

**GUIDELINES ON THE RETENTION AND DESTRUCTION OF
STUDENT RECORDS/DATA PRIVACY****RETENTION AND DESTRUCTION OF STUDENT RECORDS**

According to Minnesota statute, school district records can only be destroyed pursuant to a records retention schedule that has been adopted by the school board and approved by the Records Disposition Panel of the State of Minnesota or by special permission.

At the federal level, the retention of special education student records is governed by several laws. The first, governing recipients of federal funds, 20 U.S.C. § 1232f, requires that records related to the expenditure of federal funds be maintained for five years after completion of the activity for which the funds were used. A district's right to destroy special education records is further restricted by the Family Educational Rights and Privacy Act (FERPA). Under FERPA, educational records may not be destroyed if there is an outstanding request to inspect the records by the parent or eligible student, 34 C.F.R. § 99.10(e).

In addition, the Individuals with Disabilities Education Act's (IDEA) regulations require school districts to "...inform parents when personally identifiable information collected, maintained, or used..." pursuant to the IDEA, "...is no longer needed to provide educational services to the child..." and therefore will be destroyed by the district. The notes that accompany this provision explain that "this notice would normally be given after a child graduates or otherwise leaves the agency." An attempt must be made to individually contact the student before the file is destroyed. Districts are advised to provide "Notice" to the student of the district's policy at the last IEP meeting prior to graduation. This should constitute sufficient notice.

The IDEA regulations also provide that "information must be destroyed at the request of the parents if they are no longer needed for education purposes." However, a permanent record of a student's name, address, and phone number, his or her grades, attendance records, classes attended, grade level completed, and year completed may be maintained without time limitations."

Based on the above information, it is the practice of the Goodhue County Education District and its participating districts that schools will retain educational records for students with disabilities a period of five years beyond the student's 21st birthday. In addition, special education records will not be destroyed if there is an outstanding request for the record by the parent or eligible student. Also, parents and eligible students will be notified about this practice at the time the student is (a) dismissed from special education services, (b) graduates from school, or (c) ages out of school. This will constitute notice and no further notice will be given at the end of the five years. Students will be asked to sign an acknowledgment (**Notice of Special Education File Retention Policy**) of the district's policy to destroy the records after five years and that the "Notice" has been given. A copy of this notice will be retained by the school. Results of achievement and other standardized tests will be retained permanently. A record of all standardized tests results administered as an evaluation for eligibility while the student was in special

education services will be permanently retained. Finally, when the student reaches the age of at least 26, all special education records will be destroyed with exception for the final **IEP/IIIP** and all the **Evaluation Reports** and the **Parental Consent/Objection Form** indicating the student's dismissal from services.

The school must provide a child's divorced, non-custodial parent(s) with the same procedural protections as the child's custodial parent, unless a state court has determined otherwise (see **Divorced Parents**). As a result, both divorced parents of a disabled child must be notified of IEP/IIIP issues and must be granted access to relevant records, regardless of who has custody. Further, while in some circumstances it may be possible for an educational institution to rely solely on the approval of an IEP/IIIP by a custodial parent, both divorced parents must be given the *opportunity* to participate in the development and approval of the child's educational placement. *Doe v. Arrig*, 651 F. Supp. 424, 37 Educ. L.R. (D. Mass. 1987).

The custodial parent should provide documentation to the principal establishing custodial rights and any other court orders. The noncustodial parent should receive a copy of any correspondence upon providing the principal with a mailing address.

Due Process and Procedures Related Links

Guidelines on Access and Storage of Test Protocols **Process for Storage and Destruction of Student Records**
Divorced Parents

NOTICE OF SPECIAL EDUCATION FILE RETENTION POLICY

In accordance with the policy adopted by the _____ School District and approved by the Minnesota Records Disposition Panel, notice is hereby being given as to the length of time that your special education file will be maintained.

The record will be retained until five years after your 21st birthday in accordance with the District's retention schedule. At that time, the contents will be destroyed with the exception of the last IEP/IIIP, all evaluation reports and the Notice of Proposed Action and the following which will be maintained without time limitation: standardized and achievement test results, student's name, address, phone number, grades, attendance and grade level completed.

By signing this notice, you are acknowledging the retention policy. No further notice will be given.

Student

Parent

Date

Date

Witness

Date

Student Copy

In accordance with the policy adopted by the _____ School District and approved by the Minnesota Records Disposition Panel, notice is hereby being given as to the length of time that your special education file will be maintained.

The record will be retained until five years after your 21st birthday in accordance with the District's retention schedule. At that time, the contents will be destroyed with the exception of the last IEP/IIIP, all evaluation reports and the Notice of Proposed Action and the following which will be maintained without time limitation: standardized and achievement test results, student's name, address, phone number, grades, attendance and grade level completed.

By signing this notice, you are acknowledging the retention policy. No further notice will be given.

Student

Parent

Date

Date

Witness

Date

PROCESS FOR STORAGE AND DESTRUCTION OF STUDENT RECORDS**Procedures for Storage of Files:**

- 1) At the conclusion of an educational evaluation, if student does not qualify:**
 - a) Complete a Special Education File Notice and place in the student's cumulative file.
 - b) Start new file on non-qualifying students and place the evaluation report (ER) in the file.
 - c) All non-qualifying students are to be filed by grade, alphabetically and maintained in a locked cabinet.
 - d) At the time of transition to the next building, all non-qualifying files for the grade level leaving are to be sent for filing in a locked cabinet to the principal's office of the receiving school.
- 2) For students who qualify for service:**
 - a) Complete a Special Education File Notice and place in the student's cumulative file.
 - b) Special education records are to remain with the case manager in a locked file cabinet.
- 3) Students terminated from special education:**
 - a) After a one-year follow-up, file is to be placed in a central location in a locked file cabinet.
 - b) At the end of transition to the next building up, all terminated files for the grade level leaving are to be sent to the principal's office in the next building to be placed in a locked file at a central location.

SPECIAL EDUCATION FILE NOTICE

Place in Student's Cumulative File

District _____

Student: _____

DOB _____

Date Evaluation Completed: _____ Grade(at time of evaluation) _____

Person(s) Completing Evaluation:

_____	_____
_____	_____
_____	_____

Check Area(s) Evaluated:

___ Intellectual/Cognitive

___ Academic

___ Communication

___ Sensory

___ Motor

___ Health And Physical

___ Social/Emotional/Behavioral

___ Transition

___ Functional

___ Other

___ Does qualify for _____ services.
___ Does not qualify for special education services.
___ Student has been discontinued from special education services.

More information may be found in files located: _____