

EDUCATION AND WORKFORCE DEVELOPMENT CABINET

Kentucky Board of Education
Department of Education
(Amended at ARRS Committee)

702 KAR 1:140. Student records; hearing procedures.

RELATES TO: KRS 160.730, 20 U.S.C. 1232g.(a)(2).

STATUTORY AUTHORITY: KRS 156.070, 160.730

NECESSITY, FUNCTION, AND CONFORMITY: KRS 160.730 provides for parents or eligible students to challenge the content of a student education record on the grounds~~[to ensure]~~ that the information contained in the record or report is ~~[not]~~ inaccurate, misleading, or otherwise in violation of privacy or other rights of the student. KRS 160.730 requires~~[160.370 also mandates]~~ that the Department of Education establish by administrative regulation hearing procedures that may be utilized to challenge the content of a student education record when no agreement can be reached. The Family Educational Rights and Privacy Act (FERPA) requires~~[mandates]~~ a parent or eligible student has the opportunity for a hearing to challenge the content of the student's education records on the grounds that the information is inaccurate, misleading, or in violation of privacy rights of the student. This administrative regulation establishes those hearing procedures.

Section 1. If a school district denies the~~[decides not to comply with a]~~ request of a parent or eligible student~~[student's parent(s) or legal guardian]~~ to amend the education record of the student, the school district shall notify the student's parent or eligible student~~[parent(s) or guardian]~~ of the decision and advise them of the~~[their]~~ right to a hearing to challenge the information contained in the education record and alleged~~[believed]~~ to be inaccurate, misleading, inappropriate, or in violation of the student's rights.

Section 2. Hearing Procedures.

(1) Upon request of a parent or eligible student, the school district shall conduct~~[arrange for]~~ a hearing to be held within thirty (30) days after the request for hearing and notify the parent or eligible student~~[student's parent(s) or guardian]~~, reasonably in advance, of the date, place, and time of the hearing.

(2) The hearing shall be conducted by any individual who is a disinterested party and is appointed by the superintendent to conduct the hearing~~[a hearing officer who is a disinterested party and is a certified official of the district appointed by the superintendent]~~.

(3) The hearing shall be confidential~~[private]~~. Persons other than the student, parent(s), witnesses, and counsel shall not be admitted into the hearing.

(4) The hearing official appointed by the superintendent~~[officer]~~ shall hear evidence from the school staff and the parent or eligible student~~[student's parent(s) or guardian]~~ to determine any points of disagreement regarding the education records.

(5) The parent or eligible student~~[student's parent(s) or guardian]~~ shall be afforded a full and fair opportunity to present evidence relevant to the issues raised in the original request to amend the student's education records. The parent or eligible student~~[parent(s) or guardian]~~ may be assisted by one (1) or more individuals, including an attorney, at their expense.

(6) After hearing the evidence, the hearing official appointed by the superintendent~~[officer]~~ shall make a determination ~~[after hearing the evidence]~~ in writing within ten (10) working days following the close of the hearing. The hearing official appointed by the superintendent~~[officer]~~ shall make a determination based solely on the evidence presented at the hearing, and shall include a summary of the evidence

and the reason for the decision. The parties to the hearing shall be provided a copy of the ~~hearing officer's~~ decision.

Section 3. Posthearing Procedures.

(1) If, ~~as a result of the hearing,~~ the hearing official appointed by the superintendent~~officer~~ decides ~~{after the hearing }~~ the challenged information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, the hearing official~~officer~~ shall inform the parent or eligible student~~student's parent(s) or guardian~~ of the right to place a statement in the education record commenting on the contested information or stating why he disagrees with the decision of the hearing official~~officer~~. The statement shall be maintained as a part of the student's education records as long as the contested portion is maintained. If the school district discloses the contested portions of the education record, it shall also disclose the statement.

(2) If, as a result of the hearing, the hearing official appointed by the superintendent~~officer~~ decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, the school district shall amend the education record accordingly and inform in writing the parent or eligible student~~student's parent(s) or guardian~~ of the amendment.

Section 4. Alternative Hearing Procedures. If a school district has an education record~~a records~~ hearing policy and procedure that provides a substantially equivalent level of due process protection as provided in this administrative regulation, the school district may ~~elect to~~ submit its policy on education records hearing procedure to the Department of Education, Office of Legal Services, for its review and approval as to compliance with this administrative regulation.

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