

CONFIDENTIALITY



This workshop on confidentiality is designed to meet federal requirements for staff training while increasing staff awareness of their responsibilities regarding privacy of student records.

Two Confidentiality Laws

1. **FERPA**-Family Education Rights and Privacy Act
2. **IDEA**-Individuals With Disabilities Education Act



FERPA

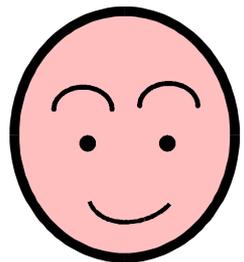
- ❖ Passed in 1974
- ❖ Applies to all schools that receive money from the U.S. Department of Education
- ❖ Also called the “Buckley Amendment”

IDEA

- ❖ Passed in 1975, reauthorized in 2004
- ❖ Applies to all schools that receive money to serve students with disabilities
- ❖ Formerly the Education of the Handicapped Act

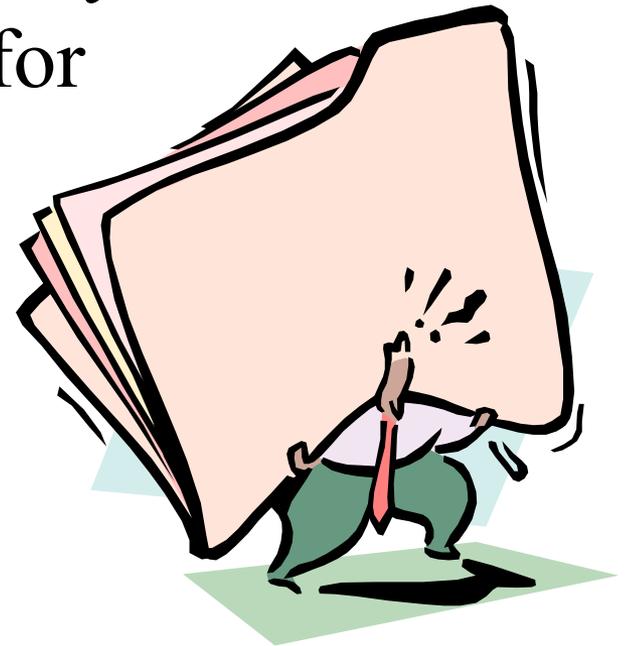
Personally Identifiable Information

- ❖ Name of student, student's parents or other family member
- ❖ Address of the student or student's family
- ❖ Any personal identifier (SS #/student id #)
- ❖ A list of personal characteristics or other information that would make it possible to identify the student



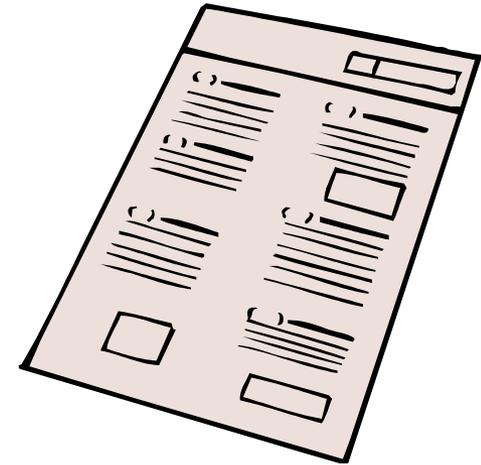
Definition Of Education Records

Records, files, documents and other materials which contain information directly related to a student and are maintained by an educational agency or institution, or by a person acting for such agency or institution.



Directory Information

- ❖ Student's name
- ❖ Student's address
- ❖ Student's telephone number
- ❖ Student's date and place of birth
- ❖ Student's major field of study
- ❖ Participation in officially recognized sports and activities



- ❖ Student's weight, height if member of athletic team
- ❖ Dates of attendance
- ❖ Degree, awards received
- ❖ Most recent previous educational institution or agency attended

Confidentiality May Be Violated

- ❖ When staff discusses a child in inappropriate places or situations
- ❖ When staff repeats gossip or rumors about a child or his family



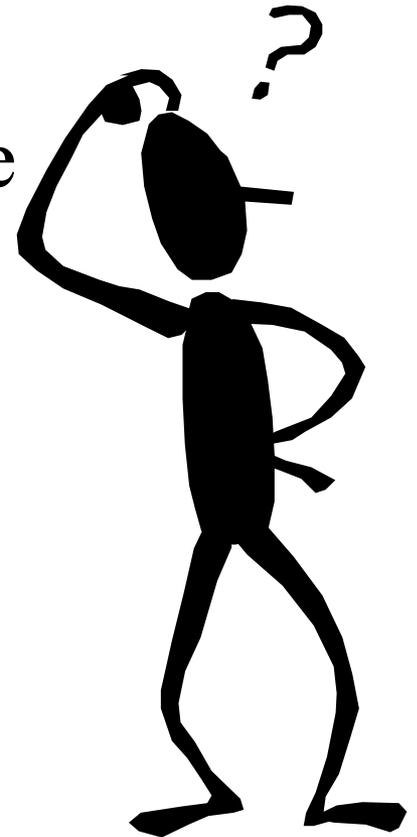
Gossip vs. Professional Sharing Of Information

When talking to a colleague about a student or his family, apply these four tests to see if the discussion may be violating the student's confidentiality rights.



Four Tests

1. **What** is discussed
2. **Where** the discussion takes place
3. **Who** is listening
4. **Why** the discussion took place



What Is Discussed

- If the discussion involves directory information (name, address, etc.) there is no problem unless the parent has refused to have this information released
- If the discussion involves other personally identifiable information that is confidential (disability, family data, etc.), the parties should be sure that legitimate educational interest is involved
- If the discussion involves information that is rumor, opinion, or hearsay, chances are that confidentiality will be in question, and the parties have moved from professionalism to gossip.



Where The Discussion Takes Place

- If the discussion occurs in a private place (such as a teacher's empty room, empty teachers' lounge), there is no problem with confidentiality
- If the discussion occurs in a public place (such as the playground, the halls, a busy teachers' lounge, the supermarket), there is a good chance that confidentiality could be violated.



Who Is Listening



1. If the parties to the discussion are school officials with legitimate educational interest there is no problem with confidentiality
2. If others are listening who have no legitimate educational interest (such as a teacher who is eavesdropping, a nosy child on the playground, children in the hall, etc.) confidentiality may be violated.

Why The Discussion Took Place

- If the parties have legitimate educational interest in a student and are sharing information that will help them work with the child, then there is no problem with confidentiality
- If the parties are gossiping to pass time, carrying tales about a student or his family, or for other non-educational reasons, there is probably a problem with confidentiality.

Sample Situations



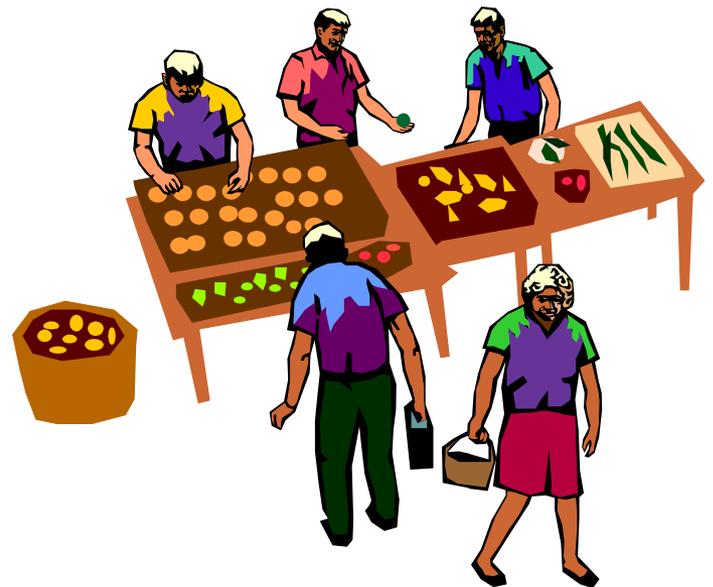
Two teachers in the lounge talking about a child, another walks in, they keep talking, the third listens in, adds to discussion

1. What are they discussing
2. Does the third teacher have a legitimate educational interest in the child
3. Is the location inappropriate
4. Why are they discussing the child



Two teachers see each other in the grocery store, start talking about a student at school (“I hear the father drinks and beats the mother. No wonder the student has so many problems.”)

1. Inappropriate place
2. Others listening
3. Content not appropriate



Scenarios



A general and a special education teacher were sitting in the teachers' lounge discussing a child they both taught. They called the child by name and talked about his behavior problems, his family situation, and his disability.

Were the teachers violating confidentiality?

If the teachers were discussing the child in private (no other teachers in the lounge or not within earshot of others) and they had a legitimate educational interest in the child, they were probably not violating the child's confidentiality, but they should monitor what they say if others come in.



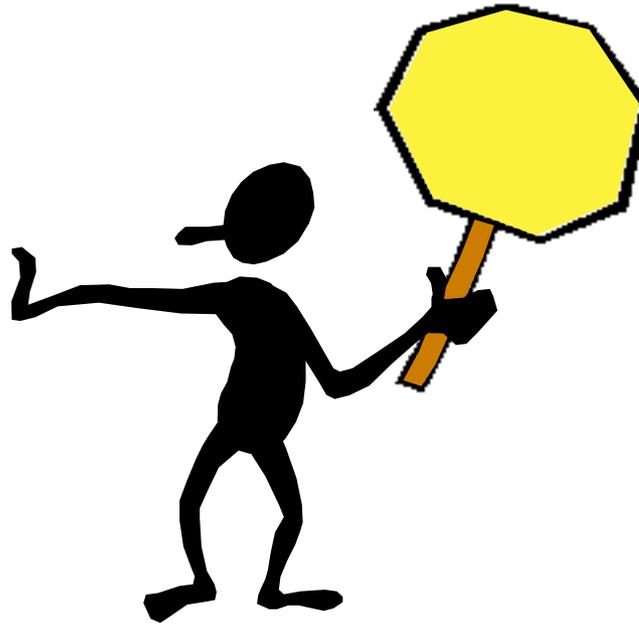
A school posts on the main office bulletin board a list of all the students in the resource classroom.

Was confidentiality violated?

Yes. Any list that singles children out violates confidentiality, if the list contains any information other than directory information.



Stop



THE END