

# Records

## PROCEDURES FOR AMENDING EDUCATION RECORDS

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Model operating procedures created by



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# Procedures for Amending Education Records

## What is Required

Under the Family and Educational Rights and Privacy Act (“FERPA”) and the IDEA, a parent or eligible student who believes that information in the student’s education records collected, maintained, or used by the District is inaccurate, misleading or violates the privacy or other rights of the student may request that the District amend the information.

### **Request to Amend**

Within a reasonable period of time after the District receives the parent or adult student’s request to amend a record, District Administration must decide whether to amend the record as requested. If the District decides not to amend the record as requested, District Administration must inform the parent or eligible student of the decision and advise the parent or eligible student of the right to a records hearing.

### **Opportunity for a Records Hearing**

Upon request, the District must give the parent or eligible student an opportunity for a hearing to challenge the content of the student’s education record on the grounds that the information contained in the education record is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student.

### **Hearing Procedures**

The hearing on the amendment of records must be held within a reasonable time after the District receives the request for the hearing from the parent or eligible student. The District must give the parent or eligible student notice of the date, time, and place of the hearing within a reasonable amount of time prior to the hearing.

The hearing may be conducted by any individual, including a District official, who does not have a direct interest in the outcome of the hearing. During the hearing, the parent or eligible student must have a full and fair opportunity to present evidence related to the issue(s). The parent or eligible student may, at their own expense, be assisted or represented by one or more individuals of the parent or eligible student’s own choice, including an attorney.

Following the hearing, the District must make its decision within a reasonable period of time. The decision must be in writing and based solely on the evidence presented at the hearing. The decision must also include a summary of the evidence and the reasons for the decision.

## **Result of Records Hearing**

If, following the hearing, the District decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, the District must amend the record accordingly and inform the parent or eligible student of the amendment in writing.

On the other hand, if, following the hearing, the District decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it must inform the parent or eligible student of the right to place a statement in the record commenting on the contested information in the record or setting forth the reasons for disagreeing with the District's decision—or both. The District must maintain any statement placed in the student's records as part of the student's records for as long as the record is maintained by the District. Further, the statement must be disclosed whenever the District discloses the portion of the record to which the statement relates.

## **Additional Procedures**

### **Examples of Information That Is Amendable**

The law limits a parent or eligible student's right to seek to amend a record by allowing them to only challenge information that is inaccurate, misleading, or otherwise violates a student's privacy. Examples of information that could be amendable under the law include, but are not limited to, the following:

- Substantive decisions that are inaccurately recorded, such as grades being wrongly entered into the student information system—but only if the parent can provide compelling evidence to show that the decision is inaccurate;
- Attendance information;
- Noncustodial parent contact information, such as when a court order explicitly states that a parent should no longer have access to the student's records;
- Unnecessary or derogatory opinions, such as those using a racial or ethnic slur, that are not substantive decisions; and
- Items that a student shared with a school official in confidence that may violate their privacy if shared with others, such as information relating to a student's sexuality.

### **Limited Right to Amend**

The laws related to record amendment were only intended to require schools to conform to fair recordkeeping practices and not to override accepted standards and procedures for making academic assessments, disciplinary rulings, or placement determinations. Therefore, the right to amend a student's record is not unlimited. The law does not require the District to provide a parent or eligible student the right to seek to change substantive decisions made by school officials, such as grades, disciplinary decisions, other evaluations of the student, or disability placement or services.

If the amendment procedures are not applicable to the parent or eligible student's request for amendment, the District does not need to hold a hearing on the matter. Note that, although not required to do so, the District may still choose to fulfill a parent's request to amend information that is not required to be amended under the law.

### **Notice of Right to Amend**

The District is required to provide annual notice explaining how a parent or eligible student can seek an amendment to the student's education record. The notice must specify the individual or department whom the parent or eligible student should contact regarding the request, as well as the information that should be included in the request. See [ANNUAL NOTIFICATION].

### **Procedures to Amend Special Education Records**

Requests for challenging contents of a student's special education records must be submitted to the Principal of the student's school in writing. Upon receipt of such request, the Principal will schedule, within ten school days, a personal conference with the parent and other Special Education Personnel necessary to facilitate the meeting. Within five school days of the meeting, the Principal shall notify the parents in writing of its decision on the request and, if the request is denied, of their right to a hearing.

If a hearing is requested, it shall be held within 10 school days after the request is received. The parent or adult student shall be notified in advance of the date, time, and place of the hearing. A Special Education Administrator who is not responsible for the contested records and who does not have a direct interest in the outcome of the hearing shall conduct the hearing. The parent or adult student shall be given a full and fair opportunity to present evidence, and at their own expense, may be assisted or represented at the hearing.

During a hearing relating to the amendment, the District is not required to address concerns unrelated to the amendment. The decision about whether to amend the record should derive solely from the evidence presented in the hearing. Therefore, the District should aim to only discuss evidence regarding the record at issue during the hearing.

The parent or adult student shall be notified of the decision in writing within ten school

days of the hearing. The decision shall be based solely on the evidence presented at the hearing and shall include a detailed summary of the evidence and reasons for the decision. If the decision is to deny the request, the parent or adult student shall be informed that they have 30 school days within which to exercise the right to place in the record a statement commenting on the contested information and/or stating any reason for disagreeing with the District's decision.

### **Deleting Information**

The District may agree to grant a parent's request to delete or amend information that is no longer relevant without going through the amendment process, so long as it complies with state or District record-retention policies.

### **Revocation of Special Education Services**

If the parent revokes consent in writing for the student's receipt of special education services after the student is initially provided with special education services, the District does not need to amend the student's education records to remove any references to the student's receipt of special education and related services.

### **Failure to Provide Right to Amend**

If a parent or eligible student believes that the District has failed to provide the opportunity to seek amendment of inaccurate information in the student's education records or failed to offer an opportunity for a hearing on the matter, the parent may complete a parent complaint form. The complaint should include the following information: the date of the request for amendment of the student's education records; the name of the school official to whom the request was made, including a dated copy of any written request to the school, if possible; the response of the school official, if any; the specific nature of the information for which amendment was requested; and the evidence provided to the school to support the assertion that the information is inaccurate.

Should the parent file a complaint with the U.S. Department of Education, the District will have to demonstrate that it followed fair processes in compliance with FERPA. Therefore, to demonstrate compliance, it is critical that the District maintain a record of every communication and each step that was taken in making the decision.

[ADD ADDITIONAL DISTRICT PROCEDURES AS APPROPRIATE]

### **Evidence of Implementation**

- Notice of Procedural Safeguards
- Notice of Right to Amend

- Request to Amend
- Appointment of Impartial Hearing Officer
- Hearing Conducted by Impartial Hearing Officer
- Decision of Hearing Officer
- Amendment of Record
- Parent Statement in Record
- Parent Complaint Form
- [DISTRICT FORMS]

## **Resources**

[The Legal Framework for the Child-Centered Special Education Process: Procedures for Amending Education Records - Region 18](#)

[FCPO Letter to Anonymous \(May 1, 2015\) - U.S. Department of Education](#)

[FCPO Letter to Parent re: Amendment of Special Education Records \(Aug. 13, 2004\) - U.S. Department of Education](#)

[Questions and Answers about Education Records - U.S. Department of Education](#)

[FERPA General Guidance for Parents - U.S. Department of Education](#)

[ADDITIONAL DISTRICT RESOURCES]

## **CITATIONS**

Board Policy FL; 34 CFR 99.20–99.22, 300.618(a)–(c), 300.619–300.622