

**160-5-1-.14 TRANSFER OF STUDENT RECORDS.**

**(1) DEFINITIONS.**

~~—(a) **Student records**—information about students recorded or collected in any format by local school systems or individual schools that may include educational/psychological assessments, school attendance records, personal data, health information, disciplinary actions, and/or academic progress.~~

(a) **Critical Records** – the education records of a student, which shall be current and complete for a period of at least the most recent 12 months of such student’s enrollment or the entirety of such student’s enrollment if less than 12 months, to include:

1. Academic transcript;
2. Attendance records;
3. Student discipline records;
4. Records of the student having ever been an adjudicated delinquent of the commission of a class A designated felony act or class B designated felony act (as defined in O.C.G.A. § 15-11-2) and, if so, the date of such adjudication, the offense committed, the jurisdiction in which such adjudication was made, and the sentence imposed;
5. An Individualized Education Program (IEP) pursuant to the federal Individuals with Disabilities Education Act (IDEA) or a plan under Section 504 of the federal Rehabilitation Act of 1973, if any; and
6. Psychological evaluations, if any.

(b) **Department of Behavioral Health and Developmental Disabilities (DBHDD)** – an agency which provides specified services for children who have been admitted or placed according to an individualized treatment or service plan directed by DBHDD.

(c) **Department of Human Services (DHS)** – an agency which provides specified services and placement for children who have been remanded to the physical or legal custody of DHS either temporarily or permanently by a court or by voluntary agreement, or if the child has been admitted or placed according to an individualized treatment or service plan of DHS.

(d) **Department of Juvenile Justice (DJJ)** – the agency which provides supervision, detention and a wide range of treatment and educational services for youths referred to DJJ by the Juvenile Courts and provides assistance or delinquency prevention services for at-risk youths through collaborative efforts with other public, private, and community entities.

(e) **Education Records** – any record that is maintained by a local education agency, a public or private elementary or secondary school, the Department of Juvenile Justice school system, or a party acting on behalf of such entity and is directly related to a student, including records of such student’s enrollment, attendance, class schedules, academic transcripts, grades, student discipline, student financial information, health records, special education records, and psychological evaluations. Education Records include the student’s critical records.

(f) **Legal Custodian** – an entity or individual other than a parent with legal authority to act on behalf of a student, including the Department of Juvenile Justice, the Department of Human Services, and the Division of Family and Children Services.

(g) **Parent** – an individual other than a legal custodian who has legal authority to act on behalf of a student as a natural or adoptive parent or a legal guardian.

(h) **Receiving School** – an LEA or public or private school in which a transferring student, either on his or her own behalf or by and through his or her parent or legal custodian, has enrolled or seeks or intends to enroll.

(i) **Requestor** – a student, the parent or legal custodian of such student, or a receiving school or another person or entity legally authorized to receive the education records of such student.

(j) **Sending School** – an LEA or a public or private school which maintains education records of a particular student and is responsible for releasing such records to a requestor.

(k) **Student** – an individual who is enrolled in a public or private elementary or secondary school or home study program in Georgia, or who is subject to the compulsory attendance requirements of O.C.G.A. § 20-2-690.1.

(l) **Student Discipline Records** – records related to the discipline of a student, including, but not limited to, all records of any disciplinary order of short term suspension, long-term suspension, or expulsion made pursuant to O.C.G.A. § 20-2-751.2; notice of a report of criminal action or chronic disciplinary problem made pursuant to O.C.G.A. § 20-2-756; disciplinary and behavioral correction plan pursuant to O.C.G.A. § 20-2-766; or report of the commission of a prohibited act made pursuant to O.C.G.A. § 20-2-1184.

(m) Transferring Student – a student who, either on his or her own behalf or by and through his or her parent or legal custodian, has enrolled in or is seeking or intends to enroll in a receiving school.

**(2) REQUIREMENTS.**

(a) Each public school in which a student is enrolled or provisionally enrolled shall compile such student's complete education records and make such records available for immediate release to any person or entity authorized by law to receive such records:

1. For each student who meets the requirements of O.C.G.A. § 20-2-785(a); and
2. Each time the school receives sufficient notice that such student is withdrawing from the school or intends to enroll in a home study program or another school.

(ab) After receiving a written request for student records from a public or private school, including schools operated by the Department of Juvenile Justice, the local school system or school from which the records are requested shall mail or otherwise deliver within a period of no more than 10 calendar days a copy of all requested student records to the school system or school to which a student has transferred. Additional requirements for transfer of records of students in special education programs are specified in Rules 160-4-7 Special Education. Each Georgia sending school shall immediately release a student's complete education record to any parent, legal custodian, receiving school, or another person or entity legally authorized to receive such records upon request by such requestor and under no circumstances later than 5:00 pm on the third business day following the date of such request.

1. Georgia public Schools and school systems shall not withhold any student's education record because of nonpayment of fees.

2. In the event that any portion of such student's education record is not maintained in an electronic format, the sending school shall transfer all of the student's education records available in electronic format in compliance with O.C.G.A. § 670(f)(1) and shall, no later than 5:00 p.m. on the third business day following the date of such request, notify the requestor when copies of the remainder of such student's education records will be ready for retrieval.

(bc) Schools or school systems receiving the transferred record shall notify the parent(s)/guardian(s) of students in grades seven through 12 that the record has been received. Each time a transferring student's education records, including, but not limited, to critical records, are transferred to a receiving school, such student's parent or legal custodian shall be notified in writing by the receiving school of the transfer of such records and shall, upon written request made within five business days of the

date of such notice, be entitled to receive a copy of such records from the receiving school.

1. Within five school business days of the receipt of a copy of such records, such student's parent or legal custodian may make a written request for and shall be entitled to a meeting with the principal of the sending school or of the receiving school or his or her designee for the purpose of correcting the content of such records as provided in O.C.G.A. § 20-2-667.

2. The parties may mutually agree for such meeting to occur at a date and time outside of such five-day period.

(d) In the event that a contention outlined below occurs, the requestor shall promptly provide a written notice of dispute to the RESA student affairs officer of the RESA in which the sending school is located.

1. A sending school contends that releasing, in whole or in part, a student's education records as required by O.C.G.A. § 20-2-670 would be unlawful or unduly burdensome.

2. A requestor contends that a student's education records, in whole or in part, have been unlawfully or unduly withheld from release by a sending school.

(e) The education record of any transferring student in the custody of DJJ or DHS through its Division of Family and Children Services shall be provided in accordance with the provisions in Section (d)(1) of State Board of Education Rule 160-5-1-.28 *Student Enrollment and Withdrawal*.

(~~f~~e) Each school system or school from which the records are requested shall maintain copies of all student records for the minimum period of time required by the *Common Records Retention Schedules for School Systems* or the local board of education records retention plan.

**Authority:** O.C.G.A. §§ 20-2-240; 20-2-670; 49-4A-12; 50-18-90; 50-18-95.

**Adopted:** ~~June 10, 1999~~ —

**Effective:** July 6, 1999