

Retention of Student Records Family Education and Rights Protection Act (FERPA)

Effective Date: April 22, 2005

There have been many questions regarding the proper maintenance of student record information as it relates to students who receive EST, 504 or special education services. Some of our students receive 12+ years of education from an LNSU school. Other students come and go all year long. It is critical we follow consistent procedures for the maintenance of student records to protect ourselves from compliance or audit corrective actions. I have outlined in this document the steps you need to take at your school to ensure proper maintenance of the documents in a student's EST, 504 or special education record. Adhering to these guidelines for students who attend school from kindergarten to graduation in an LNSU school will fully prepare and protect any of our schools during compliance and financial audit reviews. I do understand that students may move into your school with incomplete files. When you receive a file that is not complete contact the prior school to make sure you got all the parts of the student record. Once you are convinced you have all the student's documents set up a record using the guidelines outlined below and add a note to the file that explains the student moved into your school with an incomplete record.

There is specific federal and state statute and state regulation language that outlines what and for how long student record information should be kept. Guidelines for the destruction of records are defined in federal and state statute and regulation. State Board of Education Rule 2120.8.3.3 requires that student records shall be safely stored. For grades 9-12, the transcripts of graduates and dropouts shall be permanently maintained and the academic records may be permanently maintained. State Board of Education Rule 2112 defines academic records as including, but not limited to: Standardized test scores, dates of attendance, multi-year plans, rank in class, awards, activities and all clubs. It also defines a transcript as an academic record. The transcript is "at a minimum...the student's name, date of birth, last known address, years of attendance, courses taken, grades received, grade point average and diploma or certification of completion awarded, including a Governor's Diploma if attained."

In addition schools must maintain immunization records permanently. The Vermont Department of Education issued guidelines in 2002 that were sent directly to principals across the state. You can contact the Department directly to verify the requirements for maintenance of these records if you feel you need to.

All LNSU schools must use the guidelines outlined below for Educational Support Team (EST), 504 and special education student records. Failure to keep these records could result in the school being required to return to the VT Department of Education state or federal funds that you received in the form of reimbursement for core staff or straight special education services.

Records may not be destroyed as long as there is an outstanding request by a parent to inspect and review records.

EST Records

The school needs to have a system for recording its work in the following areas: referral, individual student plan, follow-up and a tracking system for effectiveness of the interventions. Individual student records should include:

- Evidence of the referral,
- Meeting minutes,
- The individual student plan.

The school needs to maintain a copy of any records that relate to the provision of EST services for 5 years from the end of the school year in which the document was in effect. When students move, these necessary records must be copied and maintained at the school for the period of time outlined above.

504 Records

The school must have a system for recording its work and the student record needs to contain documentation in the following areas:

1. Referral for a 504 evaluation (Sped evaluation documents may be used to meet this need when the student is found ineligible for special education),
2. Notice of a meeting to the parents,
3. Documentation of the disability,
4. Letter documenting the decision for 504 eligibility or ineligibility,
5. Individual 504 Accommodation Plan if the student qualifies for 504,
6. Evidence the eligibility is reviewed at least every three years and the accommodation plan is reviewed at least every year, and
7. Evidence that the parents, or student who is 18, were given their rights for 504.

The school needs to maintain a copy of any records that relate to the provision of 504 services for 5 years from the end of the school year in which the 504 Plan was in effect. When students move, these necessary records must be copied and maintained at the school for the period of time outlined above. LNSU has required forms that must be used to complete the required documentation. Those documents have been provided to all schools in the supervisory union. Schools using the Sped Doc computer system may also use the 504 forms found within that system to complete your 504 work.

Special Education

Special Education records contain some documents that must be maintained for the life of the record, which would be from the first date of eligibility for special education services until graduation. The following documents must be maintained for the life of the record:

1. Access log,
2. All signed consent forms,
3. Initial eligibility evaluation report form,
4. IQ test results that are still relevant to the decisions a school will make until the student graduates from high school or turns 22 years old,
5. All notices relating to the disclosure of personally identifiable information, and
6. Any explanatory statement in a student's records, placed there by the parent.

The school needs to maintain a copy of any records that relate to the provision of special education services for five years from the end of the school year in which the document was in effect. When students move, these necessary records must be copied and maintained at the school for the period of time outlined above. This is required for special education compliance and audit purposes. The following documents must be maintained for five years from the date of the provision of the a special education program:

1. Parent contact logs,
2. Protocols for tests other than IQ tests,
3. Discipline records,
4. IEPs,
5. Evaluation Plan and Report Forms,
6. Surrogate parent appointment letters,
7. Interagency documentation of services provided by service providers in Lamoille Valley, and

8. All official notices of meetings, changes, proposed changes or refusals to do any of the preceding actions.

Special Education Students Who Graduate or Age Out Federal law allows us to inform parents and students before they graduate or turn 22 that they can request the destruction of the special education record. However, Vermont State Law does not. The guidelines given above must be followed for five years after the student graduates or turns 22. What About Other Documents That Might Be in the Student's EST, 504 or Special Education Record? On an annual basis the assigned case manager for the student record should review the documents in the file. Work samples that are over five years old, notes to the file and other various documents should be reviewed for their continued relevance to the delivery of services to the student. Elementary schools will want to leave relevant documents in the files that enable staff who service the student in grade five through ten to look back into elementary school for information that might explain the ongoing issues a student may still be experiencing as they progress through the grades. This requires every case manager to make good decisions using your professional judgment as to what will be relevant information over time for a student's program. I have found that writing samples from various grades have been relevant to decisions made at the upper grade levels due to the information they communicate about a student's ability to process and use information. When you determine documents in the student file are no longer needed to provide the student's educational program, you should give the documents to the parent. This will eliminate the need to inform the parent you plan to destroy the documents if they do not want them. They can choose to keep or destroy the records after they receive them.



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