

Questions and Answers about Education Records

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A. What are education records and what are their uses?

1. What are education records?

In general, education records are records about current and former students that are maintained by public, private, and parochial schools. Education records contain information about a student, such as: a student's name, address, and telephone number; a parent's or guardian's name and contact information; grades and test scores; health and immunization records; discipline reports; documentation of attendance; schools attended; courses taken; awards conferred and degrees earned; and special education records including individualized education programs (IEPs).

2. What can I use education records for?

Education records can be used for a number of different purposes. For example:

- Education records can be used when students apply for college or enter into other types of education programs such as career training programs.
- Students requesting consideration of Deferred Action for Childhood Arrivals (DACA) can submit their education records to show that they were enrolled in school or to help show the student's continuous presence in the United States, or, in other words, that the student lived in the United States for a continuous period of time.

3. Where are education records located?

Generally, education records are located at the school the student attends or attended. If a student transferred schools, the student's education records may transfer with the student, but some education records may remain at a school the student attended in the past. Education records may also be located at the local school district of a school that the student attends or attended. It may be possible that education records on a student are also located at a State office that oversees local school districts.

4. What if I am a migrant student and my records are located in multiple different schools?

If you are or were a migrant student, some of your records may be included in the Migrant Student Records Information Exchange (MSIX). Please see *Section D, Questions 15-21* for information about student education records in MSIX.

5. Are there any legal requirements about how schools store and share education records?

Yes. The Family Educational Rights and Privacy Act (FERPA) is a federal law that protects the privacy of education records. Although both private schools and public schools maintain records on students, FERPA generally only applies to protect the privacy of education records maintained by public elementary and secondary schools, school districts, and postsecondary institutions. FERPA generally does not apply to K-12 private and parochial schools unless these schools receive federal funds.

If you are a student who is eligible to receive special education services under the Individuals with Disabilities Education Act (IDEA), there are also provisions under that law that apply to your education records and generally these provisions are consistent with FERPA. State laws or local policies may also apply. If you would like more information about requirements under the IDEA, state laws, or local policies, you should contact your school district.

6. How long must the school keep my education records?

It depends. Schools are not generally required by federal law to keep education records for any set period of time. However, schools are prevented from destroying an education record if someone has already submitted a request to view the education record. State laws or local policies may also apply and require a school to keep education records for a specific period of time. IDEA has specific requirements regarding destruction of education records of students with disabilities that your school district can tell you about.

B. Who can access education records?

7. Do I have a legal right to view my education records?

If you are under the age of 18, only your parent or guardian has the legal “right” under FERPA to inspect and review your education records. If you are age 18 or over or enrolled in a postsecondary institution (an “eligible student”), then you have a right to view your own education records. Under FERPA, a parent includes any natural parent, guardian, or individual (such as a foster parent) acting as parent in the absence of a parent or guardian. The right to view the education records only covers a right to view the information in the student’s education records that is about that student, and not information in the records that is about any other student.

8. If I cannot understand English, or my parent does not understand English, do my parent(s) and I have a right to get help from the school to understand the education records?

Yes. Federal civil rights laws require school districts to communicate effectively with students and parents who do not understand English. This means that the school must provide meaningful access to the information in the students’ education records. For example, if you or your parent requests to view your education records, and you or your parent cannot understand English, the school can provide meaningful assistance to you or your parent, by providing a qualified interpreter or written translation, to help you understand the information in the education records in a language you can understand.

9. Can anyone other than me or my parent view my education records?

Yes. Under FERPA, a school or school district may disclose information from your education records without your consent to specific entities, such as a State education office, or for specific purposes, such as to comply with a court order. You may also ask someone else to view your education records for you (*see Question 10*).

10. Can I ask someone else to view my education records for me?

Yes. Under FERPA, if your parent or you (if you are an “eligible student” (*see Question 7*)) would like someone else to view your education records, then your parent or you (if you are an

eligible student) should provide written consent to the school or school district permitting that person to access the record(s). Written consent includes all of the following:

- *Signature* of the eligible student or the parent of a non-eligible student consenting to allow another person to see the education record(s);
- *Date* that the consent was signed;
- *Name* of the person(s) who may see the education record(s);
- *Description* of the education record(s) that may be disclosed (or the information from the education record(s) that may be disclosed); and
- The *reason* for allowing the person or party to see the education record(s).

If you are a student covered by the IDEA, your parent or you (if you have reached the age of majority in your State (generally over 18) and parental rights have transferred to you), does not need to provide consent when asking someone else to view your education records. Instead, under the IDEA a representative of your parent or you (if parental rights have transferred to you) has a right to inspect and review your education records, and the school cannot require written consent from your parent or you before granting this request.

11. If I give consent for someone else to view my education records, does the school have to provide that person access to my education records?

It depends. Under FERPA, the school may choose to provide that person access based on the consent you provided, but the school is not required to do so. Under the IDEA, however, if you are a student covered by the IDEA, the school must provide a representative of your parent (or you, if parental rights have transferred to you (*see Question 10*)) access to inspect and review your education records, even without requiring your parent's written consent (or your consent, if parental rights have transferred to you).

12. When I request access to my education records, is the school required to give me a copy of my education records?

Generally, no. Schools are required to allow parents and eligible students to inspect and review education records, but schools are not required to provide copies of education records unless the circumstances effectively prevent the parent or eligible student from being able to review the records without being sent a copy, and the school does not want to arrange another way for the parent or eligible student to view the records. For example, if the parent does not live in commuting distance from the school and could not get to the school site to view the records, the school is required to provide a copy or to make other arrangements for the parent to inspect and review the records.

If the school provides a copy of the education records, the school may charge a reasonable copying fee, unless charging the fee would prevent the parent or eligible student from being able to view the education records.

13. How long does it generally take to access my education records?

Under FERPA, the school is required to make education records ready for review by the parent or eligible student within 45 days of a request.

If you are a student who receives special education services under the IDEA, a school also must comply with a request to view your education records without unnecessary delay and before certain events required by the IDEA such as any meeting regarding an individualized education program (IEP) or any due process hearing or resolution session.

C. How can I make changes or fix problems with my education records under the federal law called FERPA?

14. How can I change something if information in my education records is wrong?

A parent or an eligible student may request a correction or amendment to an education record that he or she believes is incorrect, misleading, or violates his or her right of privacy.

Generally, a FERPA amendment process may not be used to challenge a grade, disciplinary decision, or other substantive decision made by a school official. The school is not required to make the change but must consider the requested change.

If the school decides not to make the requested change, then the school must inform the parent or eligible student of his or her right to a hearing on the matter. The parent or eligible student may have assistance or representation, at their own expense, at the hearing and must be provided with the opportunity to present evidence at the hearing. The hearing decision must be written and be based solely on evidence presented at the hearing. If the parent's or eligible student's request is denied, the parent or eligible student has the right to include a statement in the record stating why he or she believes that the information contained in the education record is incorrect, misleading, or violates his or her right of privacy, why he or she disagrees with the hearing decision, or both.

D. What about records in the Migrant Student Information Exchange (MSIX) system?

15. What is the Migrant Student Information Exchange (MSIX) system?

MSIX is a web-based technology that allows States participating in the federal Migrant Education Program (MEP) to share educational and health information on migrant children who travel from State to State and who, as a result, have school records in multiple States. MSIX produces a *Consolidated Student Record* so that school staff members, such as guidance counselors and registrars, are able to quickly access a child's previous enrollment records, secondary course history information, and academic assessments to determine the student's appropriate placement within a new school. School staff are also informed about the availability of a child's immunization record, as well as the existence of any medical alerts, prior to starting school.

Any child, regardless of age, who has a *Consolidated Student Record* stored in MSIX may request a copy of this record. A parent, or an individual acting in place of the child's parent, also may request a copy of the child's MSIX record if the child is a minor (in most states, if the

child is under the age of 18). See *Question 21* for further information on how to make this request.

16. What information is included in an MSIX *Consolidated Student Record*?

Every student whose records are included in MSIX has a *Consolidated Student Record*. If a student has participated in the MEP in multiple schools and/or States, MSIX joins the information that has been provided for each school and produces an individual *Consolidated Student Record* that details the student's school history. The *Consolidated Student Record* shows the schools in which a migrant child was enrolled, the secondary classes the child has taken, the number of course credits the child received, and the results of any State or local assessments the child has taken. The *Consolidated Student Record* also provides information about the availability of the migrant child's immunization records, and shows whether the migrant child has a medical alert that should prompt the school to follow up further with the child's parent.

17. What is the Migrant Education Program (MEP) and how can I find out if I am or was eligible?

Generally, children are eligible for the MEP if the child moved on their own or with their parents or guardians within the past three years across State or school district boundaries in order to obtain temporary or seasonal work in agriculture or fishing. However, each State must confirm that the child meets the program's eligibility criteria, and you or your parent were likely interviewed by an MEP representative to determine whether you were eligible. If you believe you are, or may have been, eligible for the MEP, you should verify this with any school district where you attended school and where you think you were determined to be eligible for the MEP. If you were determined to be eligible for the program, you may have an education record in MSIX. See *Question 21* for information on accessing your *Consolidated Student Record* from MSIX, or *Section B* for more general information on accessing your education records from the school or school district.

18. Does the MSIX *Consolidated Student Record* contain information from every school a migrant child has ever attended?

Not necessarily. The *Consolidated Student Record* only contains information from those time periods in a migrant child's history when he or she was enrolled in the MEP. For example, a child was enrolled in the MEP while he or she was in third, fourth, and fifth grade. If the child's MEP eligibility ended in fifth grade and he or she did not re-qualify for the Program, MSIX would only have information from the schools the child attended during the third, fourth and fifth grades. The degree of participation of individual States in MSIX can also affect the information available within MSIX.

19. Should MSIX have information on a child if he or she was enrolled in the MEP, but not in a school?

Yes. If the child was enrolled in the MEP, but not in school, MSIX should contain data on the child, but it will be limited to demographic data (e.g., child's name, date of birth, birth city, birth state, birth country, legal mother's name, and legal father's name) and the name(s) of the MEP(s) in which the child was enrolled.

20. Who can request a copy of a MSIX Consolidated Student Record?

If you are or were an eligible migrant child, you can request a copy of your own record. If you are a minor (if you are under the age of 18 in most states) your parent or someone acting *in loco parentis* (in place of a parent) can also request a copy of your record on your behalf.

21. How can a child or the child's parent request a copy of his or her MSIX Consolidated Student Record?

An eligible (or formerly eligible) migrant child or the parent of a minor, eligible (or formerly eligible) migrant child can request a copy of his or her MSIX *Consolidated Student Record* in one of three ways. These options are presented in the order that is easiest for both children and parents, and would most likely result in the quickest and most complete access to the child's MSIX *Consolidated Student Record*.

Option 1

The best way to obtain your MSIX *Consolidated Student Record* is generally by contacting administration officials at any school district where the migrant child attended and was enrolled in the MEP. School district personnel with access to MSIX will verify the child's identity, or, if applicable, the parent's identity and the parent's relationship to the child, by using reasonable methods consistent with the responsibilities outlined in the MSIX Rules of Behavior. Once they have verified this information, the school district staff will locate your or your child's record in MSIX.

If you are unsuccessful in obtaining the record from the school district, you may contact the State MEP Director (*see Option 2*).

Option 2

Contact the State MEP Director at any State education agency (also referred to as a State Department of Education, State Department of Public Instruction, or the like) in a State where the migrant child lived and was enrolled in the MEP. Contact information for State MEP Directors is available at <http://results.ed.gov> or by calling the U.S. Department of Education's Office of Migrant Education (OME) at (202) 260-1164. State MEP staff with access to MSIX will verify the child's identity, or, if applicable, the parent's identity and the parent's relationship to the child, by using reasonable methods consistent with the responsibilities outlined in the MSIX Rules of Behavior. Once State MEP staff have verified this information, they will locate your or your child's record in MSIX.

If you are unsuccessful in obtaining the record from the State MEP Director, you may contact the U.S. Department of Education's Office of Migrant Education (OME) (*see Option 3*).

Option 3

Contact the U.S. Department of Education's Office of Migrant Education (OME) for specific instructions on how to access a copy of your or your child's record in MSIX. OME can be contacted at:

U.S. Department of Education
Office of Migrant Education
400 Maryland Avenue, SW
Washington, DC 20202
Phone: (202) 260-1164
Email: msix@ed.gov

Please ensure that your request includes your current contact information. There is generally no cost to request your record from the Department. While there may be a fee for records in excess of 250 pages, we will contact you before responding to such requests.

E. What can I do if I have additional questions about my education records and my rights related to my records?

22. Where can I find more information about my rights related to my education records under the federal law called FERPA?

More information about FERPA can be found on the U.S. Department of Education website at <http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html>. Laws and regulations about FERPA can be found in 20 U.S.C. 1232g and 34 CFR Part 99. The U.S. Department of Education's Family Policy Compliance Office (FPCO) is available to provide assistance on FERPA, and can be contacted at:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-5920
Phone: 1-800-USA-LEARN (1-800-872-5327)

23. Where can I find more information about my rights related to my education records under the federal law called IDEA?

More information about IDEA can be found on the U.S. Department of Education website at <http://idea.ed.gov/>. Laws and regulations about the IDEA confidentiality provisions can be found in 20 U.S.C. 1417(c) and 34 CFR §§300.610-300.626.

24. Where can I find more information about my education records in MSIX?

Laws and regulations about eligibility for the MEP can be found in section 1309 of the Elementary and Secondary Education Act of 1965, as amended (ESEA) and 34 CFR §200.81. The U.S. Department of Education's Office of Migrant Education (OME) can also provide more information about MSIX and can be contacted at:

U.S. Department of Education
Office of Migrant Education
400 Maryland Avenue, SW
Washington, DC 20202
Phone: (202) 260-1164
Email: msix@ed.gov

25. Where can I find more information about my rights related to my education records under the state law and local policy?

If you would like more information about requirements under the IDEA, state laws, or local policies, you should contact your school district.