

536 RETENTION AND DESTRUCTION OF STUDENT RECORDS FOR SPECIAL EDUCATION STUDENTS

I. PURPOSE

School district records can only be destroyed pursuant to a records retention schedule that has been adopted by the School Board and approved by the Records Disposition Panel of the State of Minnesota or by special permission. Minn. Statute §138.17.

II. GENERAL STATEMENT

The following procedures regarding the retention and destruction of student records for special education students are adopted by the school district, pursuant to:

- A. The requirements of 20 U.S.C. §123f requiring that records relating to the expenditures of federal funds be maintained for five years after completion of the activity for which the funds were used.
- B. The requirements of the Family Educational Rights and Privacy Act (FERPA), 34 C.F.R. §99.10 which states that educational records may not be destroyed if there is an outstanding request to inspect the records by the parent or eligible student.
- C. The requirements of the Individuals and Disabilities Education Act's (IDEA) regulations which require school districts to "...inform parents when personally identifiable information collected, maintained, or used..." pursuant to the IDEA, "...is no longer needed to provide educational services to the child..." 34 C.F.R. § 300.573 and therefore will be destroyed by the district. Before the information is destroyed, the district is advised to provide "Notice" to the student of the District's procedure at the last IEP meeting prior to graduation. IDEA regulations also provide that "information must be destroyed at the request of the parents if they are no longer needed for education purposes." However, a permanent record of a student's name, address, and phone number, his or her grades, attendance records, classes attended, grade level completed, and year completed may be maintained without time limitations." 34 C.F.R. § 300.573.

III. GENERAL STATEMENT OF PROCEDURES

Minnewaska Area Schools will retain educational records for students with disabilities for a period of five years beyond the student's 21's birthday. In addition, special education records will not be destroyed if there is an outstanding request for the record by the adult student or court appointed guardian. Also, adult students or their court appointed legal guardian will be notified about this practice at the time the student is:

- A. dismissed from special education services,

- B. graduates from school, or
- C. ages out of school.

This will constitute notice, and no further notice will be given at the end of the five years.

Adult students or their court-appointed legal guardian, will be asked to sign an acknowledgment (Notice of Special Education File Retention Procedure) of the district's procedure to destroy the records after five years and that the "Notice" has been given. A copy of this notice will be retained by the District. Results of achievement and other standardized tests will be retained permanently. When the student reaches the age of at least 26, all special education records will be destroyed, with the exception of the final Individual Education Program (IEP) plan, the most recent Evaluation Report, and the Exit Report: Summary of Performance. These records will be kept an additional five years (until the student reaches age 31) at which time they will be destroyed. Legal guardians must provide documentation to the District establishing their rights to make decisions on behalf of the adult student.

Legal Reference 20 U.S.C. § 1232f 34

C.F.R. § 300.573 & 34 C.F.R. § 99.10 (Family Educational Rights and Privacy Act) (FERPA)

Doe v. Arnig, 651 F. Supp. 424, 37 Educ. L.R. (D. Mass. 1987)

NOTICE OF SPECIAL EDUCATION FILE RETENTION PROCEDURE

In accordance with the procedure adopted by the Minnewaska Area Schools and approved by the Minnesota Records Disposition Panel, notice is hereby being given as to the length of time that your special education file will be maintained.

The record will be retained until five years after your 21st birthday in accordance with the District's retention schedule. At that time, the contents will be destroyed with the exception of the final IEP, the most recent Evaluation Report, and the Exit Report: Summary of Performance. These remaining records will be kept an additional five years at which time they too will be destroyed. The following records will be maintained without time limitation; standardized and achievement tests results, student's name, address, phone number, grades, attendance and grade level completed.

By signing this notice, you are acknowledging the retention procedure. No further notice will be given.

Adult Student or Legal

Guardian Date

Witness

Date

Student Copy In accordance with the procedure adopted by the Minnewaska Area School District and approved by the Minnesota Records Disposition Panel, notice is hereby being given as to the length of time that your special education file will be maintained.

The special education record will be retained until five years after your 21st birthday in accordance with the District's retention schedule. At that time, the contents will be destroyed with the exception of the final IEP/IIP, the most recent Evaluation Report, and the Exit Report: Summary of Performance. These remaining records will be kept an additional five years at which time they too will be destroyed.

Adult Student or Legal Guardian

Date

Witness

Date