

Confidentiality - 4.10 Referral to and Action by Law Enforcement and Judicial Authorities and Transmission of Records

State Performance Plan (SPP):

(See Overview in the Introduction for more information on the SPP.)

Intent:

To provide guidance to school districts (LEAs) on what can be reported and what records that can be submitted when a child with a disability commits a state or federal crime.

REQUIREMENT

3301-51-04

(R) Referral to and action by law enforcement and judicial authorities

(1) Rule of construction

Nothing in this rule prohibits a school district, county board of MR/ DD, and other educational 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.

(2) Transmittal of records

(a) A school district, county board of MR/ DD, and other educational 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 (*to the extent allowed by law*).

(b) A school district, county board of MR/ DD, and other educational agency reporting a crime under this rule shall 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 of 1974, August 1974, 20 U.S.C. 1232g (FERPA).

GUIDANCE

Referral to and action by law enforcement and judicial authorities and transmittal of records

If a child with a disability commits a crime, the school district, county board of MR/ DD and other educational agency is authorized to report the crime to the authorities. Also, the entity reporting the crime must ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the authorities to whom the crime is reported (*to the extent allowed by law*). A school district representative familiar with the child and situation, usually the building principal, should make certain that the appropriate records are provided to the authorities to the extent allowed by law. This person should be available to the authorities and the judicial system. If the child is sent to an Ohio Department of Youth Services facility (DYS) or to adult corrections, the child's home school should make certain that the child's IEP and disciplinary records are provided to the DHS facility in a prompt manner so the child's continuing education is based on those records. If the child is sent to a city or county jail or to a detention center not affiliated with DHS or adult corrections, then the district must secure the parents' consent to provide education records to the facility unless the facility is defined as an elementary or secondary school per Ohio Revised Code.

LEGAL CITATIONS:

Federal Statutes:

20.U.S.C. 1415(k) (6)

20.U.S.C. 1232g(b) (E) and (I)

20 U.S.C. 1232g - Family Educational Rights and Privacy Act of 1974

Federal Regulations:

34 CFR §300.535

34 CFR §99.31(a) (5)

Ohio Revised Code:

3323.08(A)

Operating Standards:

3301-51-04(R)

FORMS (* = required)