

# Confidentiality & IDEA Part B

SEAC Meeting

March 11 & April 8, 2022

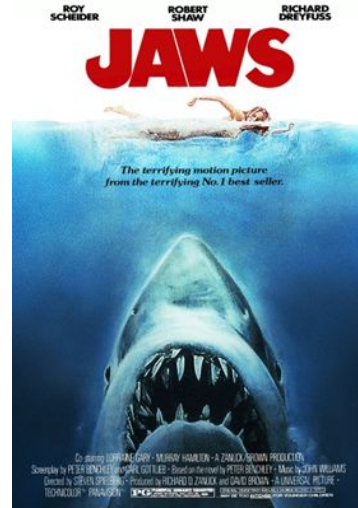
Hawaii State Department of Education  
Monitoring and Compliance Branch



# IDEA Part B of 1975

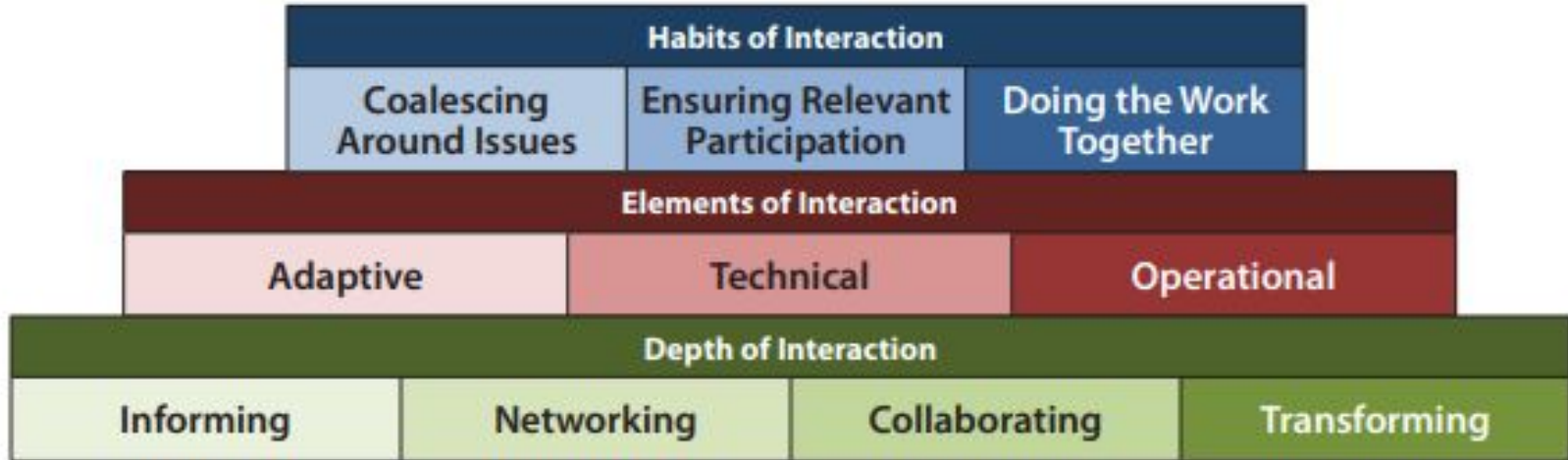
When IDEA, Part B was passed in 1975:

- A. Gerald Ford was President.
- B. *One Flew Over The Cuckoo's Nest* won the big five Oscars - Best Picture, Best Director, Best Actor, Best Actress, and Best Writing.
- C. *Jaws* was the top grossing film.
- D. All of the Above



# Leading By Convening

Doing the Work Together!



Source: Cashman, J., Linehan, P. C., Purcell, L., Rosser, M., Schultz, S., & Skalski, S. (2014). Leading by Convening: A Blueprint for Authentic Engagement. *Idea Partnership*.




# Infographics: Informing, Networking, Collaborating and Transforming

## PART B SPP/APR Indicators

Indicator #	What Improvement the Indicator Measures	Results or Compliance
1	Improving graduation rates for students with disabilities	R
2	Decreasing dropout rates for students with disabilities	R
3A	Ensuring all students with disabilities (SWD) participate in statewide assessments	R
3BC	Improving proficiency on statewide assessments for SWD	R
3D	Reducing the gap in proficiency rates between SWD and all students taking the statewide assessment	R
4A	Reducing suspension and expulsion rates for SWD	R
4B	Reducing suspensions of SWD by race and ethnicity	C
5ABC	Providing services for SWD in the LRE	R
6ABD	Providing services for preschool SWD in the least restrictive environment	R
7ABC	Improving the social emotional, knowledge & skills, and use of appropriate behavior of preschool SWD	R
8	Improving parent involvement in their child's education	R
9	Reducing the disproportionality of racial/ethnic groups due to inappropriate identification (ID)	C
10	Reducing the disproportionality of racial/ethnic groups in specific disability categories due to inappropriate ID	C
11	Improving efforts to find and evaluate SWD and provide special education in a timely manner	C
12	Ensuring a smooth and timely transition from preschool programs to school-based programs	C
13	Improving transition services for SWD at the secondary level	C
14	Improving the outcomes for students moving from secondary to post-school activities	R
15	Increasing the use of resolution sessions to resolve due process hearing requests prior to a hearing	R
16	Increasing the use of mediation to resolve differences between parent and school	R
17	Improving results for SWD through the implementation of an ambitious and multi-year plan	R

SPIN-2021

## Resolving Disagreements Through Mediation








IDEA promotes mediation as the first step to working out conflicts with your child's school over his or her special education services.

### What is Special Education Mediation?

Mediation is an impartial and voluntary process that brings parents and school staff together to resolve their disagreements. A mediator is a qualified and impartial individual who helps each party to communicate their views and positions in confidence so that the dispute can be resolved in a way that is mutually agreeable.

#### Benefits of Mediation:

-  It can help preserve the parent/school relationship
-  It's free of charge to both parents & schools
-  It saves time. Most mediations take 1-6 hours.
-  Information shared is kept confidential.
-  Mediation agreements are enforceable in court.



#### Formal vs. Informal:


The Individuals with Disabilities Education Act (IDEA) requires school districts to offer mediation before and after formal mediation:

- 1** Informally, whenever parents and schools need help resolving a disagreement, and
- 2** Formally, after a parent files a written complaint or a request for a due process hearing. Mediation is available as an opportunity to find a solution to the complaint before a decision is issued by the Complaints Management Program or a hearing officer formally decides on a due process hearing matter.

### Where can you learn more information about mediation?

The Hawaii State Department of Education makes mediation available through the **Mediation Center of the Pacific**. Parents may call or visit their website for information about requesting a mediation session.

 (808) 521-6767  <https://www.mediatehawaii.org/special-education>

 SPIN March 2022 Resources: Special Education Mediation Brochure  
CADRE IDEA Special Education Mediation Parent Guide


## Written State Complaint

### A Procedural Safeguard Under IDEA


A **Written State Complaint** can be filed by any individual (including a parent) or any organization that believes a school has violated a requirement of IDEA. Examples of issues contained in complaints are the following:

- **identification** (the referral process prior to an evaluation),
- **evaluation** (the process to determine eligibility for IDEA and needed services),
- **FAPE** (a free appropriate public education—special education and related services),
- **placement** (the educational environment for implementing a student's IEP), and
- **failure to implement a due process hearing decision.**

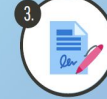
The complaint must be filed **within one year** of the alleged violation having occurred.



**1.**



**2.**



**3.**

**FILING A COMPLAINT**

Complainants are advised to use the **HIDOE written complaint form** and include:

- 1 their contact information,
- 2 the areas of IDEA believed to be violated,
- 3 facts on which the complaint is based,
- 4 proposed solutions, and
- 5 the student's name, address and school attended.

**INVESTIGATION**


The **HIDOE Complaints Management Program** will carry out an independent on-site investigation, if needed, and review all relevant information. The school is given an opportunity to respond and submit a proposal to resolve the complaint. Parents are offered the opportunity to engage in mediation.

**WRITTEN DECISION**

60 days

A written decision is given to the complainant and the school within 60 days. It contains:

- 1 findings of fact and conclusions,
- 2 reasons for the decision, and
- 3 requirements for corrective action to achieve compliance with IDEA, if violations are found.

 SPIN March 2022 Sources: Chapter 60, §§ 60-62 State Complaint Procedures  
CADRE IDEA Special Education Written State Complaints Parent Guide



# Dispute Resolution System Improvement



**Jennifer Wolfsheimer & Cesar D'Agord**

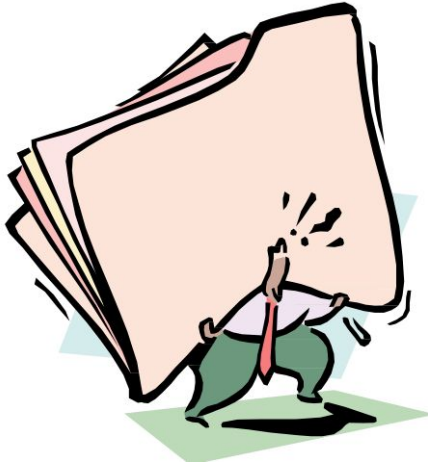
Senior Consultants



# IDEA Part B & FERPA

*IDEA Part B incorporates FERPA on the following:*

*Confidentiality of Student Records*



*Personally Identifiable Information  
(PII)*



# Confidentiality of Information

## *What Records are Covered?*

IDEA Part B	FERPA
<p><b>Education Records</b> The type of records covered under the definition of “education records” in FERPA Records that are collected, maintained, or used 34 CFR §300.611(b).</p> <p>Records on a student receiving services under Part B of the Individuals with Disabilities Education Act (IDEA) are “education records” subject to FERPA.</p> <p><i>Educational records containing student information may include enrollment forms, report cards, transcripts, school-related discipline reports, Individualized Education Programs (IEPs), evaluation assessments, immunization records, progress monitoring, and more.</i></p>	<p><b>Education Records</b> Records that are - <b>Directly related to student;</b> and <b>Maintained</b> by an educational agency or institution or by a party acting for the agency or institution 34 CFR §99.3.</p>



# Education Records Follow-Up

from the March 11, 2022 SEAC Meeting

## ***What happens to documents that contain Personally Identifiable Information (PII) sent via email?***

- Stored in the Department's secure permanent online database.
- Gmail encrypts all emails while in transit preventing anyone who intercepts the email from being able to read the email or attachment(s) and all documents stored in Google Drive are encrypted at rest using 128-bit AES keys which is an approved encryption standard by the National Institute of Standards and Technology (NIST) and the National Security Agency (NSA).
- All staff are required to sign the *General Confidentiality Expectations*.
- All contractors must abide by confidentiality agreements and must sign a Data Sharing Agreement which includes privacy and destruction of clauses in the contract's terms and conditions.





# IDEA Part B

## Notice to Parents 34 CFR §300.612

# HIDOE

## Source Document, Policy

*The Department must give notice that is adequate to fully inform parents about confidentiality of personally identifiable information, including:*

1. A description of the extent to which the notice is given in the native languages of the various population groups in the State;

## Procedural Safeguards Notice

**PROCEDURAL SAFEGUARDS**

The Procedural Safeguards Notice must be offered to parent(s)/legal guardian(s) of students who are eligible for special education under IDEA. In accordance with Hawaii Administrative Rules, Title 8, Chapter 60, schools are required to provide the Procedural Safeguards Notice to parent(s)/ legal guardian(s) only once time a school year, except that a copy must also be given to parent(s)/legal guardian(s)

- Upon initial referral or parent(s)/legal guardian(s) request for initial evaluation
- Upon receipt of the first State complaint and upon receipt of the first due process complaint in a school year;
- In accordance with discipline procedures; or
- Upon request by a parent(s)/legal guardian(s)

• English	• Korean	• Spanish
• Chuukese	• Marshallese	• T. Chinese
• Hawaiian	• Polynesian	• Tagalog
• Ilocano	• S. Chinese	• Tongan
• Japanese	• Samoan	• Vietnamese

If there are any questions with regard to the Procedural Safeguards, please contact your child's school, or the Monitoring and Compliance Branch, via e-mail at [mscb@doe.hawaii.gov](mailto:mscb@doe.hawaii.gov) or at (808) 337-3620.

**15 languages, including English**

## Student Information Privacy

**Family Educational Rights and Privacy Act (FERPA)**

Each year, Hawaii public schools are required to offer parents of their rights under FERPA. These rights are generally broken into four sections. Here is a brief description of FERPA rights:

1. The right to inspect and review the student's education records within 45 days of the request.
2. The right to request the amendment of the student's education records that the parent, guardian, or eligible student believe are inaccurate or misleading.
3. The right to consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that FERPA authorizes disclosure without consent. One exception that permits disclosure without consent is disclosure to school officials with legitimate educational interests.
4. The right to file a complaint with the U.S. Department of Education concerning alleged failures by the school to comply with the requirements of FERPA.

The [Quick Guide to Student Information Privacy](#) provides a condensed version of the more detailed parent notification and guide. Translations are available in [Cebuano \(Visayan\)](#), [Simplified Chinese](#), [Traditional Chinese](#), [Chuukese](#), [Hawaiian](#), [Ilokano](#), [Japanese](#), [Korean](#), [Marshallese](#), [Samoan](#), [Spanish](#), [Tagalog](#), [Tongan](#), and [Vietnamese](#).



## IDEA Part B

### Notice to Parents 34 CFR §300.612

*The Department must give notice that is adequate to fully inform parents about confidentiality of personally identifiable information, including:*

2. Personally identifiable information is maintained, the types of information sought, the methods the Department intends to use in gathering the information (including the sources from whom information is gathered), and the uses to be made of the information;

## HIDOE

### Source Document, Policy

**Parent Notification and Guide to Student Information Privacy  
in Hawaii's Public Schools**

Each year the Hawaii Department of Education (HIDOE) is required to notify parents, legal guardians and eligible students (those 18 years of age and older) of certain rights related to the privacy of students' education records in Hawaii Public Schools. In our efforts to provide this information to families, HIDOE reviewed state and federal regulations related to student information privacy and developed this *Guide*.

You may find information about student privacy on the Hawaii Public Schools' Student Information Privacy webpage by using this internet link: <http://bit.ly/FERPAHL>.

In some cases, more detailed information may be available from the U.S. Department of Education's webpage, using this internet link: <https://studentprivacy.ed.gov/> or HIDOE's Student Privacy webpage using this internet link: <http://bit.ly/2SVqymf>. Internet links to additional information are provided throughout this *Guide*. If you do not have access to the internet, your school will provide the copies of the information available at the internet links upon request.

[Parent Notification  
and Guide to Student  
Information Privacy  
in Hawaii's Public  
Schools](#)

**PARENT NOTIFICATION**

### Student Information Privacy

Documents, Notices and Forms  
For School Year 2021-2022



STATE OF HAWAII  
DEPARTMENT OF EDUCATION &  
PUBLIC CHARTER SCHOOLS

[Student Information  
Privacy Brochure](#)



## IDEA Part B

### Notice to Parents 34 CFR §300.612

*The Department must give notice that is adequate to fully inform parents about confidentiality of personally identifiable information, including:*

3. 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**

## HIDOE

### Source Document, Policy

- Confidentiality requirements of the Family Education Rights and Privacy Act (20 USC 11232g (b) and 34 CFR §99.30 and §99.31);
- IDEA (20 USC 1417(c) and (34 CFR §300.622)
- BOE Policy 500-21



## IDEA Part B

### Notice to Parents 34 CFR §300.612

*The Department must give notice that is adequate to fully inform parents about confidentiality of personally identifiable information, including:*

4. A description of all of the rights of parents and students regarding this information, including the rights under FERPA and its implementing regulations in 34 CFR Part 99.

## HIDOE

### Source Document, Policy

#### Parent Notification and Guide to Student Information Privacy in Hawaii's Public Schools

Each year the Hawaii Department of Education (HIDOE) is required to notify parents, legal guardians and eligible students (those 18 years of age and older) of certain rights related to the privacy of students' education records in Hawaii Public Schools. In our efforts to provide this information to families, HIDOE reviewed state and federal regulations related to student information privacy and developed this *Guide*.

You may find information about student privacy on the Hawaii Public Schools' Student Information Privacy webpage by using this internet link: <http://bit.ly/FERPAHL>.

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[Parent Notification  
and Guide to Student  
Information Privacy  
in Hawaii's Public  
Schools](#)

PARENT NOTIFICATION

### Student Information Privacy

Documents, Notices and Forms  
For School Year 2021-2022



STATE OF HAWAII  
DEPARTMENT OF EDUCATION &  
PUBLIC CHARTER SCHOOLS

[Student Information  
Privacy Brochure](#)



# IDEA Part B Additional Safeguards

<p><b>IDEA Part B</b></p> <p><b>Confidentiality Provision</b> <b>34 CFR §300.623(a)</b> <b>HAR §8-60-84</b></p>	<p><b>HIDOE</b></p> <p><b>Source Document, Policy</b></p>
<p>Each participating agency must protect the confidentiality of personally identifiable information at the collection, storage, disclosure, and destruction stages.</p>	<p><b>Collection:</b> Evaluation, Identification, Placement, and Free Appropriate Public Education (FAPE)/development of the IEP.</p> <p><b>Storage:</b> Cumulative records are kept in secured file cabinet or a permanent secure database such as electronic Comprehensive Student Support System (eCSSS).</p>



# IDEA Part B Additional Safeguards

<p><b>IDEA Part B</b></p> <p><b>Confidentiality Provision</b> <b>34 CFR §300.623(a)</b> <b>HAR §8-60-84</b></p>	<p><b>HIDOE</b></p> <p><b>Source Document, Policy</b></p>
<p>Each participating agency must protect the confidentiality of personally identifiable information at the collection, storage, disclosure, and destruction stages.</p>	<p><b>Disclosure: When is consent required?</b></p> <p>Parental Consent must be obtained before PII is disclosed to parties, other than officials of participating agencies, unless the information is contained in education records, and the disclosure is authorized without parental consent under FERPA.</p>



# IDEA Part B Additional Safeguards

<p><b>IDEA Part B</b></p> <p><b>Confidentiality Provision</b> <b>34 CFR §300.623(a)</b> <b>HAR §8-60-84</b></p>	<p><b>HIDOE</b></p> <p><b>Source Document, Policy</b></p>
<p>Each participating agency must protect the confidentiality of personally identifiable information at the collection, storage, disclosure, and destruction stages.</p>	<p><b>Destruction:</b> Education records in the confidential files for students with disabilities must be maintained for three years after a student graduates with a diploma or ages out at the 22nd birthday. However, on a case-by-case basis, it maybe determined that these records must be maintained beyond this period, e.g., due process, compensatory services, etc.</p>



# IDEA Part B Additional Safeguards

<p><b>IDEA Part B</b></p> <p><b>Confidentiality Provision</b></p> <p><b>34 CFR §300.623(d)</b></p> <p><b>HAR §8-60-84</b></p>	<p><b>HIDOE</b></p> <p><b>Source Document, Policy</b></p>
<p>The Department must maintain, for public inspection, a current listing of the names and positions of those employees within the Department who may have access to personally identifiable information.</p>	<p>A list of Authorized State-Level Personnel to Review Personally Identifiable Information of Students with Disabilities under IDEA is sent to the schools and updated annually.</p>





# IDEA Part B Additional Safeguards

<p><b>IDEA Part B</b></p> <p><b>Confidentiality Provision</b> <b>34 CFR §300.623(b)</b> <b>HAR §8-60-84</b></p>	<p><b>HIDOE</b></p> <p><b>Source Document, Policy</b></p>
<p>One official at each participating agency must assume responsibility for ensuring the confidentiality of any personally identifiable information.</p>	<p>The Principal/Designee is identified at the School level.</p>



# IDEA Part B Additional Safeguards

<p><b>IDEA Part B</b></p> <p><b>Confidentiality Provision</b> <b>34 CFR §300.623(c)</b> <b>HAR §8-60-84</b></p>	<p><b>HIDOE</b></p> <p><b>Source Document, Policy</b></p>
<p>All persons collecting or using personally identifiable information must receive training or instruction regarding the State's policies and procedures under 34 CFR §300.123 and 34 CFR part 99.</p>	<p>All Department staff and adult volunteers are required to complete the FERPA 101 Training and obtain certification.</p> <p>The certification for all employees is valid for 5 years from the date of training.</p>



**Questions?**

