

CONFIDENTIALITY

ACCESS RIGHTS

Education Records

"Education record" means:
data and information directly relating to a student that is collected or maintained by educational institutions or by a person acting for an institution including academic records and portfolios; achievement tests; aptitude scores; teacher and counselor evaluations; health and personal data; behavioral and psychological evaluations; and directory data recorded in any medium including handwriting, magnetic tapes, film, video, microfiche, computer-generated and stored data, or data otherwise maintained and used by the educational institution or a person action for an institution.
KRS 160.700(3)

"Education Record" means any information recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche. Education record means those records, files, documents, and other materials that are:
(a) Directly related to a student; and
(b) Maintained by an educational agency or institution or by a party acting for the agency or institution.
34 CFR 99.3

"Education Records" do not include:
(a) Records of instructional supervisory, and administrative personnel and education personnel ancillary to those persons that are kept in the sole possession of the maker of the record, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record;
(b) Records of a law enforcement unit of an educational agency or institution, but only if education records maintained by the agency or institution are not disclosed to the unit, and the law enforcement records are maintained separately from educational records; maintained solely for law enforcement purposes; and disclosed only to law enforcement officials of the same jurisdiction;
(c) In the case of persons who are employed by an educational agency or institution but who are not in attendance at that agency or institution, records made and maintained in the normal course of business which relate exclusively to that person in the person's capacity as an employee and are not available for use for any other purpose; and
(d) Records on a student who is eighteen (18) years of age or older, which are made, used or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional for treatment of the student, and are not available to anyone other than persons providing the treatment, except a physician or other appropriate professional of the student's choice.
34 CFR 99.3
KRS 160.700 (3) (a-d)

Private Notes Kept by School Personnel

Notes or documents in the sole possession of the creator are exempt from parent or eligible student access if:

1. it is a private note created solely by the individual possessing it;
2. it is a personal memory aid; and
3. the contents are accessible to or revealed to no one except the

possessor's temporary substitute.

If another person is knowledgeable of the contents of these notes, then they are subject to review by the parents, eligible student, or subpoena. Oral communication from such notes or documents makes the documents an educational record and accessible to parents for review, even if these are maintained in the sole possession of the creator.

Inspection and Review of Educational Records

An LEA shall permit a parent to inspect and review any education records relating to his child that are collected, maintained, or used by the LEA. The LEA shall comply with a request without unnecessary delay and before any meeting regarding an IEP, dispute resolution meeting, or due process hearing, and in no case more than forty-five (45) days after the request has been made.

707 KAR 1:360 Section 1 (1)

34 CFR 300.613 (a)

An educational agency or institution shall give full access rights under the Act to either parent, unless the agency or institution has been provided with evidence that there is a court order, State statute, or legally binding document relating to such matters as divorce, separation, or custody that specifically revokes these rights.

34 CFR 99.4

An LEA may presume that a parent has authority to inspect and review records relating to his child unless the LEA has been advised under a court order that the parent does not have the authority.

707 KAR 1:360 Section 1 (3)

34 CFR 300.613 (c)

"Eligible student" means a student, or a former student, who has reached the age of eighteen (18) or is pursuing an education beyond high school and therefore the permission or consent required of, and the rights accorded to the parents of the student shall therefore be required of, and accorded to, the student.

KRS 160.700 (4)

If the parent, representative, or eligible student makes a request to review and inspect educational records, the retrieval and access of the records are provided:

1. without unnecessary delay;
2. within 45 calendar days from the time the request is received;
3. before any ARC meeting or due process hearing takes place; and
4. at a time mutually acceptable to the parent and the school personnel.

Explanation and Interpretation of Records

The right to inspect and review education records under this administrative regulation shall include:

- (a) the right to a response from the LEA 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.

707 KAR 1:360 Section 1 (2)

34 CFR 300.613 (b)

KRS 160.715 (1)

If the parent requests an explanation of the records, Owen County School District (hereinafter called OCSD) staff makes sure that the appropriate staff member (e.g., DoSE, school psychologist, counselor, or special education teacher) is present to explain and interpret the records and answer any questions the parent may have.

If the primary language or mode of communication used by the parent of the child is not English, within five (5) days of a completed parental request to review the educational records of a child, the principal notifies the DoSE of the need for translation of the records. The DoSE obtains the translation prior to any ARC meeting or due process hearing. Every attempt is made to obtain the translation within thirty-five (35) calendar days after the request is made. This translation is consistent with the mode of communication used by the parent and therefore may include a recorded or oral reading format.

Test Protocols

When OCSD evaluates a child according to **EVALUATION** Procedures, the ARC gives the parent a copy of the written assessment report. The written report provides an explanation of information collected through the assessment process, including an explanation of the information collected on test protocol. The qualified examiner, upon request, may show and discuss the information on the protocol with the parent using sample test items rather than actual items.

Copyrighted test protocol and raw data generated by evaluators are educational records when the protocol contains personally identifiable information. OCSD makes sure protocol are maintained in secure areas in the offices of evaluators, and are not released to others during the evaluation process.

...If a school were to maintain a copy of a student test answer sheet (an "educational record") the parent would have a right under Part B and FERPA to request an explanation and interpretation of the record. The explanation and interpretation by the school could entail showing the parent the test question booklet, reading the questions to the parent, or providing an interpretation for the responses in some other adequate manner that would inform the parent. ...Federal copyright law protects against the distribution of copies of a copyrighted document, such as a test protocol.

Since IDEA and FERPA generally do not require the distribution of copies of an education record, but rather parental access to inspect and review, Federal copyright law generally should not be implicated under these regulations.

IDEA Interpretation for 34 CFR 300.562 (IDEA 1997)

In order to abide by copyright laws and protect test validity and security, OCSD does not provide copies of test protocol to parents.

Representative of Parent to Inspect and Review Records

If the parent authorizes an individual to serve as the parent's representative to inspect and review the records, the parent completes the Consent for the Release of Information form provided by OCSD. When the release of information form is appropriately signed by the legal representative of the child, the OCSD grants the authorized representative access to the educational records of the child. If copies of records are provided, a fee may be charged according to **FEES FOR COPYING RECORDS** in procedures for **CONFIDENTIALITY**).

Record of DisclosureError! Bookmark not defined.

A LEA shall keep a record of parties obtaining access to education records collected, maintained, or used under 707 KAR Chapter 1 (except access by parents and authorized employees of the LEA), including:

- (1) the name of the party;
- (2) the date access was given; and
- (3) the purpose for which the party is authorized to use the records.

707 KAR 1:360 Section 2
34 CFR 300.614
34 CFR 99.32

OCSD maintains a Record of Disclosure form in each due process folder as long as the records are maintained. All individuals, except parents, eligible students, and employees of the OCSD with a legitimate educational interest in the records, sign the record of disclosure form prior to inspecting and reviewing the record.

RECORDS ON MORE THAN ONE CHILD

If any education record includes information on more than one child, the parents of those children shall have the right to inspect and review only the information relating to their child or to be informed of only that specific information.

707 KAR 1:360 Section 3
34 CFR 300.615
34 CFR 99.12

The OCSD provides information from records containing data on more than one child in such a way as to preserve the confidentiality of the other students.

If a parent requests to review and inspect educational records that have information about more than one child (e.g., attendance rosters, child tracking

systems, grade books, etc.), then the person responsible for the maintenance of those records makes certain that any personally identifiable information regarding other children is not disclosed.

The OCSD ensures that personally identifiable information about any child is not maintained in the educational record of another child.

TYPES AND LOCATION OF INFORMATION

A LEA shall provide parents, on request, a list of the types and location of education records regarding their child with disabilities that is collected, maintained, or used by the LEA.

707 KAR 1:360 Section 4
34 CFR 300.616

The DoSE maintains a list of the types and location of educational records for children with disabilities collected, maintained and used by the OCSD. The list, which is kept in the office of the DoSE, specifies the type of information, (e.g., due process folder, speech folder, psychological/evaluator records), the location (specific school or office) and contact person where each record is located. If requested, the information regarding the records of their child is made available to a parent.

FEES FOR COPYING RECORDS

A LEA may charge a fee for copies of records that are made for a parent under 707 KAR Chapter 1 if the fee does not effectively prevent the parent from exercising his right to inspect and review the records. The LEA shall not charge a fee to search for or to retrieve information under 707 KAR Chapter 1.

707 KAR 1:360 Section 5
34 CFR 300.617
34 CFR 99.11
KRS 160.715 (2)

The parent receives a copy of each evaluation and reevaluation report, each eligibility report, each IEP and each Conference Summary following the ARC meeting when each specific document is initially discussed or developed. Initial copies are provided to the parent free of charge.

OCSD charges a fee to the parent for additional copies of records, as long as the fee does not effectively prevent the parent from inspecting or reviewing the records. A fee is not charged for record search or retrieval. See OCSD Board Policy for fee schedule.

RECORD AMENDMENT

Request to Amend Information in Education Records

A parent who believes that information in the education records collected, maintained, or used

under 707 KAR Chapter 1 is inaccurate, misleading, or violates the privacy or other rights of the child may request the LEA to amend the information. Once a request is made by a parent for an amendment to be made to the child's record, the LEA shall respond within ten (10) school days.

707 KAR 1:360 Section 6 (1)
34 CFR 300.618 (a)
34 CFR 99.20 (a)
KRS 160.730 (1)

Record amendment refers to changing, deleting, or destroying information in the educational records of a child or youth.

Upon receipt of the written parental request, the OCSD Representative, the DoSE, and other OCSD personnel as needed, meet with the parent to discuss the parent's request, and review the record. The written parental request includes the date of the request, and the reason for the request.

The agency shall decide whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request.

34 CFR 300.618 (b)
34 CFR 99.20 (b)

If, after the meeting, the OCSD decides to amend the information, the DoSE informs the parent in writing of the decision and amends the record.

If the agency decides to refuse to amend the information in accordance with the request, it shall inform the parent of the refusal and advise the parent of the right to a hearing under 34 CFR 300.619.

34 CFR 300.618 (c)
34 CFR 99.20 (c)
702 KAR 1:40 Section 1

If, after the meeting, the OCSD decides not to amend the information in accordance with the parent's request, the DoSE provides a written explanation to the parent and advises the parent of the right to a record amendment hearing.

Request for Record Amendment Hearing

If a request to amend the information is made by a parent or legal guardian, the hearing procedures contained in 702 KAR 1:140 shall apply.

707 KAR 1:360 Section 6 (2)

The agency shall, on request, provide an opportunity for a hearing to challenge information in education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child.

34 CFR 300.619
34 CFR 99.21 (a)

The hearing may be conducted by any individual, including an official of the educational agency or institution, who does not have a direct interest in the outcome of the hearing.

34 CFR 99.22 (c)

Within five (5) business days of receipt of the parent's written request for a hearing, the Superintendent appoints a certified person who is a disinterested party to conduct the hearing. The DoSE and the person appointed to conduct the hearing, schedule the hearing to occur within thirty (30) calendar days of the date the request for a hearing was received.

“Disinterested party” is a person who:

1. will not benefit or suffer if the decision is for the child and against the OCSD, or for the OCSD and against the child; and
2. has no direct responsibility or authority for supervision of the child or personnel involved with the child.

Timelines for Record Amendment Hearing

Upon request, the school district shall arrange for a hearing to be held within thirty (30) days after the request for hearing and notify the student's parents(s) or guardian, reasonably in advance, of the date, place, and time of the hearing. The hearing shall be conducted by a hearing officer who is a disinterested party and is a certified official of the district appointed by the Superintendent.

702 KAR 1:140 Section 2 (2)
34 CFR 99.22 (a-b)

The OCSD conducts a hearing to challenge information in educational records on the following timetable:

1. The hearing is held within thirty (30) calendar days of the date of receipt of the parent's written request for a hearing.
2. The person conducting the hearing provides the parent written notice of the meeting, including the date, time, and place, at least seven (7) calendar days in advance of the hearing.
3. The person conducting the hearing issues the decision in writing to the parent and appropriate OCSD staff within ten (10) business days following the date of the hearing.

Conduct of Record Amendment Hearing

The hearing shall be private. Persons other than the student, parent(s), witnesses, and counsel shall not be admitted into the hearing. The hearing officer shall hear evidence from the school staff and the student's parent(s) or guardian to determine any points of disagreement regarding the records. The student's parent(s) or guardian shall be afforded a full and fair opportunity to present evidence relevant to the issues raised in the original request to amend the student's educational records. The parent(s) or guardian may be assisted by one (1) or more individuals, including an attorney.

702 KAR 1:140 Section 2 (3, 4, 5)
34 CFR 99.22 (d)

The hearing provides the parent or eligible student a full and fair opportunity to present relevant evidence. This includes the opportunity to:

1. present witnesses, question school employees, and provide oral testimony or written evidence as to the inaccurate or misleading information in the educational records; and

2. be represented by one or more persons at their own expense, including an attorney.

The individual conducting the hearing allows the DoSE and/or OCSD Representative to present evidence and testimony, and to question witnesses.

The decision of whether or not to amend an educational record is based solely on the evidence presented at the hearing and the applicable law.

Result of Record Amendment Hearing

The hearing officer shall make a determination after hearing the evidence in writing within ten (10) working days following the close of the hearing. The hearing officer shall make a determination based solely on the evidence presented at the hearing, and shall include a summary of the evidence and the reason for the decision. The parties to the hearing shall be provided a copy of the hearing officer's decision.

702 KAR 1:140 Section 2 (6)
34 CFR 99.22 (e-f)

If, as a result of the hearing, the hearing officer decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, the school district shall amend the information accordingly and inform the student's parent(s) or guardian of the amendment in writing.

702 KAR 1:140 Section 3 (2)
34 CFR 300.620 (a)
34 CFR 99.21 (b)

The DoSE amends the information in accordance with the decision of the Hearing Officer, and informs the parent, in writing, that the amendment of records has been completed. The OCSD maintains the documents related to the hearing separate from the educational records of the child or youth and destroys the records in accordance with OCSD Board Policy.

If the hearing officer decides after the hearing the challenged information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, the school district shall inform the student's parent(s) or guardian of the right to place a statement in the record commenting on the contested information or stating why he disagrees with the decision of the hearing officer. The statement shall be maintained as a part of the student's education records as long as the contested portion is maintained. If the school district discloses the contested portions of the record, it shall also disclose the statement.

702 KAR 1:140 Section 3 (1)
34 CFR 300.620 (b-c)

The DoSE assures that any statement received from the parent is placed in the child's education record, and identified in a manner that will ensure appropriate disclosure whenever the record is disclosed.

DISCLOSURE OF EDUCATIONAL RECORDS

List of Persons Who May Have Access to Educational Records

A LEA shall maintain, for public inspection, a current listing of the names and positions of employees within the LEA who may have access to personally identifiable student information.
707 KAR 1:360 Section 8 (4)
34 CFR 300.623 (d)

The DoSE develops a list of the names and positions of district level staff who may have a legitimate educational interest and access to personally identifiable information in educational records. The DoSE posts the list in the Central Office, and disseminates the list to each school building.

NOTE to DoSE: (May add coop staff to this section)

Each school develops a list of the names and positions of all building level staff who may have a legitimate educational interest and access to personally identifiable information in educational records. The principal posts the list of the school and district level staff with the special education files.

Written Parental Consent

Except as to disclosures to appropriate law enforcement agencies as referenced in 707 KAR 1:340, Section 17, parental consent shall be obtained before personally identifiable student information is:
(a) disclosed to anyone other than officials of the participating agencies collecting or using the information under 707 KAR Chapter 1; or
(b) used for any purpose other than meeting a requirement under 707 KAR Chapter 1.
707 KAR 1:360 Section 7 (1)
34 CFR 300.622 (a)
KRS 160.720 (1)

The written consent must:
(a) Specify the records that may be disclosed;
(b) State the purpose of the disclosure; and
(c) Identify the party or class of parties to whom disclosure may be made.
34 CFR 99.30 (a)

Consent for Release of Information for Transition Services

Parental consent, or the consent of an eligible child who has reached the age of majority under State law, must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services in accordance with 34 C.F.R. 300.321 (b)(3).
707 KAR 1:320 Section 3 (4)
KRS 160.720 (1)
34 CFR 300.321 (b) (3)
34 CFR 300.622 (b) (2)

OCSD obtains written parental consent before disclosing personally identifiable information to individuals or agencies other than those indicated on the disclosure without consent list. The Consent for Release of Information form provided by the OCSD is available in the Principal's Office of the school the child

attends and in the office of the DoSE. Copies of the completed forms are maintained in the educational records of the specific child.

Disclosure without Consent

An LEA shall not release information from education records to participating agencies without parental consent unless authorized to do so under the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. Section 1232g.

707 KAR 1:360 Section 7 (2)

34 CFR 300.622 (a)

34 CFR 99.31

KRS 160.720 (2)

OCS D may disclose personally identifiable information from an educational record without parental consent if the disclosure is:

1. to the parent of a student who is not an eligible student, or to the eligible student;
2. to school officials who have been determined by OCS D to have legitimate educational interest including:
 - a. members of the ARC;
 - b. personnel responsible for the IEP;
 - c. student teachers; and
 - d. paraprofessionals;
3. official personnel of another public school, school system, or institution of postsecondary education where the student seeks or intends to enroll;
4. to authorized representatives of:
 - a. the Comptroller General of the United States;
 - b. the Secretary; and
 - c. State and local educational authorities;
5. in connection with financial aid for which a student has applied or for which a student has received, provided that personally identifiable information from the records of the student is disclosed only as may be necessary for such purposes as:
 - a. determining the eligibility of the student for financial aid;
 - b. determining the amount of the financial aid;
 - c. determining the condition which will be imposed regarding the financial aid; or
 - d. enforcing the terms or conditions of the financial aid;
6. to state and local officials or authorities to whom information is specifically required to be reported or disclosed pursuant to state statute adopted prior to November 1974;
7. to organizations conducting studies for, or on behalf of, educational agencies or institutions to develop, validate, or administer predictive tests; administering student aid programs; or improving instruction;
8. to accrediting organizations in order to carry out their accrediting functions;
9. to parents of a dependent student, as defined in section 152 of the Internal Revenue Code of 1954;

10. to comply with a judicial order or lawfully issued subpoena, provided OCSD has made a reasonable effort to notify the parent or the student of the order or subpoena prior to compliance, unless the disclosure is in compliance with a Federal grand jury subpoena or any other subpoena issued for a law enforcement purpose;
11. to appropriate parties in a health or safety emergency; and
12. information OCSD has designated as "directory" information.

Emergency that May Warrant Disclosure Without Consent

An education agency or institution may disclose personally identifiable information from an education record to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals. 34 CFR 99.36 (a)

If an emergency arises in which it is necessary to protect the health and safety of a child or other individuals, OCSD discloses personally identifiable information from the educational records of the child to the appropriate parties connected with the emergency.

In determining whether or not an emergency exists that would warrant the disclosure of educational records, the building principal or designee considers the following factors:

1. the seriousness of the threat to the health or safety of the child or youth or other individuals;
2. whether the information is needed in order to take action during the emergency;
3. whether the individuals to whom the information is disclosed are in a position to act during the emergency; and
4. the extent to which time is of the essence in dealing with the emergency.

Upon determination by the building principal or designee that the situation is an emergency and warrants the disclosure of educational records, the building principal or designee obtains the records of the child and makes them available to the appropriate parties immediately.

Release of Education Records to another Public School District

The notice of rights to parents of enrolled students and eligible students includes a statement that OCSD releases the educational records, without parent consent, of a child who seeks to or enrolls in another public school district. The request for records may be made by:

1. the parent;
2. the eligible student; or
3. personnel of the receiving school.

Upon receipt of a request for records from the receiving district, the principal or designee documents the request on the Record of Disclosure, and provides copies (not originals) of the following special education records to the requesting public school district:

1. Consent to Evaluate/Reevaluate
2. Consent for Specially Designed Instruction
3. Current Meeting summary
4. Current IEP, student performance information, and data summaries
5. Current Assessment Report and Eligibility determination
6. Initial Assessment Report and Eligibility determination
7. Consent to bill Medicaid, if appropriate.

The complete special education record of the child is placed on inactive status according to **Child Tracking** in procedures for **CHILD FIND**.

If a parent or eligible student makes a request to the principal of the school for a copy of the educational records that have been transferred, OCSD provides a copy of all transferred records to the parent free of charge.

If a child transfers to another school within the OCSD, the entire special education record is transferred to that school.

If a child is enrolled, or is going to enroll in a private school that is not located in the LEA of the parent's residence, parental consent must be obtained before any personally identifiable information about the child is released between officials in the LEA where the private school is located and officials in the LEA of the parent's residence.

34 CFR 300.622 (3)

If OCSD receives a request from a private school or agency, the principal or designee requests that the parent sign the Consent for Release of Information before any educational records are sent. If copies of the record are provided, a fee may be charged according to **FEES FOR COPYING RECORDS** in procedures for **CONFIDENTIALITY**.

Records Regarding Migratory Children with Disabilities

An LEA shall transfer health and education records on migratory children with disabilities who move to other states in accordance with the No Child Left Behind Act, 20 U.S.C. 6398.

707 KAR 1:290 Section 10
34 CFR 300.213

If OCSD receives a request from a school or agency in another state regarding a migratory student, the principal or designee sends a copy of the student's health and education records and requests that the parent sign the Consent for Release of Information before any educational records are sent. If copies of the record are provided, a fee may be charged according to **FEES FOR COPYING RECORDS** in procedures for **CONFIDENTIALITY**.

Re-disclosure of Personally Identifiable Information

An educational agency or institution may disclose personally identifiable information from an education record only on the condition that the party to whom the information is disclosed will not disclose the information to another party without the prior consent of the parent or eligible student. An education agency shall inform a party to whom disclosure is made of the requirements of this section.

34 CFR 99.33 (a) (1) and (d)

In disclosing personally identifiable information from educational records other than to parents of students under eighteen (18), to the eligible student, or when releasing directory information, OCSD informs the party to whom the disclosure was made that use and disclosure of the information is subject to the requirements of the Family Education Rights and Privacy Act (FERPA).

Any information received by the OCSD is used only for the purposes for which the disclosure was made.

Prior to re-disclosing any information in an education record that was obtained from another source; the OCSD Representative contacts the parent or eligible student in order to obtain the parent or eligible student's written consent for re-disclosure. The parent or eligible student completes the Consent for Release of Information form prior to the re-disclosure of any information.

Parent Refusal to Release Information

If a parent refuses to provide consent for release of personally identifiable information, a party may request a due process hearing pursuant to 707 KAR 1:340 or comply with the FERPA.

707 KAR 1:360 Section 7 (3)

If a parent refuses to give consent for the disclosure of educational records needed to provide a free appropriate public education, and the OCSD disagrees with the parent's refusal for disclosure, the OCSD may request a due process hearing according to procedures in **PROCEDURAL SAFEGUARDS**.

CONFIDENTIALITY SAFEGUARDS

An LEA shall protect the confidentiality of personally identifiable student information at collection, storage, disclosure, and destruction stages.

707 KAR 1:360 Section 8 (1)

34 CFR 300.623 (a)

Records Security

OCSD ensures that the confidentiality of personally identifiable information is protected and unauthorized access is prevented at the following stages:

1. collection (e.g., during handling of referrals);

2. storage (e.g., secure files, protection of computer files);
3. disclosure (e.g., during access to records); and
4. destruction (e.g., during the process of records destruction).

Persons Responsible for Ensuring Confidentiality

A LEA shall assign a staff member to assume responsibility for ensuring the confidentiality of any personally identifiable student information.

707 KAR 1:360 Section 8 (2)
34 CFR 300.623 (b)

The Director of Pupil Personnel is responsible for ensuring the confidentiality of personally identifiable information for all students. The DoSE is responsible for the general supervision of all educational records related to children and youth with disabilities. Building principals have responsibility for all records maintained at the building level even though teachers may have custody of the records.

Confidentiality Training

A LEA employee collecting or using personally identifiable information shall receive training or instruction regarding the requirements of this administrative regulation.

707 KAR 1:360 Section 8 (3)
34 CFR 300.623 (c)

OCSD provides training for all OCSD personnel who collect, use, or maintain personally identifiable information. Within thirty (30) calendar days prior to the start of school, all OCSD administrative staff are trained regarding OCSD policies and procedures for confidentiality. Within thirty (30) calendar days of the start of school, all other OCSD personnel who have access to educational records are trained by the building principal or designee regarding OCSD policies and procedures regarding confidentiality. When new staff are employed during the school year, the individual's immediate supervisor provides training in confidentiality issues for the new employee. Copies of documentation for confidentiality training are maintained by the DPP at the Central Office.

OCSD provides training for volunteers and any others who may have access to personally identifiable information such as mentors, foster grandparents, student teachers, etc.

DESTRUCTION OF INFORMATION

An LEA shall inform the parent when personally identifiable student information collected, maintained, or used under 707 KAR Chapter 1 is no longer needed to provide education services to a child. The information shall be destroyed at the request of a parent. However, a permanent record of a child's name, address, and phone number, his grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitations.

707 KAR 1:360 Section 9
34 CFR 300.624 (a-b)

The Records Retention Schedule governs the destruction of all school records, and specifies that special education records must be maintained for seven years (note in the conference summary the year of graduation) after the last activity involving special education services for the specific child. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed and year completed may be maintained indefinitely.

During the Annual Review meeting for a student who is attending their last year of high school (see **Review and Revision of the IEP** in procedures for **IMPLEMENTATION AND SERVICE DELIVERY**) the ARC Chairperson explains the OCSD procedures for destruction of records. The ARC Chairperson asks the parent or eligible student to sign consent for destruction of records (see **CONFIDENTIALITY RESOURCES**) and files the form in the record of the student.

When OCSD determines that educational records are no longer needed to provide services for a child with a disability, the DoSE notifies the parent(s) to inform them of the date the records will be destroyed by:

- a. publishing a notice in the newspaper regarding the record destruction and the date the records will be destroyed.

Parent Request for Destruction of Records

If a parent requests the destruction of educational records, the Principal or designee destroys the records in accordance with the requirements of the Records Retention Schedule.

If a parent requests destruction, the OCSD does not destroy any records:

1. that have not been retained for a minimum period of time since the last activity (see Records Retention Schedule);
2. if there is an outstanding request to inspect or review the records;
3. if there is an unresolved finding of noncompliance in a program or fiscal audit; or
4. if the records are needed for planning and implementing an individual educational program to demonstrate compliance with applicable state and federal requirements.

If the parent of a child or youth with disabilities requests the destruction of records, the OCSD Representative or designee informs the parent or eligible student that the records may be needed to establish social security benefits or other purposes.

RIGHTS OF THE ELIGIBLE STUDENT

The rights of parents regarding education records under FERPA and 707 KAR Chapter 1 shall be transferred to the child at the age of eighteen (18), unless the child has been declared incompetent under KRS Chapter 387 in a court of law.

707 KAR 1:360 Section 10
34 CFR 300.625 (b)

Prior to the youth's eighteenth (18th) birthday, the OCSD Representative provides notice to the parent and the student that the rights regarding review, inspection, and disclosure of records will transfer to the youth at the age of eighteen (18). The notice is documented on the Conference Summary and in the IEP.

The OCSD does not disclose educational records of a youth over the age of eighteen (18) to the parent without:

1. the youth's written consent;
2. a court order; or
3. proof that the youth is a dependent student as defined in Section 152 of the Internal Revenue Code of 1954.