

Confidentiality - 4.3 Access Rights

State Performance Plan (SPP):

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

Intent:

To provide guidance for school districts (LEAs) in providing parents access to their children's education records that are collected, maintained or used by the school district (LEA).

Timelines:

Without unnecessary delay and before any meeting regarding an IEP or any due process hearing or appeal of such hearing or before any resolution session and in no case no more than 45 days after the parents' request to review the files.

REQUIREMENT

3301-51-04

(D) Access rights

(1) 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 rule. The agency must comply with a request without unnecessary delay and before any meeting regarding an individualized education program (IEP), or any hearing pursuant to rule 3301-51-05 of the Administrative Code or resolution session pursuant to rule 3301-51-05 of the Administrative Code, and in no case more than forty- five days after the request has been made.

(2) The right to inspect and review education records under this rule includes:

- (a) The right to a response from the participating agency to reasonable requests for explanations and interpretations of the records;
- (b) 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
- (c) The right to have a representative of the parent inspect and review the records.

(3) An agency may presume that the parent has the authority to inspect and review records relative to the parent's 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.

GUIDANCE

Access rights

Parents have the right to inspect and review their child's education records. Parents also have the right to have their representative inspect and review their child's records. If the parents' representative does not accompany the parents, but the parents want the representative to review the files at a later time, the parents should put that permission for in writing.

Procedures and Guidance for Ohio Educational Agencies serving Children with Disabilities

(October, 2011)

If there is a question about whether the parents have the authority to review the records, an agency may presume that the parents have the authority to inspect and review records related to their child unless the agency has been advised that the parents do not have the authority under applicable state law governing such matters as guardianship, separation and divorce.

If parents request copies of the records, the agency should provide those copies as soon as possible if failure to provide those copies would effectively prevent the parents from exercising the right to inspect and review the records. District policies and procedures must address access rights. If the parents review the records and then request copies, those copies are provided if failure to provide those copies would effectively prevent the parents from exercising the right to inspect and review the records. If there is not sufficient time to make the copies, the district should inform the parents that the copies will be available within 45 days. Parents must be provided access to the requested records before an IEP meeting, before a due process hearing or any appeal of such a hearing or before a due process resolution meeting.

It is good district practice to have a person who is knowledgeable about children's records to answer any questions parents may have.

LEGAL CITATIONS:

Federal Statutes:

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

Federal Regulations:

34 CFR §300.613

Ohio Revised Code:

3319.321(B) and (D)

3323.05(A)

Operating Standards:

3301-51-04(D)

3301-51-05

FORMS (* = required)