

## **5. Opportunity for a Records Hearing (34 CFR §300.619)**

The LEA must, on request, provide you an opportunity for a hearing to challenge information in education records regarding your child to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of your child.

### **a. Hearing Procedures (34 CFR §300.621)**

A hearing to challenge information in education records must be conducted according to the following procedures for such hearings under the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. Section 1233g (FERPA):

- 1) The educational agency or institution shall hold the hearing within a reasonable time after it has received the request for the hearing from the parent or eligible student.
- 2) The educational agency or institution shall give the parent or eligible student notice of the date, time, and place, reasonable in advance of the hearing.
- 3) The hearing may be conducted by any individual, including an official of the educational agency or institution who does not have a direct interest in the outcome of the hearing.
- 4) The educational agency or institution shall give the parent or eligible student a full and fair opportunity to present evidence to challenge the content of the student's education records on the grounds that the information contained in the education records is inaccurate, misleading, or in violation of the privacy rights of the student. The parent or eligible student may, at their own expense, be assisted or represented by one or more individuals of his or her own choice, including an attorney.
- 5) The educational agency or institution shall make its decision in writing within a reasonable period of time after the hearing.
- 6) The decision must be based solely on the evidence presented at the hearing, and must include a summary of the evidence and the reasons for the decision.

### **b. Result of Hearing (34 CFR §300.620)**

If, as a result of the hearing, the participating agency decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it must change the information accordingly and inform you in writing. If, as a result of the hearing, the participating agency decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of your child, you may place in the records that it maintains on your child a statement commenting on the information or providing any reasons you disagree with the decision of the participating agency.

Such an explanation placed in the records of your child must:

1. Be maintained by the participating agency as part of the records of your child as long as the record or contested portion is maintained by the participating agency; and

2. If the participating agency discloses the records of your child or the challenged portion to any party, the explanation must also be disclosed to that party.

**c. Safeguards (34 CFR §300.623)**

Each participating agency must protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.

One official at each participating agency must assume responsibility for ensuring the confidentiality of any personally identifiable information.

All persons collecting or using personally identifiable information must receive training or instruction regarding your State's policies and procedures regarding confidentiality under Part B of the IDEA and FERPA.

Each participating agency must maintain, for public inspection, a current listing of the names and positions of those employees within the agency who have access to personally identifiable information.