



Special Education Law

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Our Mission is Lessening Discrimination Against Children with Disabilities by Providing Parents and School Personnel Tools for Advocacy

Get Access To Your Child's Educational Records

THE FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA)

(Taken From: *Is Your Child Getting Everything They Are Entitled To Under the '99 IDEA Regulations, '97 IDEA Amendments, Appendix A, Section 504 and the ADA Manual*)

The second Congressional Response to all these federal special education cases, and some other issues, was the Family Educational Rights and Privacy Act in 1974. Congress recognized that parents could not get access to their child's records, the evaluations the school was using, the notes teachers were making, what was being "said" about the student in those files, and so forth. An incredible mistake could be made about a student with a disability and the parent would have no way of finding out about it, or correcting it.

FERPA establishes the rights of parents, and students over a certain age, to have access to "all personally identifiable information collected, maintained or used" by a school district in regard to that student. The school must provide written notice to parents (and students over a certain age) of all of their rights under FERPA. Write and ask your school where you can get the notice of your rights under FERPA.

Some of the requirements of the FERPA Act are included in the IDEA but the full statute at 20 U.S.C. 1232g, and the regulations at 34 C.F.R. 99, are much more detailed and apply to all students, as well as students with disabilities.

FERPA does not include any funding, but like Section 504, any recipient of federal financial assistance (which certainly includes your state education agency and your local school district) must follow FERPA or risk losing the right to receive any other federal financial assistance.

There is clearly a private right of action for parents to take FERPA violations into court (usually under 42 U.S.C. 1983) and cases have often asked for money damages. Almost always the parent will have to first "exhaust" their FERPA complaint through an IDEA "due process" hearing but FERPA complaints can clearly be taken on into federal court.