

## 22. CONFIDENTIALITY/RECORD ACCESS

Schools maintain educational files for every student. This Cumulative School Record (CUM-rhymes with "broom"-file) may contain information concerning assessment results, attendance records, and the child's current individualized education program (IEP). The file can also contain descriptions of



emotional development, psychological and medical reports, reports of disciplinary or behavioral problems and family histories. These files should also contain copies of all correspondence between parents, caregivers, service providers and school personnel.

The CUM file can provide valuable information for advocates and services providers but there are legal considerations regarding access to these records.

### **The following individuals/representatives can legally access a child's educational file:**

- Parent/surrogate parent
- School staff/teachers
- CASA (with letter of appointment signed by the judge)
- Any parent/surrogate representative authorized by signed consent form to view records
- Anyone authorized by court order to view the records (i.e., social worker, foster parent)
- The child, who is 16 years of age or older or who has completed the 10th grade, may have access to his or her own school records without parental consent or a judicial order

Information in the CUM file can help an advocate, parent or caregiver learn more about the child's educational history, including past referrals to Special Education or the Student Study Team. School records often contain documentation that indicate a pattern of behavior or needed services that will help to justify an assessment/referral to special education.

## How records are obtained/Viewed

To review school records, the parent or advocate should submit a written request to the school administrator or principal. The request should include the child's name, date of birth and teacher as well as the parent or advocate's relationship to the child and legal right to access records. The school is required to comply with a request "without unnecessary delay, before any meeting regarding an IEP, and in no case more than 5 days after the request has been made. "

Records can be viewed at the school for no charge. Schools can legally charge a copy fee for copies unless the charge would pose a financial hardship. In this situation, copies must be provided free of charge.

## Accuracy

It is important that the CUM file contain accurate information because the information may be used when making decisions regarding the child's education. Accurate records are also important for a child in dependency because many expectations may come from information in the school records.

### **The parent may consider challenging the records if:**

- The record contains personal information about the child, child's siblings or other family members not directly related to the child's education
- The information appears inaccurate or biased (based on opinion instead of fact)
- The file is missing information concerning prior referrals, assessments, letters of concern, etc.

The parent should request an amendment to the records *in writing*, directed to the school administrator. This request should explain why the parent thinks the records should be amended.

The school should decide "within a reasonable period of time" whether or not school staff will amend the records. If the school does not respond within 30 days, the parent should follow-up with a phone call to the administrator to ask about the status of the request.

If the agency agrees with the request, the records will be amended.

If the school refuses the request to amend the information, school staff should inform the parent of the refusal and explain the reasons for the refusal. While this is not required by law, it is considered a reasonable request.

If the request is refused and the parent strongly believes it is in the child's best interest to amend the records because they are inaccurate or misleading, he or she can request a hearing. The parent should request the hearing in writing, directed to the school principal.

If, as a result of the hearing, the agency decides that the information is accurate and does not violate the child's rights, the parent can enter written comments about their concerns. This written response becomes a permanent part of the child's records.

If the hearing finds in favor of the parent, the records will be amended.