



Consent

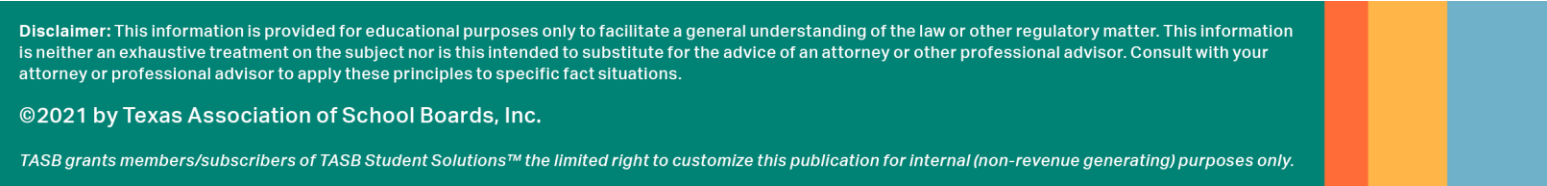
CONSENT FOR DISCLOSURE OF CONFIDENTIAL INFORMATION

August 2023

Disclaimer: This information is provided for educational purposes only to facilitate a general understanding of the law or other regulatory matter. This information is neither an exhaustive treatment on the subject nor is this intended to substitute for the advice of an attorney or other professional advisor. Consult with your attorney or professional advisor to apply these principles to specific fact situations.

©2021 by Texas Association of School Boards, Inc.

TASB grants members/subscribers of TASB Student Solutions™ the limited right to customize this publication for internal (non-revenue generating) purposes only.



Consent for Disclosure of Confidential Information Customized by [insert school district logo here]

CONTENTS

CONSENT FOR DISCLOSURE OF CONFIDENTIAL INFORMATION..... 1

 What is Required 1

 Elements of Consent to Disclose Confidential Information 1

 Definitions..... 2

 Additional Procedures..... 2

 Inviting Outside Agencies to ARD Meetings 3

 Evidence of Implementation..... 3

 Resources..... 3

CITATIONS 3

CONSENT FOR DISCLOSURE OF CONFIDENTIAL INFORMATION

What is Required

A student's personally identifiable information is protected from disclosure under the Family Education Rights and Privacy Act ("FERPA"). Generally, the District must obtain informed consent from the parent before disclosing personally identifiable information to third parties, except in certain circumstances. See [RECORDS] and [WHEN CONSENT IS NOT REQUIRED TO DISCLOSE INFORMATION].

Circumstances when informed consent is required to disclose confidential information of a special education student include:

- When disclosure is to officials of agencies providing or paying for transition services;
- When the District invites a representative of a participating agency to join the ARD Committee if the agency is likely to be responsible for providing or paying for transition services; and
- If the child is enrolled or is going to enroll in a private school that is not located in the District, when disclosure is to the school district where the private school is located.

Elements of Consent to Disclose Confidential Information

To constitute informed consent for the disclosure of confidential information, the following must occur:

- The parent has been fully informed of all information related to the disclosure of confidential information in the parent's native language or other mode of communication, including:
 - Specifying the records that may be disclosed;
 - Stating the purpose of the disclosure; and
 - Identifying the party or class of parties to whom the disclosure may be made;
- The parent understands and agrees in writing to the District disclosing the confidential information;
- The consent is signed and dated; and
- The parent understands that the granting of consent is voluntary by the parent and may be revoked at any time, except that if the parent revokes consent, the revocation is not retroactive (i.e. it does not negate any action occurring after the consent was given but before the consent was revoked).

Consent for Disclosure of Confidential Information
here]

Customized by [insert school district logo

Definitions

“Disclosure” means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record.

“Personally identifiable information” includes the student’s name, the name of the parent, the name of another family member, the parent’s address, any personal identifier (e.g. social security number), or a list of characteristics that would make it possible to identify the student with reasonable certainty.

Additional Procedures

Campus Special Education Personnel will attempt to obtain parental consent for the disclosure of confidential information by identifying the parent and providing the parent with the Consent for Disclosure of Confidential Information form by phone, email, certified mail, or in person. See [PARENT].

The Consent for Disclosure of Confidential Information form will request the following:

- The name of the person and/or agency to whom the information will be disclosed;
- The address, phone number, fax and/or email address of the individual or agency to whom the information will be disclosed;
- The records that are requested or the records that are to be released;
- The purpose of the disclosure;
- The contact information of Campus Special Education Personnel for the parent to receive more information;
- An acknowledgement that the parent has been fully informed of the request in the parent’s native language or other mode of communication and fully understands the request;
- An acknowledgement that the parent understands that the consent is voluntary and may be revoked at any time, but that the revocation will not be retroactive; and
- An acknowledgement that the parent consents to the disclosure of confidential information.

The Consent for Disclosure of Confidential Information form should also include a date or period of time upon which the authorization will expire. After signing the Consent for Disclosure of Confidential Information form, the parent should return the form to the Campus Special Education Personnel identified in the form as soon as possible.

Examples of when the District will need to obtain consent to disclose confidential

Consent for Disclosure of Confidential Information Customized by [insert school district logo here]

information include, but are not limited to, the following:

- Transition services;
- Outside agency individuals participating in ARD meeting;
- Parent invitees to ARD meetings who are not employees of the District;
- Independent Educational Evaluations; and
- Parental placement in a private school located outside of the District's boundaries.

Consent may be obtained electronically so long as it (1) identifies and authenticates a particular person as the source of the electronic signature; and (2) indicates such person's approval of the information contained in the electronic format.

Inviting Outside Agencies to ARD Meetings

While the District may invite officials from another agency to an ARD meeting, the District will need to obtain parental consent for the individual to participate in the ARD meeting. Campus Special Education Personnel will obtain consent for the disclosure of confidential information for each ARD meeting prior to inviting a representative of another agency. One-time consent is not sufficient.

Evidence of Implementation

- Consent for Release of Confidential Information Form
- FERPA Notice
- Access Log

Resources

[The Legal Framework for the Child-Centered Special Education Process: Consent for Disclosure of Confidential Information - Region 18](#)

[Questions and Answers on Individualized Education Programs \(IEPs\), Evaluations, and Reevaluations \(Revised Sept. 2011\) - U.S. Department of Education](#)

[OSEP Letter to Gray \(Mar. 17, 2008\) - U.S. Department of Education](#)

[Student Record FAQ's - Texas Education Agency](#)

[OSEP Letter to Reisman \(Nov. 30, 2012\) - Texas Education Agency](#)

CITATIONS

Consent for Disclosure of Confidential Information
here]

Customized by [insert school district logo

Board Policies EHBAE and FL; 34 CFR 99.30; 300.321(b); 300.622(a)–(b); 300.9