

Confidentiality - 4.8 Children's Rights

State Performance Plan (SPP):

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

Intent:

To ensure that a child, upon the age of majority (age 18) receives the right to privacy of their education records in accordance with the requirements under IDEA.

REQUIREMENT

3301-51-04

(P) Children's rights

(1) The school district, county board of MR/ DD, and other educational agency 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.

(2) Under the regulations for FERPA in 34 C.F.R. 99.5(a) (July 1, 2005), the rights of parents regarding education records are transferred to the child at age eighteen.

(3) If the rights accorded to parents under Part B of the IDEA are transferred to a child who reaches the age of majority, consistent with rule 3301-51-05 of the Administrative Code, the rights regarding education records under this rule must also be transferred to the child. However, the school district must provide any notice required under rule 3301-51-05 of the Administrative Code to the children and the parents.

3301-51-05

(D) Transfer of parental rights at age of majority.

(1) When a child with a disability reaches the age of majority under Ohio law (eighteen years of age) that applies to all children (except for a child with a disability who has been determined to be incompetent under Ohio law):

- (a) The school district of residence must provide the notice required by this rule to both the child and the parents;
- (b) All rights accorded to parents under Part B of the IDEA and Chapter 3323. of the Revised Code transfer to the child: and
- (c) All rights accorded to parents under Part B of the IDEA and Chapter 3323. of the Revised Code transfer to children who are incarcerated in an adult or juvenile, state or local correctional institution.

(2) When a child with a disability (except for a child with a disability who has been determined to be incompetent under Ohio law) reaches eighteen years of age, the school district of residence must notify the child and the parents of the transfer of rights. (Note: By the child's 17th birthday the school district must inform the child of their rights and the transfer of those rights that will take place on the child's 18th birthday.)

GUIDANCE

Children's rights

School districts, county boards of MR/ DD and other educational agencies must have in effect policies and procedures regarding the extent to which children are afforded the rights of privacy similar to those afforded to parents, taking into consideration the age of the

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child and the type or severity of disability. This is not limited to 18- year- olds. When a child turns 17, parents, the child and the other members of the IEP team must meet to discuss the meaning of the transfer of rights from the parents to the child upon the child turning 18, the age of majority. An exception applies only if the court finds the child is incompetent as discussed in Rule 3301-51-05 (D) as noted above.

When rights are transferred to the child at age 18, both the parents and child must be provided any notifications required under Rule 3301-51-05.

LEGAL CITATIONS:

Federal Statutes:

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

Federal Regulations:

34 CFR §300.520 and 300.613 - 625

34 CFR §99.5(a)

Ohio Revised Code:

Ohio Regulations:

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FORMS (* = required)