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3 tiers of access: Be clear on who may access what in student information

To optimize learning for students with disabilities under the IDEA, districts must share information among the professionals who provide them special education and related services in accordance with the [Family Educational Rights and Privacy Act](#) and other federal and state privacy laws.

Districts must provide, for certain teachers and support staff members, access to student information related to their responsibilities, including accommodations, modifications, and supports described in the individualized education programs of the students with whom they are working.

FERPA and its implementing regulations provide for schools to disclose educational records, including IEPs, without parental consent to "school officials, including teachers, within the agency or institution whom the agency or institution has determined to have *legitimate educational interests*." [34 CFR 99.31 \(a\)\(1\)\(i\)\(A\)](#).

Therefore, as an initial matter, districts should generally provide all teachers and related service providers responsible for implementing a student's IEP, including the student's general education teachers, full access to that student's IEP, according to **Michelle A. Todd** and Kaitlin Atlas, both attorneys with Hodges, Loizzi, Eisenhammer, Rodick & Kohn LLP in Arlington Heights, Ill. [34 CFR 300.323 \(d\)](#). Others, like paraprofessionals, may have more limited access, whereas those having tertiary interactions with IDEA-eligible students may be relegated to IEP information only as needed.

Districts should be clear on who gets access to student IEP information. Following are some, but not all, considerations for granting access to stakeholders and to what degree they may have access to information in a student's IEP.

Full access to the student's IEP

Todd and Atlas noted that how schools share IEP documents is discretionary.

The attorneys said that many districts provide hard copies of each student's IEP to their teachers at the start of the school year. But officials in districts using online IEP or student data managements systems often designate different levels of access to the school's IEP management software. For example, a student's case manager may provide the student's general education teachers with access to "IEP At-a-Glance" or an electronic summary of the student's present levels, goals, accommodations, and services.

"Ultimately, if school staff are responsible for implementing portions of a student's IEP, these staff members need access to this information to implement the student's goals, services, and accommodations with fidelity," said Atlas. "[Nonetheless,] we do not recommend providing full, unfettered access to students' IEPs or the district's IEP management software to all teaching staff. Remember, pursuant to FERPA, the staff member must have a legitimate educational interest in accessing the student record information, including a student's IEP."

For parents, FERPA provides the right to "inspect and review" educational records maintained by the school. Atlas said that, because the school develops and maintains a student's IEP as an educational record, districts should provide parents with full access to their student's IEP.

Under the IDEA, districts must comply with a parent's inspection or review request without unnecessary delay and before any meeting regarding an IEP, or any hearing pursuant to [34 CFR 300.507](#) or [34 CFR 300.530](#) through [34 CFR 300.532](#) , or resolution session pursuant to [34 CFR 300.510](#) , and in no case more than 45 days after the request has been made.

❑ Limited access to IEP information

"For paraprofessionals working with eligible students, we generally recommend sharing the student's relevant IEP information," said Atlas. "Paraprofessionals certainly have a legitimate educational interest in receiving this information; many paraprofessionals assist teachers in collecting data, implementing behavior intervention plans, and addressing student accommodations or modifications during the school day."

However, she explained, schools may choose to share only the relevant portions of the student's IEP with paraprofessional staff (e.g., the student's behavior plan and accommodations, omitting present levels of performance, and evaluation history) to focus on the paraprofessional's work with the student and implementation.

❑ Information provided only as needed

Atlas said the firm generally does not recommend sharing IEPs with school resource officers.

"In certain, limited circumstances, it may be appropriate to share IEP information with a school resource officer, but such disclosure should be in alignment with any agreements in place between the district and the local law enforcement agency and should comply with state and federal law," said Atlas, who recommends schools contact local counsel to discuss records requests from law enforcement for student IEP information.

Atlas said individual states have student records laws with different requirements for record maintenance and disclosure.

"Accordingly, we recommend school districts consult with their local counsel to establish procedures for managing access to students' special education records in compliance with both state and federal law," she said.

See also:

- [Use clear terms, provisions in data-sharing agreements to protect student privacy](#)
- [FERPA basics: What you need to know to protect student privacy](#)
- [From the FERPA File: Quick Tips on Student Education Record - Second Edition](#) by Amy K. Onaga, Esq.

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