

## I Heard of FERPA, But What is it, and Does it Apply to Special Education?

Have you wondered what your child with Autism's school record contains? Would you like to look at your child with learning disabilities' records, to see copies of school evaluations? This article will discuss FERPA in length and give you ideas on how to use to help your child.

FERPA stands for The Family Educational Rights and Privacy Act 20 U.S.C. 1232g. This law establishes confidentiality and access rights for students' educational records. FERPA applies to any educational institution to which funds have been made available under any program administered by the Department of Education.

FERPA applies to education records that are directly related to the student, and that are maintained by the educational agency. A record is any information recorded in any way, including, handwriting, print, computer media, video or audio tape. Under FERPA parents have the right to internal E mails (with your child's name on it), and also to inspect testing instruments, question booklets answer sheets, etc (these are usually called testing protocols).

FERPA allows parents to ask for an amendment of their child's school record, if it contains information that is inaccurate, misleading, or violates their child's right to privacy. If special education personnel refuse to change the record, you can request a FERPA hearing with the FPCO office which will be discussed next. If you win, then the school district must change the school record.

Parents may inspect and review the educational records of your child. I recommend doing this when a dispute occurs. Ask for permanent, temporary, internal memos, e mails, video, audio, any record that has your child's name on it.

Parents may also have a representative review their child's school records. An experienced person (another parent or advocate) knows what they are looking for, and can ask for copies of important items; that could help your case.

Many parents want to inspect the testing materials that special education personnel use to test their child. FERPA gives you the right to do that. Some school districts state copyright laws as to why parents cannot look at the test protocols.

Several court cases have found, that parents looking at testing protocols, of their child is covered under the reasonable fair use rule. School personnel may ask parents or their representatives to sign a confidentiality agreement. There have also been hearing officer decisions forbidding the destruction of test protocols.

FERPA is administered by the Family Policy Compliance Office (FPCO), which is part of the Department of Education. You may file for a FERPA complaint with the FPCO office, or a complaint under the Individuals with Disabilities Education Act (IDEA) with your state board of education. FPCO can be reached at: U.S. Department of Education, 400 Maryland Ave SW, Washington DC 20202. A districts withholding of your child's school records, could be considered a denial of a Free Appropriate Public Education (FAPE).

New Federal Rule of Civil Procedure 37(f) has the effect of allowing sanctions to be imposed if records are destroyed, when litigation is reasonably foreseeable, and particularly if the destruction is intentional. This is why it is important to keep copies of your child's school records, so that you can see if anything was destroyed.

How can you use FERPA to benefit your child's education? Make an appointment to go and look at your child's school record. Look for items that you have not seen before, or that helps prove your case, in case you end up in due process. Look for testing material, behavior discipline records or notes, suspension notices, etc. This will help you fight for an appropriate education for your child.

### About the Author

JoAnn Collins is the mother of two adults with disabilities. She has helped parents navigate the special education system for 15 years. Her recent book Disability Deception; Lies Disability Educators Tell and How Parents Can Beat Them at Their Own Game is filled with advocacy tips to help parents. To sign up for a wonderful free E newsletter send an E mail to: JoAnn@disabilitydeception.com. For a link to more free articles, go to: <http://www.disabilitydeception.com>.