasonable requests by parents for explanations and interpretations of education records and the opportunity to inspect and review such records. Parents have 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 parent from exercising the right to inspect and review the records. Federal copyright law protects against the distribution of copies of a copyrighted document. Because the IDEA and the FERPA generally do not require the distribution of copies of an education record, but rather parental access to inspect and review, federal copyright law generally should not be implicated under these regulations.

The IDEA requires that parents receive, regardless of whether parents do or do not request, a copy of each of the following documents at no cost to the parents: IEPs, evaluation reports, and eligibility determinations.

The right to access education records of children with a suspected or established disability under the IDEA and the FERPA must not be withheld from parents or eligible young adults because of debts owed to the LEA.

**34 CFR § 300.614 Record of access.**

*Each participating agency must keep a record of parties obtaining access to education records collected, maintained, or used under Part B of the Act (except access by parents and authorized employees of the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.*

*(Authority: 20 U.S.C. 1412(a)(8); 1417(c))*

The requirement as to who is authorized or unauthorized to access confidential and personally identifiable records is addressed by the FERPA and the implementing regulation at 34 CFR § 99.31.

Unauthorized persons must have parental permission to access confidential records. Documentation of unauthorized persons who access records on what date and for what purpose must be maintained in the confidential record. The Record of Access to Educational Records (OSDE Form 1) may be used for this purpose.

**34 CFR § 300.615 Records on more than one child.**

*If any education record includes information on more than one child, the parents of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information.*

*(Authority: 20 U.S.C. 1412(a)(8); 1417(c))*

If an education record contains information on more than one child, the parents must have access only to information concerning their children or be informed of that specific information. A confidential folder maintained for a child receiving special education and related services should contain only information on that individual child.

**34 CFR § 300.616 List of types and locations of information.**

*Each participating agency must provide parents on request a list of the types and locations of education records collected, maintained, or used by the agency.*

*(Authority: 20 U.S.C. 1412(a)(8); 1417(c))*

Each LEA must maintain a list of the types and locations of education records collected and maintained by the LEA. This information must be given to parents at their request.

**34 CFR § 300.617 Fees.**

*(a) Each participating agency may charge a fee for copies of records that are made for parents under this part if the fee does not effectively prevent the parents from exercising their right to inspect and review those records.*

*(b) A participating agency may not charge a fee to search for or to retrieve information*

*under this part.*  
(Authority: 20 U.S.C. 1412(a)(8); 1417(c))

The initial provision of copies of the IEP, evaluations, and eligibility determinations should be at no cost to parents for the first copies in accordance with 34 CFR § 300.322. Parents and eligible young adults have the right to request and receive a copy of the individual young adult's records if failure to receive the copies would effectively prevent the parent or eligible young adults from reviewing and inspecting the records. LEAs may charge a reasonable fee for copies made for parents if this fee does not prevent the parent from exercising their right to inspect and review the records. The fee for copies must not exceed twenty-five cents per page. Although a fee for copies may be permissible, fees for search and retrieval may not be assessed.

**34 CFR § 300.618 Amendment of records at parent's request.**

- (a) *A parent who believes that information in the education records collected, maintained, or used under this part is inaccurate or misleading or violates the privacy or other rights of the child may request the participating agency that maintains the information to amend the information.*
- (b) *The agency must decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request.*
- (c) *If the agency decides to refuse to amend the information in accordance with the request, it must inform the parent of the refusal and advise the parent of the right to a hearing under § 300.619.*

(Authority: 20 U.S.C. 1412(a)(8); 1417(c))

Parents and eligible young adults may request an amendment to the education records maintained by the LEA if they believe that the information or education records collected, maintained, or used are inaccurate, misleading, or violate the privacy or other rights of the young adult. The LEA must make a decision concerning the request within a reasonable amount of time but in no case later than 45 days after the request is made. If the LEA refuses to amend the information, it must inform the parent or eligible young adult of the refusal and advise the parent of the right to a FERPA hearing.

**34 CFR § 300.619 Opportunity for a hearing.**

*The agency 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.*

(Authority: 20 U.S.C. 1412(a)(8); 1417(c))

On request by a parent or eligible young adult, the LEA must provide an opportunity for a FERPA 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 CFR § 300.620 Result of hearing.**

- (a) *If, as a result of the hearing, the agency 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 parent in writing.*
- (b) *If, as a result of the hearing, the agency decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it must inform the parent of the parent's right to place in the records the agency maintains on the child a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency.*
- (c) *Any explanation placed in the records of the child under this section must--*
  - (1) *Be maintained by the agency as part of the records of the child as long as the record*

*or contested portion is maintained by the agency; and*  
(2) *If the records of the child or the contested portion is disclosed by the agency to any party, the explanation must also be disclosed to the party.*  
(Authority: 20 U.S.C. 1412(a)(8); 1417(c))

If, as a result of a FERPA 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. If, as a result of the hearing, the LEA decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it must inform the parents of the right to place, in the records maintained on the child, a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the LEA. Any explanation placed in the record of the child must be maintained by the LEA as part of the records of the child as long as the record or contested portion is maintained by the LEA. If the records of the child or the contested portion are disclosed by the LEA to any party, the explanation must also be disclosed to that party.

**34 CFR § 300.621 Hearing procedures.**

*A hearing held under § 300.619 must be conducted according to the procedures in 34 CFR 99.22.*  
(Authority: 20 U.S.C. 1412(a)(8); 1417(c))

This hearing must be conducted in accordance with the FERPA (34 CFR § 99.22).

**34 CFR § 300.622 Consent.**

*(a) Parental consent must be obtained before personally identifiable information is disclosed to parties, other than officials of participating agencies in accordance with paragraph (b)(1) of this section, unless the information is contained in education records, and the disclosure is authorized without parental consent under 34 CFR part 99. (b)(1) Except as provided in paragraphs (b)(2) and (b)(3) of this section, parental consent is not required before personally identifiable information is released to officials of participating agencies for purposes of meeting a requirement of this part.*

*(2) Parental consent, or the consent of an eligible child who has reached the age of majority under State law, must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services in accordance with § 300.321(b)(3).*

*(3) If a child is enrolled, or is going to enroll in a private school that is not located in the LEA of the parent's residence, parental consent must be obtained before any personally identifiable information about the child is released between officials in the LEA where the private school is located and officials in the LEA of the parent's residence.*

(Authority: 20 U.S.C. 1412(a)(8); 1417(c))

The LEA may disclose personally identifiable information from a child's education record to other school officials, including teachers, within the LEA; to officials of another school system or postsecondary education institution where the child seeks or intends to enroll; to State and local educational authorities; to accrediting and monitoring personnel; and to the Comptroller General of the United States or the Secretary of the USDE and others, as further defined by the FERPA (34 CFR § 99.30). The Authority to Transfer Education Records (OSDE Form 10) may be used for this purpose.

Parental consent, or the consent of an eligible young adult who has reached the age of majority under Oklahoma State law, must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for

transition services.

If a child is enrolled, or is going to enroll in a private school that is not located in the LEA of the parent's residence, parental consent must be obtained before any personally identifiable information about the child is released between officials in the LEA where the private school is located and officials in the LEA of the parents' residence.

The LEA may disclose personally identifiable information from a child's record to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the child or other individuals. Such disclosure must be strictly construed in accordance with the FERPA (34 CFR § 99.36). When reporting a crime committed by a child with a disability to the appropriate authorities, the LEA must transmit copies of the child's special education and disciplinary records to the authorities to whom the LEA reports the crime. Such disclosure must be in accordance with the FERPA (34 CFR § 99.38).

Any other disclosure, unless specified by the FERPA or the IDEA, will require written consent from the parent(s) or eligible young adult according to the FERPA regulations (34 CFR § 99.30). The Consent for Release of Confidential Information (OSDE Form 11) may be utilized to meet this requirement.

In circumstances in which such consent is not granted and the LEA determines that the information may be necessary to provide a FAPE to a child with a disability, due process complaint hearing provisions under the IDEA are available.

A judicial order or lawfully issued subpoena to disclose information would override a parents' refusal to provide consent under this section. However, the LEA must make a reasonable effort to notify the parent(s) or eligible young adult in advance of compliance with an order or subpoena for disclosure of information (34 CFR § 99.31).

According to Oklahoma State law (63 O.S. § 70-6-115), it is a misdemeanor for any teacher to reveal any information concerning a child obtained by that teacher in the capacity as teacher except as may be required in the performance of contractual duties and in accordance with State and federal laws. This information may be furnished to the parent or guardian of the child upon request.

**34 CFR § 300.623 Safeguards.**

- (a) Each participating agency must protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.*
  - (b) One official at each participating agency must assume responsibility for ensuring the confidentiality of any personally identifiable information.*
  - (c) All persons collecting or using personally identifiable information must receive training or instruction regarding the State's policies and procedures under § 300.123 and 34 CFR part 99.*
  - (d) Each participating agency must maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.*
- (Authority: 20 U.S.C. 1412(a)(8); 1417(c))*

The LEA must protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages. All confidential special education

records for children with disabilities should be maintained in a separate confidential folder, not in the child's school cumulative folder. These records must be maintained in a secure manner, which prevents unauthorized access.

One person from each LEA must be designated to assume responsibility for ensuring the confidentiality of any personally identifiable information. All authorized district personnel with legitimate educational interest must be trained or receive instruction by the LEA in policies and procedures regarding confidentiality. The training or instruction must address protection of confidentiality of any personally identifiable information collected, used, or maintained under the IDEA Part B and the FERPA. Each LEA must maintain, for public inspection, a current listing of the names and positions of those persons in the district who may have access to personally identifiable information.

**34 CFR § 300.624 Destruction of information.**

*(a) The public agency must inform parents when personally identifiable information collected, maintained, or used under this part is no longer needed to provide educational services to the child.*

*(b) The information must be destroyed at the request of the parents. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.*

*(Authority: 20 U.S.C. 1412(a)(8); 1417(c))*

Special education records, including personally identifiable information generated under the IDEA will be maintained to document compliance (34 CFR §§ 76.730 and 76.731). These records may be destroyed after the determination that these records are no longer needed for educational purposes, and if there is no outstanding request by a parent or eligible student to review records (34 CFR § 99.10). If the records meet these requirements and the parent requests that these records be destroyed, the records must be destroyed by the LEA. Destruction of records includes physical destruction or removal of personal identifiers as described at 34 CFR § 300.611. Oklahoma State law requires that records generated by the LEA must be maintained for at least five years.

The Oklahoma Health Care Authority (OHCA) regulations state that records for Medicaid documentation purposes will be maintained for six years by participating LEAs and public agencies. Such records shall be subject to audit reviews.

The parents must be notified when the personally identifiable information the LEA maintains about the child is determined to no longer be needed. The notice would normally be given after a child graduates or otherwise leaves the LEA. The parent(s) or eligible young adult may want to exercise their right to access the records and may request copies of records as information for other purposes, such as post-school benefits. The parent(s) should be notified in writing at their last known address of the decision that information is no longer needed. A permanent record of the child's name, address, phone number, grades, attendance record, classes attended, grade level completed, and year completed must be maintained without time limitation.

**34 CFR § 300.626 Enforcement.**

*The SEA must have in effect the policies and procedures, including sanctions that the State uses, to ensure that its policies and procedures consistent with §§ 300.611 through 300.625 are followed and that the requirements of the Act and the regulations in this part are met.*

(Authority: 20 U.S.C. 1412(a)(8); 1417(c))

LEAs must comply with the provisions of State and federal laws regarding confidentiality of records generated under the IDEA. Assurance statements signed by officials of LEAs will be required as recipients of federal IDEA funds. LEAs and public agencies are subject to compliance reviews and sanctions regarding the requirements for these provisions under the FERPA.

**34 CFR § 300.535 Referral to and action by law enforcement and judicial authorities.**

*(a) Rule of construction. Nothing in this part prohibits an agency from reporting a crime committed by a child with a disability to appropriate authorities or prevents State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.*

*(b) Transmittal of records.*

*(1) An agency reporting a crime committed by a child with a disability must ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom the agency reports the crime.*

*(2) An agency reporting a crime under this section may transmit copies of the child's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act.*

*(Authority: 20 U.S.C. 1415(k)(6))*

The LEA's policy on transmitting disciplinary information must apply to both nondisabled and disabled students. The LEA must transmit any record of behavior that required disciplinary action (e.g., suspension) and whether the behavior was determined to be a manifestation of a student's disability. Transfer of student records, including the current IEP and discipline records, must be made in a timely manner under Oklahoma State law (70 O.S. § 24-101.4).

When reporting a crime committed by a child with a disability to the appropriate authorities, the LEA must transmit copies of the child's special education and disciplinary records to the authorities to whom the LEA reports the crime. Such disclosure must be in accordance with the FERPA (34 CFR § 99.38).

**34 CFR § 300.627 Department use of personally identifiable information.**

*If the Department or its authorized representatives collect any personally identifiable information regarding children with disabilities that is not subject to the Privacy Act of 1974, 5 U.S.C. 552a, the Secretary applies the requirements of 5 U.S.C. 552a(b)(1) and (b)(2), 552a(b)(4) through (b)(11); 552a(c) through 552a(e)(3)(B); 552a(e)(3)(D);*

*552a(e)(5) through (e)(10); 552a(h); 552a(m); and 552a(n); and the regulations implementing those provisions in 34 CFR part 5b.*

*(Authority: 20 U.S.C. 1412(a)(8); 1417(c))*

The USDE or its authorized representatives may collect personally identifiable records and information regarding children with disabilities in accordance with this regulation under the IDEA and as otherwise permitted or limited under federal law.