

# *Student Record FAQ's*

## **1. Can a school district hire a permanent substitute instead of a certified teacher who applied for the same position?**

Pursuant to [Section 21.003](#) of the Texas Education Code, school districts must follow the state certification rules when hiring teachers and other professional personnel. The rules governing certification requirements can be found in [19 TAC 230](#) of the Texas Administrative Code, and the rules governing assignment of public school personnel can be found in [19 TAC 230.610](#). If a person who is uncertified or serving under an emergency certificate is assigned to the same classroom for more than 30 days, the superintendent must provide written notice of the assignment to parents of students in the classroom per [Section 21.057](#), Texas Education Code. For more information, contact the State Board for Educator Certification (SBEC). (Updated 03/2003)

## **2. Who is responsible for maintaining the student's permanent record?**

School districts are required to keep some student records permanently. Which personnel, in the district, are responsible for maintaining the records is determined locally. A school district retains students records for a period of time determined by their local record retention plan, but some retention periods are determined by schedules published by the State Library and Archives Commission <http://www.tsl.state.tx.us/> (Updated: 6/2001)

## **3. What are the standards on releasing privacy act information such as social security number, telephone number, address, over the telephone to another agency?**

The Federal law Family Education Rights and Privacy Act (FERPA) governs personal information about students. Name, addresses, and phone number can often be given out as "directory" information under that statute, though social security numbers should not be given out. There are provisions in the FERPA regulations allowing information to be shared with certain educational oversight agencies, such as TEA or the U.S. Department of Education (DOE), as well as other exceptions. The regulations (Chapter 99 of Title 34) of the US Code of Federal Regulations are readable and on the US DOE website.

Information about public employees is generally public, except that [Section 552.024](#) of the Texas Government Code requires a process by which an employee be given 14 days to

choose not to have address, phone number, social security number and family information disclosed. There is no real distinction to releasing information over the telephone; either it has been released or not released. The link to FERPA and the DOE can be found in the Links to Related Sites page of the Legal Services web page.

**4. Is a parent entitled to a copy of the scoring sheets from her daughter's cheerleading tryouts at her high school?**

A parent is entitled to a copy of all "education records" that are directly related to a student and maintained by a public school under the Family Education Rights and Privacy Act ("FERPA"). Those regulations are in Chapter 99 of Title 34 of the Code of Federal Regulations. What it means to be an "education record" under FERPA is less clear since the US Supreme Court's decision in the peer grading case (the test being graded were not found to be "student records"). State law also recognized parental access to the "student records" under the Public Information Act ([Section 552.114](#), Texas Government Code and [Section 26.004](#), Texas Education Code).

If a record exists that is directly related to a particular student, that student's parent generally has a right to a copy of the record, subject to a very few health and safety exceptions (criminal investigations, etc.) and subject to protection confidential information about other students.

**5. My child has gone by his middle name during his time of school. The school district has changed his name on his records to his first name on his birth certificate. Can they do this?**

[Section 25.0021](#) of the Texas Education Code requires a student to be identified by either the name on the birth certificate or a court order changing the student's name. The only way to identify a student by a different name on school records would be to have his/her name legally changed.

**6. Can a school district require a social security number as their student identification number?**

A social security number (SSN) is generally used to report students in the state system. Most student-identifiable information (including SSN) are protected as confidential by state and

federal law. A student who does not have a SSN or whose parents do not wish to disclose it will be assigned a state-issued number. While the preference is to use the SSN (it is easier to track students through a 13 year academic program that may involve a number of transfers), refusing to provide it is not basis for refusing to enroll an eligible student.

## **7. Who can view student grades?**

Under the federal Family Educational Rights Privacy Act (FERPA), which governs the privacy of educational records, a school may disclose education record without consent to school officials who have been determined to have legitimate educational interests as set forth in the school district's annual notification of rights to parents. A determination of whether a teacher has legitimate educational interest in a student's grades outside of the teacher's area of instruction could vary from district to district. More information regarding FERPA is available at <http://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html>.

Parents have a right to inspect their child's student records under the federal confidentiality law (usually called by its acronym "FERPA"). A link to that regulation is <http://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html>. A parent also has access to student records of their child under the state public Information Act, [Section 552.114 \(b\)](#) of the Texas Government Code.