

Bureau of Indian Affairs, Interior

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necessary may be destroyed, subject to § 43.23(c).

§ 43.9 Procedures for granting access.

Each educational institution shall establish appropriate procedures for granting a request by parents for access to the records of their children, or by eligible students for access to their own records within a reasonable period of time. In no case shall access be withheld more than forty-five (45) days after the request has been made.

§ 43.10 Right to challenge.

Each educational institution shall give parents of students and eligible students, who are or have been in attendance at the institution, an opportunity to challenge the content of the student's records to:

(a) Insure that the records are not inaccurate, misleading, or otherwise violating the privacy or other rights of students.

(b) Provide an opportunity for correcting or deleting any inaccurate, misleading, or otherwise inappropriate data in the record.

(c) Insert into such records a written comment by the parents or eligible students pertaining to the content of such records.

§ 43.11 Informal proceedings.

Educational institutions may attempt to resolve differences with the parent of a student or the eligible student regarding the content of the student's records through informal meetings and discussions with the parent or eligible student.

§ 43.12 Right to a hearing.

Upon the request of the educational institution, the parent, or eligible student, a hearing shall be conducted under the procedures adopted and published by the institution. Such procedures shall include at least the following elements:

(a) The hearing shall be conducted and decided within a reasonable period of time following the request for the hearing.

(b) The hearing shall be informal and a verbatim record of proceedings will not be required. Interpreters will be utilized when necessary.

(c) The hearing shall be conducted by an institutional official or other party who does not have a direct interest in the outcome of the hearing.

(d) The parents or eligible student shall be given a full and fair opportunity to present evidence relevant to the issues raised under § 43.10.

(e) Within a reasonable period of time after the hearing ends, the hearing official shall make his recommendation in writing to the head of the educational institution. Within 20 days after receipt of the recommendation, the head of the institution shall issue his decision in writing to the parent or eligible student.

§ 43.13 Right of appeal.

If any parent or eligible student is adversely affected by the decision of the head of the institution, that party shall have appeal rights as given in 25 CFR part 2. However, each official decision shall be issued within 30 days from receipt of the appeal.

§ 43.14 Consent.

Educational institutions shall not permit access to or the release of student records or personally identifiable information contained in them, other than directory information of students, without the written consent of the parents or of an eligible student, to any party other than the following:

(a) Local school officials, including teachers within the educational institution, who have been determined by the institution to have legitimate educational interests in the records.

(b) Officials of other schools or school systems at which a student is interested in enrolling. The student or parent must be notified of such release except in cases involving Bureau of Indian Affairs schools. All Bureau of Indian Affairs schools are considered to be components of one school system whether operated under contract or otherwise.

(c) Persons having official involvement with a student's application for or grant of financial aid.

(d) Parents of a dependent student as defined in section 152 of the Internal Revenue Code of 1954, as amended.

(e) Accreditation agencies in order to carry out their accrediting functions.

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(f) U.S. Office of Education officials and other governmental education officials when deemed necessary by the institution to carry out their official functions.

(g) An education testing center or similar institution as a part of its validation research which has been authorized by the school.

(h) In an emergency, any person to whom the information is necessary in the discretion of the school's administration in order to protect the student's health and safety, subject to § 43.17.

(i) Indian groups, contractors, grantees, professional social service organizations and personnel performing professional services, when necessary to carry out an official function authorized by the Bureau of Indian Affairs.

(j) Pursuant to the order of a court of competent jurisdiction; however, the parent or eligible student must be notified of such order in advance of compliance therewith by the educational institution.

§ 43.15 Content of consent.

The consent of a parent or eligible student requested under this part for the release of student records shall be in writing, signed and dated by the person giving the consent. The consent shall include:

(a) A specification of the records to be released.

(b) The reasons for release.

(c) The names of the parties to whom the records will be released.

§ 43.16 Copy to be provided to parents or eligible students.

Where the consent of a parent or eligible student is required under this part for the release of student records, a copy of the records to be released shall be provided on request to:

(a) The student's parents or the eligible student.

(b) The student who is not an eligible student, if desired by the parents.

§ 43.17 Release of information for health or safety emergencies.

(a) Educational institutions may release information from student records to appropriate persons in an emergency if the information is necessary to pro-

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tect the health or safety of a student or other person. The factors to be used in determining whether records may be released under this section include the following:

(1) The seriousness of the threat to the health or safety of the student or other persons.

(2) The need for those records to meet the emergency.

(3) Whether the persons to whom the records are released are in a position to deal with the emergency.

(4) The extent to which time is of the essence in dealing with the emergency.

§ 43.18 Record of access.

(a) Each educational institution shall maintain a record kept with the student records of each student, which will indicate all parties other than those specified in § 43.14 which have requested or obtained access to those records and which will indicate specifically the legitimate interest that each party had in obtaining this information.

(b) A record of access shall be available only to:

(1) Parents or eligible students.

(2) The school official and his or her assistants who are responsible for the custody of such records.

(3) Persons or organizations authorized in and under the conditions of § 43.14.

§ 43.19 Transfer of information by third parties.

(a) Educational institutions shall not release personal information on a student except on the condition that the party to which the information is being transferred will not permit any other party to have access to the information without the written consent of the parents or of the eligible students.

(b) With any information released to a party under paragraph (a) of this section, educational institutions shall include a written statement which informs the party of the requirement in paragraph (a) of this section.

§ 43.20 Directory information.

(a) Any educational institution making public directory information shall