



EDUCATION		
4420.07 Special Education: Confidentiality of Information	Effective	01/31/2019
	Replaces	4420.07
	Dated	07/02/2008

The Arizona Department of Juvenile Corrections (ADJC) shall protect the confidentiality of personally identifiable information at the collection, storage, disclosure to third parties, retention and destruction stages of all juvenile education records. [34 CFR §300.572(a), 300.560, 300.576, 300.562, 300.611-300.627]

AUTHORITY

Arizona Revised Statutes (A.R.S.)	
41-2804	Duties and Powers of Director
15-761	Definitions
15-763.01	Surrogate parent; notification; appointment
15-764 (A)(5)	Powers and duties of the school district governing board or county school superintendent
15-765	Special Education in rehabilitation, corrective or other state and county supported institutions, facilities or homes
15-766	Evaluation of child for placement in special education program; due process hearing procedures
15-828 (F-G)	Birth certificate; school records; exception
15-1181	Definitions
Code of Federal Regulations	
34 CFR 300	Education
Arizona Administrative Code (AAC)	
R7-2-401	Special Education Standards for Public Agencies Providing Educational Services
R7-2-405	State Board of Education

DEFINITIONS

1. **Parent:**
 - a. **General.** As used in this part, the term parent means:
 - i. A natural or adoptive parent of a child;
 - ii. A guardian but not the state if the child is a ward of the State;
 - iii. A person acting in the place of a parent (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child's welfare); or
 - iv. A surrogate parent who has been appointed pursuant to §300.515.
 - b. **Foster parent.** Unless state law prohibits a foster parent from acting as a parent, a State may allow a foster parent to act as a parent under Part B of the IDEA if:
 - i. The natural parents' authority to make educational decisions on the child's behalf has been extinguished under State law; and
 - ii. The foster parent:

- (1) Has an ongoing, long-term parental relationship with the child;
 - (2) Is willing to make the educational decisions required of parents under the IDEA; and
 - (3) Has no interest that would conflict with the interests of the child.
- c. **Transfer of Parental Rights-** when a student reaches the age of majority (Turns 18) all rights afforded to parents shall transfer to the student (except for a child with a disability that has been determined to be incompetent under State law)

PROCEDURES

1. **Access rights: [34 CFR §300.613]**

- a. The parent/guardians have the authority to inspect and review records relating to his/her child that are collected, maintained or used by the PEA under IDEA unless the agency has been advised that the parent/guardian does not have the authority under applicable state law (e.g., guardianship, separation, marriage or divorce) [34 CFR §300.562(c), ARS §15-761(21), AAC R7-2-405(8), R7-2-401 (22)];
- b. The eligible student has the right to inspect and review his/her education record[§§99.7, 300.564];
- c. The student has the right to seek amendment of his/her education record that is believed to be inaccurate, misleading, or in violation of the student's privacy rights [§§99.7, 300.618];
- d. The student or parent/guardian may request the educational record:
 - i. **PEA** shall comply with a request without unnecessary delay and in no case more than 45 days after the request has been made and before:
 - (1) Any IEP meeting;
 - (2) Any hearing involving a due process complaint or disciplinary hearing; or
 - (3) Any resolution session.
- e. The **PEA** shall provide access to a designated representative of the parent to inspect and review the records;
- f. The eligible student (18 years and older) has the right to give consent before the release of his/her record or personally identifiable information is disclosed, except to the extent that the Act and §99.31 authorizes disclosure without consent [§99.5]; and
- g. **ADJC** shall specify criteria for determining who constitutes a school official if it discloses information in the optional situations without prior consent [§99.31(a)].

2. **Record of access: [34 CFR §300.614]**

- a. The **PEA DESIGNEE** shall keep a record of parties obtaining access to education records collected, maintained, or used under IDEA (except access by parent/guardian and authorized employees of ADJC). The record shall include:
 - i. The name(s) of the party(ies);
 - ii. The access date; and
 - iii. Purpose for which the party (ies) is authorized to use the records
- b. Upon receiving a written request the **PEA DESIGNEE** shall forward special education records to any other public education agency in which a student has enrolled or is seeking to enroll. Records shall be forwarded within the time-frame specified in ARS 15-828(F). The **PEA** shall also forward records to any other person or agency for which the parents/guardian have given signed consent.

3. **Record of access on more than one student: [34 CFR §300.615]**

- a. If any education record includes information on more than one student, the student and his/her parent/guardian have the right to inspect and review only the information relating to the student.

4. **Notification of rights eligible students: [34 CFR §300.561]**

- a. The **PEA** shall:

- b. Distribute the notice in the native language(s) of the various population groups in the ADJC secure facility [§300.561(a)(4)];
 - c. Publish a notice or announcement in newspapers, through other media, or both with circulation adequate to notify local parents before any major identification, location, or evaluation activity [§300.561(b)].
5. **List of type and location of information: [34 CFR §300.616]**
- a. The **PEA DESIGNEE** shall provide the parent/guardians, upon request, a list of the types and locations of education records collected, maintained, or used by ADJC.
6. The **PEA DESIGNEE** shall ensure that the annual notice contains:
- a. A description of all the rights of the student under the Family Educational Rights and Privacy Act of 1974 (FERPA) and the implementing regulations and in accordance with IDEA and its regulations;
 - b. A statement that eligible students have the right to inspect and review their education record [§§99.7, 300.564];
 - c. The procedure for exercising the right to inspect and review the student's education record within 45 days in accordance with §99.7, §§99.10, 300.521, and 300.528;
 - d. A statement that eligible students have the right to seek amendment of their education record that is believed to be inaccurate, misleading, or in violation of their privacy rights [§§99.7, 300.567];
 - e. The procedure for requesting amendment of the record; [§99.7]
 - f. A statement that eligible students have the right to give consent before the release of personally identifiable information, except to the extent that the Act and §99.31 authorize disclosure without consent [§99.7];
 - g. A specification of criteria for determining who constitutes a school official if the agency discloses information in the optional situations without prior consent; [§99.31(a)]
 - h. A statement of what constitutes a legitimate educational interest [§99.7(a)];
 - i. A notice of rights regarding records transfer at age 18; [§§99.5(a), 300.574(b)]
 - j. A description of the student whose personally identifiable information is maintained, the types of information sought, the methods the public agency intends to use in gathering the information, including the sources from whom information is gathered, and the uses to be made of the information;
 - k. A summary of the procedures that the agency shall follow in the storage, disclosure to third parties, retention, and destruction of personally identifiable information; and
 - l. The process by which a student can exercise the right to file a complaint concerning alleged failures by ADJC to comply with FERPA.
7. **Fees: [34 CFR §300.617]**
- a. The **PEA**:
 - i. May charge a fee of 25 cents (per page) for copies of records that are made for the parent/guardian if the fee does not prevent the parent/guardian from exercising his/her right to inspect and review records; and
 - ii. Shall **not** charge a fee to search for or retrieve information.
8. **Amendment of records at parent/guardian request: [34 CFR §300.618]**
- a. The **PEA DESIGNEE** shall ensure there is a process in place for a parent/guardian who request(s) an amendment of student records if they believe that information in an education record collected, maintained, or used by ADJC is inaccurate, misleading, or violates student privacy or other rights of the student;
 - b. The **PEA DESIGNEE** shall decide whether to amend information within a reasonable period of time after the receipt of the request;
 - c. If the PEA designee refuses to amend the information in accordance with the request, the **PEA DESIGNEE** shall inform the student and parent/guardian of the refusal and of the right to a hearing under §300.619.

9. Opportunity for a hearing: [34 CFR §300.619]

- a. The **PEA DESIGNEE** shall, on request of the parent/guardian, 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 student.

10. Result of a hearing: [34 CFR §300.620]:

- a. As a result of a hearing, if the **PEA DESIGNEE** decides:
 - i. To amend information determined inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, the **PEA DESIGNEE** shall do so accordingly and inform the parent/guardian in writing;
 - ii. That the information is not inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, the **PEA DESIGNEE** shall inform the parent/guardian of their right to place in the maintained records a statement commenting on the information or setting forth any reasons for disagreeing with the decision:
 - (1) The **PEA DESIGNEE** shall:
 - (a) Maintain the statement with the record or contested portion; and
 - (b) Disclose the explanation if the records are released.

11. Consent: [34 CFR §300.622]

- a. The **PEA DESIGNEE** shall ensure:
 - i. Parental consent is obtained before personally identifiable information about the student is disclosed to parties other than participating agencies unless the information is contained in education records and the disclosure is authorized without parent's/guardian's consent under FERPA; and
 - ii. Parental consent is obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services in accordance with 34 CFR §300.321.

12. Safeguards: [34 CFR §300.623]

- a. The **PEA DESIGNEE** shall:
 - i. Protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages;
 - ii. Designate an official to assume the responsibility for ensuring the confidentiality of any personally identifiable information;
 - iii. Ensure that all personnel collecting or using personally identifiable information receive training or instruction regarding the State of Arizona's policies and procedures under §§300.123 and FERPA 34 CFR Part 99; and
 - iv. Maintain a current list for public inspection, and a current listing of the names and positions of employees within ADJC who may have access to personally identifiable information.

13. Destruction of information: [34 CFR §300.624]

- a. The **PEA DESIGNEE** shall:
 - i. Inform the student and/or parent/guardian when personally identifiable information collected, maintained, or used for IDEA purposes is no longer needed to provide educational services to the student; and
 - ii. Destroy the information at the request of the parent/guardian. However, a permanent record of a student's name, address, and phone number, his/her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

14. Student's rights: [34 CFR §300.625]

- a. The **PEA DESIGNEE** shall ensure:
 - i. The rights of the parent/guardian regarding educational records are transferred to the student at the age of 18 under FERPA and IDEA unless the student has been adjudicated incapacitated, or the student has executed a delegation of rights to make educational decisions pursuant to A.R.S. 15-773:
 - (1) **ADJC** shall provide any notice required under the procedural safeguards provisions.
 - ii. Past the age of 18, a student may request to be sent a notice of student rights as allowed by FERPA, IDEA, and ADJC policy and procedures.

15. Disciplinary information: [34 CFR §300.576]

- a. The **PEA DESIGNEE** shall:
 - i. Include in the records of a student with a disability a statement of any current or previous disciplinary action that has been taken against the student;
 - ii. Transmit the disciplinary information on students with disabilities to the same extent that disciplinary information is transmitted on non-disabled students;
 - iii. At his/her discretion, include in the disciplinary statement a description of any behavior engaged in by the student, description of the disciplinary action taken, and any other information that is relevant to the safety of the student and other individuals;
 - iv. Include in the transmission of any of the student's records, the current IEP, current evaluation, and any statement of current or previous disciplinary action that has been taken against the student if a student transfers from one school to another; and
 - v. If a student transfers from one school to another, send the transmission of any of the student's records to the receiving school within the timeframe specified in state statutes:
 - (1) This action shall **not** require the consent of the parent(s). [§§ 15-828(F) and (G)]

<p>Signature Date</p> <p><u>01/29/2019</u></p>	<p>Approved by</p> <p><u>Original Signature on File</u> Dr. Kim Eger, Education Superintendent</p>
<p>Signature Date</p> <p><u>01/30/2019</u></p>	<p>Approved by</p> <p><u>Original Signature on File</u> Jeff Hood, Director</p>
<p>Effective Date</p> <p><u>01/31/2019</u></p>	