



**IDEA DATA  
CENTER**

Collect, Report, Analyze, and  
Use High-Quality Part B Data



# IDEA Part B Confidentiality Checklist

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Westat is the lead organization for IDC. For more information about center's work and its partners, see [www.ideadata.org](http://www.ideadata.org).

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# IDEA Part B Confidentiality Checklist

The following checklist can aid state and local agencies in identifying actions, policies, and procedures needed to meet confidentiality provisions outlined in the *Individuals with Disabilities Education Act* (IDEA) Part B, 20 U.S.C. §1400. This checklist is organized by four broad categories, starting with the confidentiality provision category. The second category provides a detailed description of what agencies must do to meet the confidentiality provision. In the evidence category, agencies can document how they are meeting the confidentiality provision, identify the location of source documentation, and actually provide the direct documentation that they followed procedures to meet the provision. For the fourth category, agencies can identify actions they may need to take to implement, or better implement, the confidentiality provision.

Confidentiality Provision	What Agencies Must Do	Evidence (such as source document, policy)	Action Items
<i>Safeguards -</i>			
<a href="#">§300.623</a> Procedures agencies should have in place to ensure the privacy of student data	<ul style="list-style-type: none"> <li><input type="checkbox"/> Agencies must protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages. Agencies may charge a fee for copies of a record if doing so does not effectively prevent the parents from exercising their right to inspect and review student records.</li> <li><input type="checkbox"/> One official at each participating agency must assume responsibility for ensuring the confidentiality of any personally identifiable information.</li> <li><input type="checkbox"/> All persons collecting or using personally identifiable information must receive training or instruction regarding the state's policies and procedures under Confidentiality of Personally Identifiable Information, 34 CFR, §300.123 and <i>Family Educational Rights and Privacy Act</i>, 34 CFR part 99.</li> </ul>	<i>Examples: training plan for agency employees using personally identifiable information, training certificates; database or document that lists employees with access to personally identifiable information (PII); documentation of designated official(s) who has responsibility for ensuring the confidentiality of personally identifiable information</i>	



Confidentiality Provision	What Agencies Must Do	Evidence (such as source document, policy)	Action Items
	<ul style="list-style-type: none"> <li>□ Each participating agency must maintain, for public inspection, a current listing of the names and positions of agency employees who may have access to personally identifiable information.</li> </ul>		
<b><i>Destruction of Information</i></b>			
<p><a href="#"><u>§300.624</u></a> Requirements for data that are no longer needed</p>	<ul style="list-style-type: none"> <li>□ Agencies must inform parents when personally identifiable information collected, maintained, or used under this part is no longer needed to provide educational services to the child.</li> <li>□ Agencies must destroy the information at the request of the parents. However, agencies may maintain, without time limitation, a permanent record of students’ names, addresses, and phone numbers; their grades; attendance records; classes attended; grade level complete; and year completed.</li> </ul>	<p><i>Examples: parent notification form letter, data destruction protocol that contains a consistent timeline that the agency explained to employees and parents</i></p>	



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<b>Enforcement</b>			
<p><a href="#">§300.626</a> Procedures to ensure compliance with IDEA Part B and the <i>Family Educational Rights and Privacy Act</i> (FERPA)</p>	<p>□ Agencies must have policies and procedures in effect, including sanctions for noncompliance that the state uses, to ensure that policies and procedures are consistent with 34 CFR § 300.611–300.625 and followed throughout the agency and that the agency meets requirements of the Act and the regulations in this part.</p>	<p><i>Example: data governance or privacy program charter</i></p>	
<b>Transparency</b>			
<p><a href="#">§300.616</a> List of types and locations of information</p>	<p>□ On request, agencies must provide parents a list of the types and locations of education records the agencies collect, maintain, or use.</p>	<p><i>Example: IDEA data inventory</i></p>	
<p><a href="#">§300.612</a> Notice to parents about rights under IDEA Part B</p>	<p>□ Agencies must give adequate notice to fully inform parents about the confidentiality requirements of IDEA Part B, including the following:</p> <ul style="list-style-type: none"> <li>• a description of the extent to which the notice is given in the native languages of the various population groups in the state;</li> <li>• a description of the children about whom personally identifiable information is maintained, the types of information sought, the methods the state intends to use in gathering the information (including the sources from which information is gathered), and the uses to be made of the information;</li> </ul>	<p><i>Example: public notice on confidentiality requirements of IDEA Part B</i></p>	



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	<ul style="list-style-type: none"> <li>• a summary of the policies and procedures that participating agencies must follow regarding storage, disclosure to third parties, retention, and destruction of personally identifiable information; and</li> <li>• a description of all of the rights of parents and children regarding this information, including the rights under FERPA and implementing regulations in 34 CFR part 99.</li> </ul> <p><input type="checkbox"/> Before any major identification, location, or evaluation activity takes place, agencies must publish or announce the notice in newspapers, other media, or both, with circulation adequate to notify parents throughout the state of the activity.</p>		
<b>Record of Access</b>			
<p><a href="#">§300.614</a> Maintaining list of parties accessing education records</p>	<p><input type="checkbox"/> Participating agencies must keep a record of parties accessing education records collected, maintained, or used under Part B of the Act (except access by parents and authorized employees of the participating agency), including the name of the party, the date the agency gave access, and the purpose for which the party was authorized to use the records.</p>	<p><i>Example: audit logs in student information system</i></p>	



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<b>Consent</b>			
<p><a href="#">§300.622</a> <a href="#">§300.612</a> Method to obtain parental consent</p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Requests for consent must include a list of activities and the records that agencies will release.</li> <li><input type="checkbox"/> Agencies must seek consent in the native language of parents.</li> <li><input type="checkbox"/> Requests must clearly indicate consent is voluntary and that parents can revoke consent at any time.</li> </ul>	<p><i>Example: consent form that lists records covered and uses for those records</i></p>	
<p><a href="#">§300.622</a> Process or procedure to ensure consent has been granted before sharing personally identifiable information</p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Agencies must obtain consent before they can disclose personally identifiable information data to parties unless the information is contained in education records and the disclosure is authorized without parental consent under 34 CFR, part 99. Parents must provide consent before agencies can share personally identifiable information with officials of participating agencies providing or paying for transition services. If a child is enrolled, or is going to enroll, in a private school that is not located in the local education agency (LEA) of the parent's residence, agencies must obtain parental consent before releasing any personally identifiable information about the child between officials in the LEA where the private school is located and officials in the LEA of the parent's residence.</li> </ul>	<p><i>Examples: documented procedure for gathering consent, storage repository for signed and dated consent forms</i></p>	



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<b>Parental Inspection</b>			
<p><a href="#">§300.613</a>  <a href="#">§300.615</a>  <a href="#">§300.617</a>                      Process or procedure to allow parental inspection including charging fees for copies of education records</p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Agencies must permit parents to inspect and review any education records relating to their child, without unnecessary delay, before an individualized education program (IEP) hearing or resolution session and within 45 days after parents have made the request.</li> <li><input type="checkbox"/> Agencies must respond to reasonable requests for explanations and interpretations of the records.</li> <li><input type="checkbox"/> If an education record includes information on more than one child, the parents of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information.</li> <li><input type="checkbox"/> Agencies may charge a fee for copies of a record if it does not effectively prevent the parents from exercising their right to inspect and review those records.</li> <li><input type="checkbox"/> Agencies may NOT charge a fee to search or retrieve information under IDEA.</li> </ul>	<p><i>Examples: record review request procedure; record request form; FERPA annual notice</i></p>	
<p><a href="#">§300.618</a>  <a href="#">§300.619</a>  <a href="#">§300.620</a>  <a href="#">§300.621</a>                      Process to request amendment of records including the right to a hearing</p>	<ul style="list-style-type: none"> <li><input type="checkbox"/> If a parent requests an amendment, agencies                             <ul style="list-style-type: none"> <li>• can amend the record within a reasonable time; or</li> <li>• inform parent of refusal to amend a record and of the opportunity to request a hearing.</li> </ul> </li> </ul>	<p><i>Example: record amendment procedure; storage repository for signed and completed forms</i></p>	



Confidentiality Provision	What Agencies Must Do	Evidence (such as source document, policy)	Action Items
	<ul style="list-style-type: none"> <li><input type="checkbox"/> Upon request, agencies must hold a hearing to allow the parents to challenge information in the educational record of a child.</li> <li><input type="checkbox"/> If agencies amend the educational record of a child as a result of a hearing, the agencies must inform the parents in writing.</li> <li><input type="checkbox"/> If the agencies do not amend the educational record of a child as a result of the hearing, agencies must inform the parents of their right to include a statement explaining that they disagree with the respective agency's decision and why.                             <ul style="list-style-type: none"> <li>• Agencies must maintain the statement of disagreement as part of the child's records.</li> <li>• If an agency discloses the child's record or the contested portion to any party, the agency also must disclose the explanation to the party.</li> </ul> </li> </ul>		