

MEMORANDUM

TO: Principals and Superintendents
FROM: Office of Student Services
DATE: February 8, 2017
SUBJECT: Transfer of Student Records

We have received numerous queries regarding student transcripts and records. The following is intended to summarize Indiana law on this matter and provide guidance for making records inquiries in the future.

There are two issues involved in the transfer of student records:

- 1) **I.C. 20-33-2-10.** Under I.C. 20-33-2-10(d), a school in Indiana receiving a request for records shall send the records promptly to the requesting school. The intent is that when a student enrolls in another school, the previous school is to promptly send the student's records to the new school. Records release is linked to actual student enrollment for a number of reasons, not the least of which is the practical risk of releasing sensitive materials when a transfer has not been confirmed.

- 2) **The Family Educational Rights and Privacy Act (FERPA).** This statute prohibits a school from releasing a student's educational record without the written, informed consent of the parent or eligible student. There are some exceptions where schools *may* release records without parental consent. However, it is important to note that these exceptions are at the *discretion* of the school, and some of the exceptions have additional requirements with which the school must comply. 34 CFR 99.31(a) sets forth 16 exceptions for releasing student education records without written consent. 34 CFR 99.31(a)(2) would permit a school to disclose education records to another school where the student seeks or intends to enroll, or where the student is already enrolled, so long as the disclosure is related to the student's enrollment or transfer *and* the school complies with the requirements of 34 CFR 99.34. 34 CFR 99.34 requires: (1) that the school make a "reasonable attempt" to notify the parent or eligible student of the disclosure, unless the parent or the eligible student initiated the disclosure or the school provided annual notification; (2) give the parent or the eligible student, upon request, a copy of the record that was disclosed; and (3) give the parent or the eligible student an opportunity for a hearing.

Public school policies that do not release student records until the student has been officially withdrawn from school **are** acceptable. It is also appropriate that student records be released to parents upon request. This position is in alignment with I.C. 20-33-2-10(d) and FERPA regulations. It is impermissible to require families to attend case conferences or to meet with outgoing-school officials before releasing student records to requested transfer schools.

Indiana Department of Education

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Schools wishing to obtain student records should have the parent or legal guardian sign and date a formal written request to the “former” school that specifies what records are to be released, to whom the records are to be released, and the purpose. The parentally-signed request should also specify that the consent may be revoked at any time in writing, but that this revocation would only affect the future release of records—not records that had already been released.

Public School Requests to Private Schools

Effective April, 2012, I.C. 20-33-2-10 has been amended to include the following language:

...(d) A school in Indiana receiving a request for records shall send the records promptly to the requesting school. However, if a request is received for records to which a notice has been attached under IC 31-36-1-5 (IC 31-6-13-6 before its repeal), the school (1) shall immediately notify the Indiana clearinghouse for information on missing children and missing endangered adults; (2) may not send the school records without the authorization of the clearinghouse; and (3) may not inform the requesting school that a notice under IC 31-36-1-5 (or IC 31-6-13-6 before its repeal) has been attached to the records.

(e) Notwithstanding subsection (d), if a parent of a child who has enrolled in an accredited nonpublic school is in breach of a contract that conditions release of student records on the payment of outstanding tuition and other fees, the accredited nonpublic school shall provide a requesting school sufficient verbal information to permit the requesting school to make an appropriate placement decision regarding the child.