



## **Responding to Student Records Requests**

**Midwest Principals' Center**

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**Darcy L. Kriha**

**312-786-6569 [dlk@franczek.com](mailto:dlk@franczek.com)**

### **I. Laws Governing Student Records**

- *Illinois School Students Records Act* (“ISSRA”), 105 ILCS 10/1 et seq.
- *Family Educational Rights and Privacy Act* (“FERPA”), 20 U.S.C. 1232g
- *Freedom of Information Act* (“FOIA”), 5 ILCS 140/1 et seq.
- *Open Meetings Act*, 5 ILCS 120/1 et seq.
- *Illinois Mental Health and Developmental Disabilities Confidentiality Act* (“MHDDCA”), 740 ILCS 110/1 et seq.
- *Abused and Neglected Child Reporting Act* (“ANCRA”), 325 ILCS 5/1 et seq.
- *Individuals with Disabilities Education Act* (“IDEA”), 20 U.S.C. 1400 et seq.
- *Clinical Social Work and Social Work Practice Act*, 225 ILCS 20/1 et seq.

### **II. Illinois School Student Records Act (ISSRA)**

#### **1. Definition of “School”**

“School” is defined as “any public preschool, day care center, kindergarten, nursery, elementary or secondary educational institution, vocational school, special educational facility or any other elementary or secondary educational agency or institution and any person, agency or institution which maintains school student records from more than one school, but does not include a private or non-public school.” 105 ILCS 10/2(b).

#### **2. Definition of School Student Record (105 ILCS 10/2(d))**

- Any writing or other recorded information
- By which a student may be individually identified
- Maintained by a school, at a school’s direction, or by a school employee
- Regardless of how or where the information is stored

#### **3. Exclusive Use Exception**

Writings maintained by an employee of a school or other person at the direction of a school for the person’s exclusive use are not considered student records. If the writings are shared with anyone else with the exception of supervisors or attorneys) the exclusive use exception is not available. All “exclusive use” records must be destroyed no later than the student’s graduation or permanent withdrawal from the school district. 105 ILCS 10/2(d).

**4. Records Maintained by School Law Enforcement Officials**

School records specifically do NOT include information maintained by law enforcement professionals working in the school. 105 ILCS 10/2(d).

**5. Transfer of Rights Under ISSRA from Parent to Student**

“Parent” means a person who is the natural parent of the student or other person who has the primary responsibility for the care and upbringing of the student. All rights and privileges accorded to a parent under ISSRA become exclusively those of the student upon his/her 18th birthday, graduation from secondary school, marriage or entry into military service, whichever occurs first. Such rights and privileges may also be exercised by the student at any time with respect to the student’s permanent school record.

**6. Destruction of Student Records**

- a. The principal of each school or his/her designate shall periodically review each student temporary record for verification of entries and elimination or correction of all inaccurate, misleading, unnecessary or irrelevant information. The State Board shall issue regulations to govern the periodic review of the student temporary records and length of time for maintenance of entries to such records.
- b. Before any school student record is destroyed or information deleted, the parent shall be given reasonable prior notice at his or her last known address and an opportunity to copy the record and information proposed to be destroyed or deleted.
- c. *Caveat for special education records:* Psychological evaluations and special education files which may be of continued assistance to a student may, after five years of the student’s graduation or permanent withdrawal, be transferred to the parent (or student if he or she has succeeded to the rights of the parent). The school must explain the future usefulness of these records to the parents and/or student. 23 Ill.Adm.Code 375.40(d).
- d. The Local Records Commission must authorize/approve the mass destruction of student records.

**7. Definition of Permanent Student Record**

The permanent student record *shall* contain:

- Student’s name, gender, birth date, and address;
- Grades and grade level;
- Parents’ names and addresses;
- Attendance records;
- Academic transcripts, including class rank, graduation date, and scores on college entrance examinations;
- Accident reports and health records;

- Scores received on all State assessment tests administered at the high school level (*i.e.*, grades 9 through 12); and
- Record of release of permanent record information.

The permanent record *may* also include, at the discretion of the school district:

- Honors and awards received; and
- Information concerning the student's participation in school-sponsored activities or athletics, or offices held in school-sponsored organizations.

Permanent school records must be maintained for at least **60 years** after the student has graduated, transferred, or otherwise permanently withdrawn. 105 ILCS 10/4(e); 23 Ill.Adm.Code 375.10.

## **8. Definition of Temporary Student Record**

The temporary record contains all information not required to be in the student permanent record and *shall* consist of the following:

- Scores received on the State assessment tests administered in the elementary grade levels (*i.e.*, kindergarten through grade 8);
- Information regarding serious disciplinary infractions that result in expulsion, suspension, or the imposition of punishment or sanction. A "serious disciplinary infraction" is defined as an infraction involving "drugs, weapons or bodily harm to another." (effective January 1, 2000);
- Information provided to DCFS pursuant to section 8.6 of the Abused and Neglected Child Reporting Act;
- A record of release of temporary record information;
- Family background information;
- Intelligence test scores;
- Aptitude test scores;
- Psychological and personality test results;
- Elementary and secondary achievement level test results;
- Participation in extracurricular activities, including any offices held in school-sponsored clubs or organizations;
- Honors and awards received;
- Teacher evaluations;
- Disciplinary information;
- Teacher anecdotal records;
- Special education files;
- Any verified reports or information from non-educational persons, agencies or organizations; and
- Other information of clear relevance to the education of the student.

Temporary records must be maintained at least **five years** after the student has transferred, graduated, or otherwise permanently withdrawn. 105 ILCS 10/4(f).

**9. The Trouble with E-Mail**

An e-mail message becomes part of a student's official record when it meets the definition of a student record: (1) any writing or other recorded information; (2) concerning a student; (3) by which the student is individually identified; and (4) regardless of how or where the information is stored. If staff members do not want their e-mails to become student records, they should not include information that would individually identify the student, such as the student's name. It does not matter whether staff members intend the e-mail to be an official record – it will become a student record simply if it meets the four criteria listed above.

**10. Who Has Access to Student Records?** 105 ILCS 10/6; 23 Ill.Adm.Code 375.70; 23 Ill.Adm.Code 375.40(f)

- a. **Students** must be given an opportunity to review their permanent records. School districts are not required to, but may, allow students to inspect their own temporary school records;
- b. The student's **parent or guardian**, or a person specifically designated as a representative by a parent or guardian;
- c. **An employee or official of the school district or State Board of Education** who has a current demonstrable educational or administrative interest in the student, in furtherance of such interest;
- d. The **official records custodian of another school** in which the student has enrolled, or intends to enroll, upon the request of the official or student, provided that the parent receives prior written notice of the nature and substance of the information proposed to be released, and an opportunity to inspect and copy the records and to challenge the records;
- e. **Anyone for the purpose of research, statistical reporting or planning**, provided that no student or parent can be identified from the information released and the person to whom the information is released signs an affidavit agreeing to comply with all applicable statutes and rules pertaining to school student records;
- f. **Pursuant to a court order**, provided that the parent is given prompt written notice of the terms of the order, the nature and substance of the information proposed to be released in compliance with the order, and an opportunity to inspect and copy the school student records and to challenge their contents;
- g. **Any other person as specifically required** by State or Federal law who provides appropriate identification and a copy of the statute authorizing such access. Before releasing the information, the parent must receive prior written notice of the nature and substance of the information proposed to be released, and an opportunity to inspect and copy the records and to challenge the records. If this release of information relates

to more than 25 students, such prior notice may be given in a local newspaper of general circulation or other publication directed generally to parents;

- h. **Appropriate persons in the event of an emergency** if the knowledge of such information is necessary to protect the health or safety of the student or other persons. ISBE has developed strict rules (23 Ill. Adm. Code §226.60) governing the release of student records in emergency situations. Information can only be released to appropriate persons if the knowledge of such information is necessary to protect the health or safety of the student or other persons, provided that the parents are notified as soon as possible of the information released, the date of the release, the person, agency, or organization receiving the information, and the purpose of the release. Factors to be considered in determining whether records should be in an emergency include:
- The seriousness of the threat to the health or safety of the student or other persons;
  - The need for such records to meet the emergency;
  - Whether the persons to whom such records are released are in a position to deal with the emergency;
  - The extent to which time is of the essence in dealing with the emergency.
- i. **Any person designated by the parent** with the prior specific dated written consent of the parent, provided that at the time the consent is requested or obtained, the parent shall be advised in writing that he has the right to inspect and copy the records, to challenge their contents, and to limit his consent to designated records or designated portions of the information contained therein;
- j. **A governmental agency or social service agency contracted by a governmental agency**, in furtherance of an investigation of a student's school attendance pursuant to the compulsory student attendance laws of this State, provided that the records are released to the employee or agent designated by the agency;
- k. To “**juvenile authorities**” when necessary for the discharge of their official duties who request information prior to the adjudication of the student and who certify in writing that the information will not be disclosed to any other party except as provided under law or court order. “Juvenile authorities” are defined as:
- A judge of the circuit court and members of the staff of the court;
  - Parties to proceedings under the Juvenile Court Act of 1987 and their attorneys;

- Probation officers and court appointed advocates;
- Any individual, public or private agency having custody of the child pursuant to court order;
- Any individual, public or private agency providing education, medical or mental health service to the child when the requested information is needed to determine the appropriate service or treatment for the child;
- Any potential placement provider when release of records is authorized by the court for the limited purpose of determining the appropriateness of the potential placement;
- Law enforcement officers and prosecutors;
- Adult and juvenile prisoner review boards;
- Authorized military personnel; and
- Individuals authorized by court.

- l. To the **Department of Public Aid** in furtherance of the requirements of Section 2-3.131, 3-14.29, 10-28, or 34-18.26 of the School Code or Section 10 of the School Breakfast and Lunch Program Act.
- m. To **SHOCAP committee members** who fall within the meaning of “state and local officials and authorities” under FERPA for purposes of identifying serious habitual juvenile offenders and matching those offenders with community resources pursuant to Section 5-145 of the Juvenile Court Act of 1987, but only to the extent that the release, transfer, disclosure, or dissemination is consistent with FERPA.
- n. To the **Department of Children and Family Services** upon written request made pursuant to Section 8.6 of the Abused and Neglected Child Reporting Act. If the school that receives such a request from the Department has transferred the report to another school as part of the transfer of the student’s records, the sending school shall forward a copy of the Department’s request to the receiving school.

#### **11. Inspection of Records by Parent or Student**

A request by a parent, student, or his/her designee must be granted no later than 15 school days after the date of receipt of such request by the official records custodian. The school may charge reasonable copying costs up to \$0.35 per page; however, no parent or student can be denied a copy of school student records due to an inability to pay for the copying costs. 105 ILCS 10/5.

**12. What do I do When Parents Ask for a Record to be Destroyed or Removed from the Student's File?**

You must either 1) agree to remove it or 2) tell the parent that the record will not be removed and give them the opportunity to request a hearing to challenge the student's records. Parents also have the option of inserting into the student's record a statement of reasonable length setting forth their position on any disputed information contained in that record. The school shall include a copy of such statement in any subsequent dissemination of the information in dispute.

**13. Record of Release**

Whenever student records are inspected or copied, a record must be kept as a part of the school student record that contains:

- The nature and substance of the information released;
- The name and signature of the official records custodian releasing such information;
- The name of the person requesting such information, the capacity in which such a request has been made, and the purpose of such request;
- The date of the release; and
- A copy of any consent to such release.

The record of release shall be available only to the parent and the official records custodian. 105 ILCS 10/6(c).

**14. Subpoenas/Court Orders for Records and Deposition Requests**

It is common for school districts to receive subpoenas for records in cases where the school district is not a party. For example, subpoenas for a student's records are received in the context of child custody proceedings and medical malpractice actions.

- a. When a subpoena for a student's school records is received from an attorney representing the parent(s) or student age 18 and above, the school district may comply with that request with simply a subpoena; it is as if the parents (student) themselves requested the records and the school district may properly comply with that request.
- b. When a subpoena for a student's school records is received from an attorney who is not representing the parent(s), do not release the student's records; a subpoena in this situation is not legally sufficient. Instead, the attorney must secure a court order authorizing the release of the student's records OR parental consent (or from the student age 18 and above).

**15. Order of Protection**

If a certified copy of an order of protection has been given to a school or the school's principal or person with like responsibilities have knowledge of such order of protection, the records of the student protected shall not be released against the person whom the order was issued. 105 ILCS 10/5(a).

**16. Student Directories**

- a. Student directory information includes: student name, address, gender, birth date, birth place, grade level, parents' names and addresses, academic awards, degrees, honors, school-sponsored activities, organizations and athletics, major field of study, and period of attendance in school.
- b. Directory information may be released to the general public unless a parent requests that any or all of the information not be released. 23 Ill.Adm.Code 375.80. FERPA includes photographs and e-mail addresses in its list "directory information" that may be released unless parents have "opted out."

**17. Transfer Students and In Good Standing Forms**

- a. A student transferring from a public school district in Illinois must present an "in good standing" form to the new school which includes a section indicating whether the student has been suspended or expelled. A student should not be accepted without this form.
- b. Parents of a student transferring from a public or private school district *in any other state* or *from an Illinois private school* may be asked to certify in writing that their child is not currently serving a suspension or expulsion. School districts may require this letter from the parents before enrolling the student.
- c. A school district may refuse to accept a student for the duration of a suspension or expulsion for the following three types of misconduct:
  - Knowingly possessing a weapon (device which expels a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; or any destructive device. 18 U.S.C. §921);
  - Knowingly possessing, selling, or delivering a controlled substance or marijuana in a school building or on school grounds; or
  - Battering a staff member.
- d. A school district may adopt a policy providing that if a student is suspended or expelled for any reason from any public or private school in any state, the student must serve the entire length of his or her suspension

or expulsion before being admitted into the new school district. 105 ILCS 5/2-3.13a.

**18. Unpaid Fines/Fees**

If a student has unpaid fines or fees and is transferring to a public school located in Illinois or any other state, the school may elect to send the new school district the student's unofficial record of grades in lieu of the student's official transcript of scholastic records. Within 10 calendar days after the student has paid all of his or her unpaid fines or fees, the school district shall send the student's official transcript of scholastic records to the student's new school.

**19. Release of Student Records to Another School District**

- a. When a transfer student applies for admission, the new school should within 14 days after enrolling a transfer student request a copy of the student's records from the old school.
- b. Once the old district receives this request, it must give parents written notice of the nature and substance of the information to be released and an opportunity to inspect and copy the records and to challenge their contents. The old school district must send the records within 10 calendar days of receiving the request.
- c. Parental consent is specifically not required before the old district releases the records. Parents may not "pick and choose" which records the old school district can send. 325 ILCS 50/5(c)

**20. Test Protocols**

- a. A test protocol is not considered a student record unless it personally identifies a student. If a test protocol personally identifies a student, the protocol is considered a temporary record, subject to disclosure. If a test protocol does not personally identify a student, the protocol is not considered a temporary record and is not subject to disclosure. *Letter to MacDonald*, 20 IDELR 1159 (OSEP 1993).
- b. While test protocols need not be copied and given to parents or students, they must be available to allow school personnel to offer an explanation of how the student's answers relate to the protocol. Protocols should be made available in this limited respect for a reasonable length of time, at least until the IEP team makes a determination based on the protocols.
- c. The *Illinois Mental Health and Developmental Disabilities Confidentiality Act* ("MHDDCA") specifically provides that:  

Psychological test material whose disclosure would compromise the objectivity or fairness of the testing process may not be disclosed to anyone including the subject of the test and is not subject to disclosure in any

administrative, judicial or legislative proceeding. However, any recipient who has been the subject of the psychological test shall have the right to have all records relating to that test disclosed to any psychologist designated by the recipient. 740 ILCS 110/3(c).

**21. Records Custodian**

Each school must designate an official records custodian who is responsible for the maintenance, care and security of all student records, whether or not the records are in his or her personal custody or control. The records custodian must:

- Take all reasonable measures to prevent unauthorized access to or dissemination of student records;
- Ensure that information contained in a student's record is of clear relevance to the education of the student; and
- Ensure that information added to a temporary record includes the date, name, signature and position of the person adding the information.

105 ILCS 10/4.

**22. Responsibility of Principal or Designee**

- a. The principal or his/her designee shall assure that school personnel are informed of the provisions of the Records Act. 23 Ill.Adm.Code 375.30.
- b. The principal or his/her designee shall periodically review every four years or upon a student's change in attendance centers, whichever occurs first, each student record for verification of entries and elimination or correction of all inaccurate, misleading, unnecessary or irrelevant information from a file. 105 ILCS 10/4(g); 23 Ill.Adm.Code 375.40(b).
- c. Before any information from a student's record is destroyed, removed, or deleted, the parent shall be given reasonable notice at his or her last known address and an opportunity to copy or review the records proposed to be deleted or destroyed. 105 ILCS 10/4(h).

**23. Missing Children Records Act (325 ILCS 50/5)**

The Illinois Department of State Police is responsible for notifying school districts that a student that was previously enrolled there is missing. In these situations, the school district is required to "flag" the school records for that student in such a manner that whenever a copy of or information regarding the record is requested, the school shall be alerted to the fact that the record is that of a missing person. The school shall immediately report to the State Police any request concerning flagged records or knowledge as to the whereabouts of any

missing person. Upon notification by the State Police that the missing person has been recovered, the school shall remove the flag from the person's record.

**24. Birth Certificates**

- a. The Missing Children Records Act also contains a provision that requires school district to notify individuals enrolling a child in school that within 30 days they must provide either (i) a certified copy of the child's birth certificate or (ii) other reliable proof of the child's identity and age and an affidavit explaining the inability to produce a copy of the birth certificate. Other reliable proof of the child's identity and age shall include a passport, visa or other governmental documentation of the child's identity. When the person enrolling the child provides the school with a certified copy of the child's birth certificate, the school shall promptly make a copy of the certified copy for its records and return the original certified copy to the person enrolling the child.
- b. If a person enrolling a student fails to provide either a birth certificate or other reliable proof of the student's identity and age (with an affidavit), the school must immediately notify the State Police or local law enforcement agency of such failure, and shall notify the person enrolling the child in writing that he/she has 10 additional days to comply.
- c. The school must immediately report to the State Police any affidavit or birth certificate received which appears inaccurate or suspicious in form or content.
- d. Within 14 days after enrolling a transfer student, the school shall request directly from the student's previous school a certified copy of the student's record. The requesting school shall exercise due diligence in obtaining the copy of the record requested. Any school that is requested to forward a copy of a transferring student's record to the new school shall comply within 10 days of receipt of the request unless the record has been flagged, in which case the records shall not be forwarded and the requested school shall notify the State Police or local law enforcement authority of the request.

**25. Challenge to Student Records**

- a. Parents have the right to challenge any entry in their child's school student records except for (1) academic grades and (2) references to expulsions or out-of-school suspensions (in situations where the challenge is made at the time the student's school records are being forwarded to another school to which the student is transferring). Challenges to any other entry in a student's school records can be made on the basis of: (1) accuracy; (2) relevance; or 3) propriety. 105 ILCS 10/7 et seq.; 23 Ill.Adm.Code §375.90.

- b. A request for a student records hearing must be submitted in writing to the school and shall contain notice of the specific entry or entries to be challenged and the basis of the challenge. The school district must conduct an initial informal conference with the parents, within 15 school days of receipt of the request for a hearing. If the challenge is not resolved during the informal conference, a records hearing must be conducted.
- c. A hearing officer, who is not a school district employee, shall be appointed by the school. The hearing officer shall conduct a hearing within a reasonable time, but no later than 15 days after the informal conference, unless an extension of time is agreed upon by the parents and school officials. The hearing officer shall notify parents and school officials of the time and place of the hearing in writing. At the hearing, each party shall have the following rights:
- The right to present evidence and to call witnesses;
  - The right to cross-examine witnesses;
  - The right to counsel; and
  - The right to a written decision by the hearing officer.
- d. A verbatim record of the hearing shall be made by a tape recorder or a court reporter. A typewritten transcript may be prepared by either party in the event of an appeal of the hearing officer's decision; however, a typewritten transcript is not required in an appeal.
- e. The written decision of the hearing officer shall (no later than 10 school days after the conclusion of the hearing) be transmitted to the parents and the school district. It shall be based solely on the information presented at the hearing and shall determine one of the following: (1) to retain the challenged contents of the student record; (2) to remove the challenged contents of the student record; or (3) to change, clarify or add to the challenged contents of the student record.
- f. Any party shall have the right to appeal the decision of the hearing officer to the Regional Superintendent within 20 school days after the decision is transmitted. If the parent appeals, the parent shall inform the school and within 10 school days the school shall forward a transcript of the hearing, a copy of the record entry in question and any other pertinent materials to the Regional Superintendent. The school may initiate an appeal by the same procedures. Upon receipt of these documents, the Regional Superintendent shall examine the documents and record to determine whether the school district's proposed action is in compliance with the Illinois School Student Records Act and its implementing regulations, make findings and issue a written decision to the parents and the school within 20 school days of the receipt of the appeal documents.

- g. If the subject of the appeal involves the accuracy, relevance or propriety of any entry in special education records, the Regional Superintendent must seek advice from special education personnel: 1) who were not authors of the entry, and 2) whose special education skills are relevant to the subject(s) of the entry in question. The school shall be responsible for implementing the decision of the Regional Superintendent. Final decisions of the Regional Superintendent may be appealed to the circuit court of the county in which the school is located.
- h. Parents also have the right to insert in their child's school student record a statement of reasonable length setting forth their position on any disputed information contained in that record. The school shall include a copy of such statement in any subsequent dissemination of the information in dispute.

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TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER k: SCHOOL RECORDS

PART 375

STUDENT RECORDS

Section

375.10	Definitions
375.20	Rights of Students
375.30	Notification
375.40	<u>Maintenance and Destruction of School Student Records</u>
375.50	Cost for Copies of Records
375.60	Emergency Release of Information
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375.75	Public and Nonpublic Schools: Transmission of Records for Transfer Students
375.80	Directory Information
375.90	Challenge Procedures
375.100	Implementation
375.110	Enforcement

AUTHORITY: Implementing and authorized by the Illinois School Student Records Act [105 ILCS 10] and Section 2-3.13a of the School Code [105 ILCS 5/2-3.13a].

SOURCE: Emergency rule adopted March 24, 1976; codified at 7 Ill. Reg. 12864; amended at 10 Ill. Reg. 12602, effective July 9, 1986; amended at 12 Ill. Reg. 4818, effective February 25, 1988; amended at 20 Ill. Reg. 15304, effective November 18, 1996; amended at 23 Ill. Reg. 13843, effective November 8, 1999; amended at 26 Ill. Reg. 16202, effective October 21, 2002; amended at 29 Ill. Reg. 5467, effective March 29, 2005; amended at 32 Ill. Reg. 7143, effective April 17, 2008; amended at 32 Ill. Reg. 16475, effective September 29, 2008; amended at 36 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 375.10 Definitions**

“Accident Report” means documentation of any reportable student accident that results in an injury to a student, occurring on the way to or from school or on school grounds, at a school athletic event or when a student is participating in a

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school program or school-sponsored activity or on a school bus and that is severe enough to cause the student not to be in attendance for one-half day or more or requires medical treatment other than first aid. The accident report shall include identifying information, nature of injury, days lost, cause of injury, location of accident, medical treatment given to the student at the time of the accident or whether the school nurse has referred the student for a medical evaluation regardless of whether the parent, guardian or student (if 18 years or older) or an unaccompanied homeless youth (as defined by 42 USC 11434a) has followed through on that request.

“Act” means the Illinois School Student Records Act [105 ILCS 10].

“Health Record” means medical documentation necessary for enrollment and proof of dental examinations, as may be required under Section 27-8.1 of the School Code [105 ILCS 5/27-8.1].

“Health-related Information” means current documentation of a student’s health information, which includes identifying information, health history, results of mandated testing and screenings, medical diagnoses (e.g., diabetes, seizures, life-threatening allergies, severe asthma, depression, attention deficit disorder), medication dispensation records and logs (e.g., glucose readings), long-term medications administered during school hours, and summary of relevant health office interactions and referrals, as well as other health-related information that is relevant to school participation (e.g., nursing services plan, failed screenings, yearly sports physical exams, interim health histories for sports).

“Individually identified” means information that would enable a reasonable person in the school community to identify the student and includes, but is not limited to, the following:

Student’s first and last name;

The initials of the student’s first and last name when combined with other information that is specific to a student (e.g., grade level, teacher);

Student’s date of birth;

Student’s school identification number or Social Security Number;

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Name of the student's parent or guardian or of other immediate family members;

Home address of the student or his or her immediate family; and

Telephone numbers of the student or his or her parents.

"Official Records Custodian" means the individual appointed in each school in accordance with Section 4 of the Act [105 ILCS 10/4] who shall determine the records to be maintained in the student temporary record in accordance with the Act and this Part, provided that the records are created and maintained for a clear, educational purpose and are accurate, relevant, not misleading and reflective of official decision-making in relation to the student's education.

"School Student Record" shall have the meaning set forth in Section 2(d) of the Act [105 ILCS 10/2(d)], except that school student records shall not include:

Video or other electronic recordings created and maintained by law enforcement professionals working in the school or for security or safety reasons or purposes, provided the information was created at least in part for law enforcement or security or safety reasons or purposes; and

Electronic recordings made on school buses, as defined in Section 14-3 of the Criminal Code of 1961.

"Special Education Records" means school records that relate to identification, evaluation, placement or the provision of a free and appropriate public education to students with disabilities under the Individuals with Disabilities Education Act (20 USC 1400 et seq.) and Article 14 of the School Code [105 ILCS 5/Art. 14], to include the report of the multidisciplinary staffing conference on which placement or nonplacement was based, and all records and audio recordings in any format relating to special education placement hearings and appeals.

"Student Permanent Record" means and shall consist of the following, as limited by Section 2(d) of the Act [105 ILCS 10/2(d)]:

Basic identifying information, including the student's name and address, birth date and place, and gender, and the names and addresses of the student's parents;

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Academic transcript, including grades, class rank, graduation date, grade level achieved, scores on college entrance examinations, and the unique student identifier assigned and used by the Student Information System established pursuant to Section 1.75 of rules governing Public Schools Evaluation, Recognition and Supervision (see 23 Ill. Adm. Code 1.75);

Attendance record;

~~Accident reports and health~~ Health record;

Record of release of permanent record information in accordance with Section 6(c) of the Act [105 ILCS 10/6(c)]; and

Scores received on all State assessment tests administered at the high school level (i.e., grades 9 through 12) (see 105 ILCS 5/2-3.64(a)); and

If not maintained in the temporary record, may ~~May~~ also consist of:

Honors and awards received; and

Information concerning participation in school-sponsored activities or athletics, or offices held in school-sponsored organizations.

No other information shall be placed in the student permanent record.

"Student Temporary Record" means all information not required to be in the student permanent record and shall consist of the following, as limited by Section 2(d) of the Act:

A record of release of temporary record information in accordance with Section 6(c) of the Act [105 ILCS 10/6(c)];

Scores received on the State assessment tests administered in the elementary grade levels (i.e., kindergarten through grade 8) (see 105 ILCS 5/2-3.64(a));

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The completed home language survey form (see 23 Ill. Adm. Code 228.15);

*Information regarding serious disciplinary infractions (i.e., those involving drugs, weapons, or bodily harm to another) that resulted in expulsion, suspension or the imposition of punishment or sanction;*

*Information provided under Section 8.6 of the Abused and Neglected Child Reporting Act [325 ILCS 5/8.6], as required by Section 2(f) of the Act [105 ILCS 10/2(f)]; ~~and~~*

Any biometric information that is collected in accordance with Section 10-20.40 or 34-18.34 of the School Code [105 ILCS 5/10-20.40 or 34-18.34]; ~~and~~

Health-related information; and

Accident Reports; and

May also consist of:

Family background information;

Intelligence test scores, group and individual;

Aptitude test scores;

Reports of psychological evaluations, including information on intelligence, personality and academic information obtained through test administration, observation, or interviews;

Elementary and secondary achievement level test results;

Participation in extracurricular activities, including any offices held in school-sponsored clubs or organizations;

Honors and awards received;

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Teacher anecdotal records;

Other disciplinary information;

~~Special education records files, including the report of the multidisciplinary staffing on which placement or nonplacement was based, and all records and tape recordings relating to special education placement hearings and appeals;~~

Records associated with plans developed under Section 504 of the Rehabilitation Act of 1973 (29 USC 701 et seq.);

Records of social workers, counselors and psychologists who are employed by, under contract to, or otherwise acting on behalf of the school that are of clear relevance to the education of the student; and

Any verified reports or information from non-educational persons, agencies or organizations; ~~and~~

~~Other verified information~~ of clear relevance to the education of the student.

~~"Substitute" means a person designated by the school to temporarily serve in the event of absence of a person employed by the school.~~

(Source: Amended at 36 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 375.30 Notification**

- a) Upon the initial enrollment or transfer of a student to the school, the school shall notify the student and the student's parents of their rights under the Act as specified in subsection (d) of this Section and of their rights with respect to the collection, distribution, and retention of biometric information under Section 10-20.40 or 34-18.34 of the School Code, if the school collects student biometric information.
- b) All notification under this Part to parents of children classified under Section 14C-3 of the School Code [105 ILCS 5/14C-3] to be of limited English-speaking

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ability shall be in English and in the language of the child's primary speaking ability. All notifications shall be in a manner that is accessible to parents with disabilities.

- c) This notification may be delivered by any means likely to reach the parents, including direct mail or email, parent-teacher conferences, delivery by the student to the parent, or incorporation in a "parent-student" handbook or other informational brochure for students and parents disseminated by the school.
- d) The notification shall consist of:
  - 1) The types of information contained in the permanent and temporary records;
  - 2) The right to inspect and copy permanent and temporary records, the limitations on the right of access established under Sections 10-22.3c and 34-18.6a of the School Code [105 ILCS 5/10-22.3c and 34-18.6a] and Section 5(a) of the Act, and the cost of copying these such records;
  - 3) The right to control access and release of school student records, except to the extent the records are authorized by law to be released without consent, and the right to request a copy of information released;
  - 4) The rights and procedures for challenging the contents of the school student record;
  - 5) The persons, agencies or organizations having access to student records without parental consent;
  - 6) The right to copy any school student record or information contained therein proposed to be destroyed or deleted and the school's schedule for reviewing and destroying this such information;
  - 7) The categories of information the school has designated as "directory information" and the right of the parents to prohibit the release of this such information;
  - 8) A statement informing the parents that no person may condition the granting or withholding of any right, privilege or benefits or make as a

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condition of employment, credit or insurance the securing by any individual of any information from a student's temporary record that the individual may obtain through the exercise of any right secured under the Act or this Part;

- 9) The right of the parents, as limited by Section 7 of the Act, to inspect and challenge the information contained in a school student record prior to transfer of the record to another school district, in the event of the transfer of the student to that district; and
  - 10) Any policies of the school relating to school student records that are not included in the Act or this Part, including any policy related to the collection of biometric information as permitted under Section 10-20.40 or 34-18.34 of the School Code.
- e) *The principal of each school or the person with like responsibilities or his or her designate shall take all action necessary to assure that school personnel are informed of the provisions of the Act and this Part, either orally or in writing [105 ILCS 10/3].*

(Source: Amended at 36 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 375.40 Maintenance and Destruction of School Student Records**

- a) The provisions within the Act and this Part requiring the official records custodian to separate school student records ~~be separated~~ into permanent and temporary categories shall apply only to records of students who are enrolled in the school on or after the effective date of this Part. Records of students who have graduated or permanently withdrawn prior to the effective date of this Part are not subject to these classifications except:
  - 1) In compliance with the request of a parent or eligible student that this such categorization occur; and
  - 2) The official records custodian shall ensure that information characterized by the Act and this Part as "temporary" shall not be *disclosed except as provided by Section 5 or 6 of the Act or by court order* [105 ILCS 10/4(f)]. For the purposes of this subsection (a)(2), a court order is a document signed by a judge or an attorney. A subpoena signed by a court clerk or

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administrative agency official shall not be considered a court order unless signed by a judge or attorney.

- b) Pursuant to Section (4)(g) of the Act [105 ILCS 5/4(g)], student temporary ~~Student~~ records shall be reviewed every four years or upon a student's change in attendance centers, whichever occurs first, to verify entries and to eliminate or correct all out-of-date, misleading, inaccurate, unnecessary or irrelevant information pursuant to Section 375.10 of this Part. The records review is required in any given school year at the time a student first changes attendance centers within a district, but it does not need to be conducted if the student enrolls in a different attendance center later in that same school year.
- c) Upon graduation, transfer or permanent withdrawal of a student from a school, the school shall notify the parents and the student of the destruction schedule for the student permanent record and the student temporary record and of the right to request a copy of the student's ~~such~~ records at any time prior to their destruction. Notification shall consist of the following: date of notification, name of parent, name of official records custodian, name of student, and the scheduled destruction date of temporary and permanent records. Biometric information collected pursuant to the district's policy, if any, shall not be subject to the retention requirements applicable to the remainder of students' temporary records under Section 4(f) of the Act, and its destruction shall not be subject to authorization by the appropriate Local Records Commission under Section 7 of the Local Records Act [50 ILCS 205/7]. Instead, the destruction of students' biometric information shall conform to the requirements of Section 10-20.40 or 34-34.18 of the School Code, as applicable.
- d) Upon graduation or permanent withdrawal of a ~~handicapped~~ student with a disability, as defined in Article 14 of the School Code [105 ILCS 5/Art.14] and 23 Ill. Adm. Code 226: Subpart A (Special Education), ~~psychological evaluations, special education files~~ special education records, and other information contained in the student temporary record that which may be of continued assistance to the student may, after five years, be transferred to the custody of the parent or to the student if the student has succeeded to the rights of the parents. The school shall explain to the student and the parent the future usefulness of these records.
- e) If a certified copy of an order of protection has been filed with a school district, then the district shall notify its school employees that the student records or information in those records of a protected child identified in the order shall not

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be released to the person against whom the order was issued (see Section 222(f) of the Illinois Domestic Violence Act of 1986 [750 ILCS 60/222(f)]).

- f) Any final finding report required by Section 8.6 of the Abused and Neglected Child Reporting Act that has been filed in a student's temporary record shall be removed from the student's record and returned to the Department of Children and Family Services upon written request made by the Department pursuant to Section 8.6 of the Abused and Neglected Child Reporting Act. If a school that receives ~~such~~ a request from the Department has transferred the report to another school as part of the transfer of the student's records, the sending school shall forward a copy of the Department's request to the receiving school, which shall comply with this subsection (f). No report other than what is required under Section 8.6 of the Abused and Neglected Child Reporting Act shall be placed in the school student record.
- g) School student records shall be maintained for at least the period of time set forth in Section 4 of the Act. With the exception of material eliminated in accordance with subsections (b), (d) and (f) of this Section, the destruction or disposal of any records or information contained in those records shall be subject to the provisions of the Act and authorization by the appropriate Local Records Commission (see Section 7 of the Local Records Act).

(Source: Amended at 36 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 375.60 Emergency Release of Information**

- a) Information may be released without parental consent in connection with an articulable and significant threat to the health or safety of a student or other individuals or other emergency to appropriate persons if the knowledge of the requested ~~such~~ information is necessary to protect the health or safety of the student or other individuals ~~persons~~, provided that the parents are notified no later than the next school day after the date that ~~as soon as possible~~ of the information is released, of the date of the release;; the person, agency, or organization receiving the information; and the purpose of the release.
- b) Factors to be considered in determining whether records should be released pursuant to this Section ~~this paragraph~~ include:

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- 1) The seriousness of the threat to the health or safety of the student or other individuals ~~persons~~;
  - 2) The need for the requested ~~such~~ records to meet the emergency;
  - 3) Whether the individuals ~~persons~~ to whom the requested ~~such~~ records are released are in a position to deal with the emergency;
  - 4) The extent to which time is of the essence in dealing with the emergency.
- c) When an emergency release of information is provided under this Section, the school or school district shall make a record of the nature of the threat that formed the basis for the disclosure and the parties to whom the school or district disclosed the information. The requirements and criteria for release of information pursuant to this Section are to be strictly construed.

(Source: Amended at 36 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 375.70 Release of Information**

- a) Except as otherwise provided in Section 375.75 of this Part, the records of a student shall be transferred by the official records custodian of a school to another school in which the student has enrolled or intends to enroll upon the request of the official records custodian of the other school or the student, provided that the parent receives prior written notice of the nature and substance of the information to be transferred and opportunity to inspect, copy, and challenge the such information to be released.
  - 1) If the address of the parents is unknown, notice may be served upon the official records custodian of the requesting school for transmittal to the parents. This service shall be deemed conclusive, and ten calendar days after this service, if the parents make no objection, the records may be transferred to the requesting school.
  - 2) Biometric information collected pursuant to a district's policy, if any, shall not be transferred to another school district in which a student has enrolled and shall be destroyed as provided in Section 10-20.40 or 34-18.34 of the School Code, as applicable.

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- 3) A copy of records transmitted pursuant to this subsection (a) shall be transferred back to the sending school upon request of the sending school without parental or student notice and consent.
- b) The school shall grant access to information contained in school student records to persons authorized or required by State or federal law to gain ~~such~~ access, provided that:
- 1) The person making the request shall provide the school with appropriate identification and a copy of the statute authorizing ~~such~~ access; and
  - 2) The parent receives prior written notice of the nature and substance of the information to be released and an opportunity to inspect, copy and/or challenge that ~~such~~ information. If this release of information relates to more than 25 students, this prior notice may be given in a local newspaper of general circulation or other publication directed generally to parents.
- c) The school shall grant access to, or release information from, school student records without parental consent or notification only in accordance with the provisions of Section 6(a) of the Act [105 ILCS 10/6(a)] and Section 10-20.40 or 34-18.34 of the School Code, where applicable.
- d) Pursuant to Section 6(a)(5) of the Act, parents of students who are named in a court order shall be deemed to have received the required written notice. The school shall respond to the order no earlier than five school days after its receipt in order to afford parents the opportunity to review, inspect and challenge the records if the parents choose to do so.
- e) Any release of information other than specified in subsections (a) through (c) of this Section requires the prior, specific, dated, written consent of the parent designating the person to whom the records may be released, the reason for the release, and the specific records to be released. At the time consent is requested or obtained, the school shall inform the parents of the following rights:
- 1) To inspect and copy the records;
  - 2) To challenge the contents of the records; and

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3) To limit any consent to designated records or designated portions of information within the records.

~~f~~e) Release of information by school personnel shall conform to the requirements of Sections 10-22.3c and 34-18.6a of the School Code [105 ILCS 5/10-22.3c and 34-18.6a] and Section 5(a) of the Act, as limited by Section 5(f) of the Act.

(Source: Amended at 36 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 375.75 Public and Nonpublic Schools: Transmission of Records for Transfer Students**

a) This Section implements Section 2-3.13a of the School Code [105 ILCS 5/2-3.13a], Section 5 of the Missing Children Records Act [325 ILCS 50/5] and Section 5 of the Missing Children Registration Law [325 ILCS 55/5]. This Section is applicable to all public, private or nonpublic elementary and secondary schools in the State of Illinois.

b) Within 14 days after enrolling a transfer student, an elementary or secondary school shall comply with the requirements of Section 5 of the Missing Children Records Act and Section 5 of the Missing Children Registration Law regarding the records of that such transfer student. The transfer of the record by a public school is subject to the prior notice to parents required by Section 375.70(a) of this Part.

c) The school district or private school holding the records shall transfer a certified copy of student's record, as defined in subsection (h) of this Section, to the school district or private school requesting the records and shall retain the original records in accordance with the requirements of Section 4 of the Act.

~~d~~e) A request made pursuant to subsection (b) of this Section for a certified copy of a student's record shall satisfy the requirement of Section 2-3.13a(c) of the School Code regarding documentation of enrollment of a transfer student.

~~e~~d) If on or before July 31 following the school year in which ~~within 150 days after~~ a student leaves a school, ~~that~~ the student's school or school district has not received a request for the student's record, or been presented with other documentation that the student has enrolled in another school, then the student shall be counted in the school's or school district's calculation of its annual

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dropout rate (see Section 2-3.13a(c) of the School Code). The school or school district from which a student transfers shall maintain any documentation of the student's transfer, including records indicating the school or school district to which the student transferred, in that student's temporary record.

- f)e) As used in this Section, "Unofficial Record of Student Grades" means written information relative to the grade levels and subjects in which a student was enrolled and the record of academic grades achieved by that student prior to transfer. These ~~Such~~ records shall also include the name and address of the school, the name of the student to whom the records pertain, the name and title of the school official transmitting the records, and the date of transmittal.
- g)f) As used in this Section, "Official Transcript of Scholastic Records" means the formal record showing dates of enrollment; courses studied; grades, credits, and awards received; and the unique student identifier assigned and used by the Student Information System; and bearing the signature and title of the certifying official, the seal of the school, if any, and the date of issue.
- h)g) As used in this Section, "Certified Copy of Student's Record" means:
- 1) for public schools, the student's permanent and temporary record as defined in Section 375.10 of this Part; and
  - 2) for private and nonpublic schools, the individual student information maintained by the ~~such~~ schools for all of their students. This ~~Such~~ information may include:
    - A) Basic identifying information, including the student's name and address, birth date and place, and gender, and the names and addresses of the student's parents;
    - B) Academic transcript, including grades, class rank, graduation date, grade level achieved and scores on college entrance examinations;
    - C) Attendance record;
    - D) Accident reports and health record;
    - E) Honors and awards received; and

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- F) Information concerning participation in school-sponsored activities or athletics, or offices held in school-sponsored organizations.
- i) ~~h)~~ If the student has unpaid fines, ~~or~~ fees, or tuition charged pursuant to Section 10-20.12a of the School Code [105 ILCS 5/10-20.12a] and is transferring to a public school located in Illinois or any other state, the school may elect to include in the student's record transferred pursuant to this Section the unofficial record of the student's grades in lieu of the student's official transcript of scholastic records. If the school so elects, the school shall within 10 calendar days after the student has paid all of his or her unpaid fines or fees and at its own expense forward the student's official transcript of scholastic records to the student's new school.
- j) ~~i)~~ If the student is transferring to another public school located in Illinois or any other state and at the time of the transfer is currently serving a term of suspension or expulsion for any reason, then the transferring school shall include with the transferred records:
- 1) the date and duration of the period of any current suspension or expulsion; and
  - 2) whether the suspension or expulsion is for *knowingly possessing in a school building or on school grounds a weapon as defined in the Gun Free Schools Act (20 USC 8921 et seq.), for knowingly possessing, selling, or delivering in a school building or on school grounds a controlled substance or cannabis, or for battering a staff member of the school.* (Section 2-3.13a of the School Code)

(Source: Amended at 36 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 375.80 Directory Information**

- a) Information that may be designated as directory information shall be limited to:
- 1) Identifying information: student's name, address, gender, grade level, and birth date and place, and parents' names, mailing and addresses, electronic mail addresses, and telephone numbers;

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- 2) photograph, videos, or digital images used for informational or news-related purposes (whether by a media outlet or by the school) of a student participating in school or school-sponsored activities, organizations, and athletics that have appeared in school publications, such as yearbooks, newspapers, or sporting or fine arts programs, except that:
- A) No photograph highlighting individual faces shall be used for commercial purposes, including solicitation, advertising, promotion or fundraising without the prior, specific, dated and written consent of the parent or student, as applicable [765 ILCS 1075/30]; and
- B) No image on a school security videotape recording shall be designated as directory information.
- 3)2) Academic awards, degrees, and honors;
- 4)3) Information in relation to school-sponsored activities, organizations, and athletics;
- 5)4) Major field of study; and;
- 6)5) Period of attendance in the school.
- b) No student social security number (SSN) or student identification (ID) or unique student identifier can be designated as directory information.
- c)b) "Directory Information" may be released to the general public, unless a parent requests that any or all the directory such information not be released on his/her child. School districts shall notify parents annually of the information that is considered to be "directory information" and of the procedures to be used by parents to request that specific information not be released. Prior to the release of directory information, school districts must notify affected parents in writing. The notification must include the following: date of notification, parents' names, name of student, directory information to be released, and the scheduled date of release. The district may provide this notification in the manner specified in Section 375.30(e) and (d) of this Part.

(Source: Amended at 36 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 375.90 Challenge Procedures**

- a) Parents shall be notified both of their right to a hearing to challenge any entry in the school student records except for academic grades and of the name and contact information for the official records custodian. If the challenge is made at the time the student's school records are being forwarded to another school to which the student is transferring, then parents shall not have the right to challenge references in those records to expulsions or out-of-school suspensions or to academic grades. Challenges to any other entry in the school student records can be made on the basis of:
  - 1) accuracy;
  - 2) relevance; or
  - 3) propriety.
- b) The request for a hearing shall be submitted in writing to the school district's official records custodian and shall contain notice of the specific entry or entries to be challenged and the basis of the challenge.
- c) Each school shall establish administrative procedures for parents to challenge the contents of student records. These ~~Such~~ procedures shall include:
  - 1) An initial informal conference with the parents, within 15 school days of receipt of the request for a hearing.
  - 2) If the challenge is not resolved by the informal conference, formal procedures shall be initiated.
    - A) A hearing officer, who shall not be employed in the attendance center in which the student is enrolled, shall be appointed by the school.
    - B) The hearing officer shall conduct a hearing within a reasonable time, but no later than 15 days after the informal conference, unless an extension of time is agreed upon by the parents and

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school officials. The hearing officer shall notify parents and school officials of the time and place of the hearing.

- C) At the hearing each party shall have the rights outlined in Sections 7(b)(1) through 7(b)(4) of the Act.
  - D) A verbatim record of the hearing shall be made by a tape recorder or a court reporter. A typewritten transcript may be prepared by either party in the event of an appeal of the hearing officer's decision. However, a typewritten transcript is not required in an appeal.
  - E) The written decision of the hearing officer shall, no later than 10 school days after the conclusion of the hearing, be transmitted to the parents and the school district. It shall be based solely on the information presented at the hearing and shall be one of the following:
    - i) To retain the challenged contents of the student record;
    - ii) To remove the challenged contents of the student record; or
    - iii) To change, clarify or add to the challenged contents of the student record.
- d) Any party shall have the right to appeal the decision of the local hearing officer to the Regional Superintendent within 20 school days after the ~~such~~ decision is transmitted. If the parent appeals, the parent shall so inform the school and within 10 school days the school shall forward a transcript of the hearing, a copy of the record entry in question and any other pertinent materials to the Regional Superintendent. The school may initiate an appeal by the same procedures. Upon receipt of the ~~such~~ documents, the Regional Superintendent shall examine the documents and record to determine whether the school district's proposed action in regard to the student's record is in compliance with the Act and this Part, make findings and issue a written decision to the parents and the school within 20 school days of the receipt of the appeal documents. If the subject of the appeal involves the accuracy, relevance or propriety of any entry in special education records, the Regional Superintendent should seek advice from special education personnel:

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- 1) who were not authors of the entry, and
  - 2) whose special education skills are relevant to the subjects ~~subject(s)~~ of the entry in question.
- e) The school shall be responsible for implementing the decision of the Regional Superintendent.
- f) Final decisions of the Regional Superintendent may be appealed to the circuit court of the county in which the school is located (see Section 7(c) of the Act).

(Source: Amended at 36 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 375.110 Enforcement**

- a) The State Board of Education shall collect and maintain information concerning compliance with the provisions of the Act and this Part and shall take action as specified by the Act to secure compliance in the event of violation.
- b) Complaints arising from violations of the Act or this Part, other than challenges of the contents of the school student records as specified in Section 375.90 of this Part, shall be directed to the Regional Superintendent of Schools responsible for the area where the school is located ~~Superintendent of the Educational Service Region~~ and then to the State Superintendent of Education as specified in Sections 3-10 and 2-3.8 of the School Code [105 ILCS 5/3-10 and 2-3.8].

(Source: Amended at 36 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)