



Public Records Issues /
Student Records Issues
for the Records
Custodian

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School Law Conference 2011

Topics

- Education Records Retention & Disposition
- Student Cumulative Education Record File
- Special Education Records
- Student Discipline Records
- Pupil Personnel Cumulative Record (Guidance Folder)



Applicable Laws/Regs



- Public Records Act 14-3-1
et seq. NMSA 1978
- Educational Records Retention and Disposition
Schedule 1.20.2.1 NMAC
- Family Educational Rights and Privacy Act
(FERPA) 20 USCA 1232g; Regulations 34 CFR Part
99.
- Inspection of Public Records Act 14-2-1 *et seq.*
NMSA 1978 (Including 2011 Amendments)

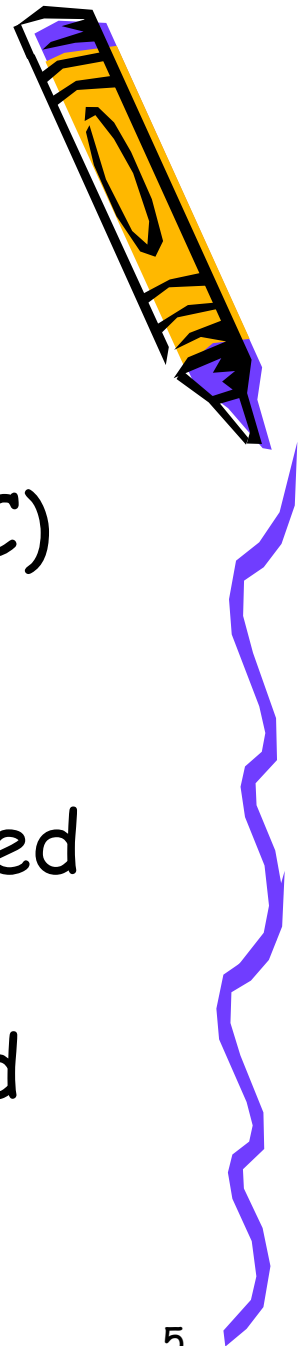


Public Records Act

- 14-3-1 through 14-3-24 NMSA 1978
- NM Statutes that set forth the laws related to creation, maintenance and disposition of public records, including public school records



Education Retention and Disposition Schedule



- Title I, Chapter 20, Part 2 NMAC (1.20.2.1 through 1.20.2.936 NMAC)
- Regulations related to various records for NM Public Schools
- Where records are to be maintained
- What is maintained
- How long records must be retained



Student Cumulative Education Record File

- 1.20.2.101
- Registrars Office
- (1) **Transcript** - Cumulative achievement record equivalent for elementary and secondary school including information on school entry, withdrawal, graduation, subjects taken, grades received, high school proficiency exam score, etc.
- 90 years from graduation / expected graduation



Student Cumulative Education Record File



- **(2) Student Health Records**
- Record includes but is not limited to health history, immunization record, results and recommendations from examinations, screening, treatment, parent or guardian referral record, teachers comments, etc
- 10 years after date of last entry or until individual attains age 19, whichever is longer



Student Cumulative Education Record File



- **(3) Federal Program Records**
- Records concerning the participation in programs in which federal grant or subgrant funds were used
- Five years after submission of final expenditure report by NM Department of Education



Student Cumulative Education Record File



- (4) **Other student records**, including but not limited to registration record, screening evaluation reports, program participation records, remedial program participation record, counselor notes, teacher notes correspondence, transfer of discharge notice, no-show student records, etc.
- Two years after students last attendance



Special Education Records



- 1.20.2.102
- Registrars Office
- **Description:** records of students with disabilities. Files may include student information sheet, most recent 3 years IEP (individual education plan), most recent 2 years student progress reports or referral form, related services reports, special reports, summary, parent communication, agency communication, writing sample, staff reports, or behavior, or staff changes, etc.
- **Retention:** after completion of special services to the child but not sooner than five years after completion of the activities funded under grant award



Student Discipline Records



- 1.20.2.103
- Registrars Office
- **Description:** records include but are not limited to detention notice, suspension hearing record, and correspondence
- **Retention:** five years after date of last entry or two years after date of students last attendance, whichever is shorter



Pupil Personnel Cumulative Record (Guidance Folder)



- 1.20.2.104
- Registrars Office
- **Description:** record containing information on all aspects of students school career
- **Retention:** five years after date of last entry or two years after date of students last attendance, whichever is shorter



Student Attendance Record



- 1.20.2.109
- Registrars Office
- **Description:** register showing students name, date of birth, parent or guardian name and address, daily attendance, daily absence, daily tardiness, etc.
- **Retention:** one year after end of school year



FERPA

- Family Educational Rights and Privacy Act
- Protects the privacy of student education records
- Grants parents certain rights with respect to their children's educational records



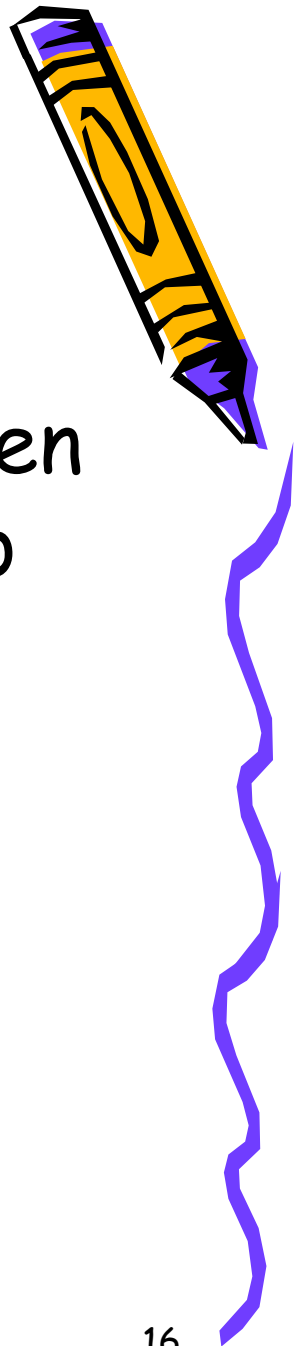
FERPA

- Rights transfer to student when he/she reaches age 18
- Parents/eligible students have right to inspect and review the student's education records
- Parent may request that a school correct records - inaccurate or misleading
- Right to a formal hearing



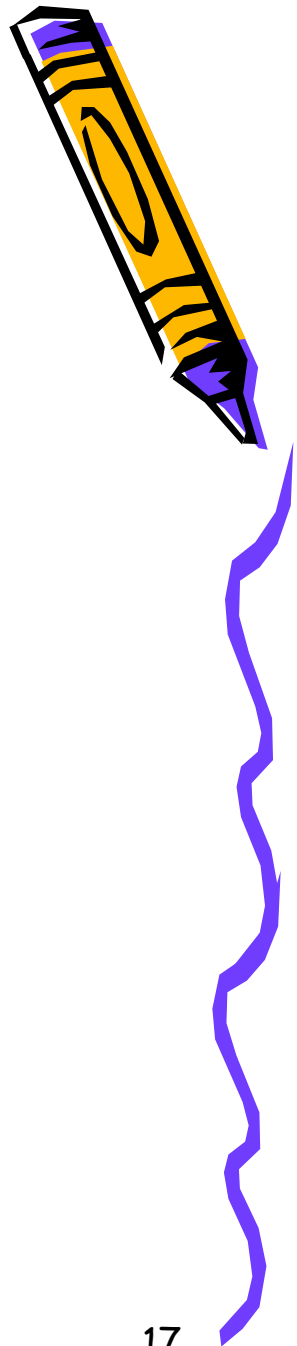
FERPA

- Generally, schools must have written permission from parent/student to release any information from a student record

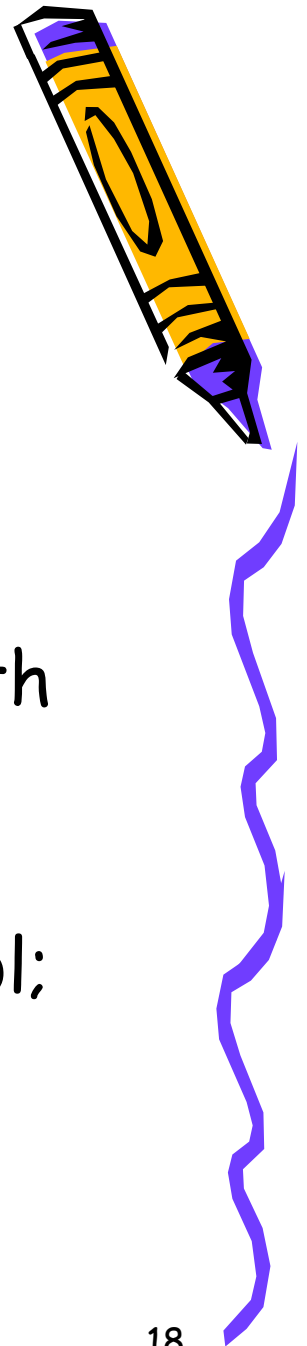


FERPA

- May disclose records, without consent to:
 - School officials with legitimate educational interest;
 - Other schools to which a student is transferring;
 - Specified officials for audit or evaluation purposes;

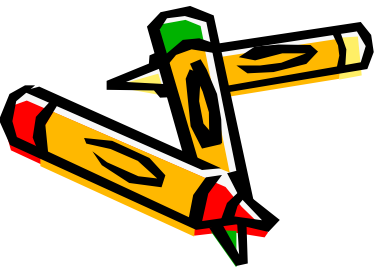


FERPA



- (cont.)

- Appropriate parties in connection with financial aid to a student
- Organizations conducting certain studies for or on behalf of the school;



FERPA



- (cont.)
 - Accrediting organizations;
 - To comply with a judicial order or lawfully issued subpoena;
 - Appropriate officials in cases of health and safety emergencies; and
 - State and local authorities, within a juvenile justice system, pursuant to specific State law



FERPA

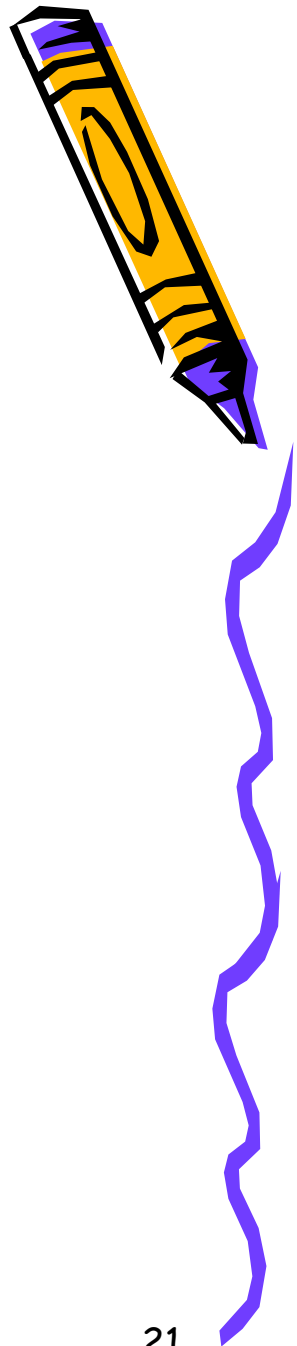
- May Disclose, without consent, **"directory information"** such as a student's name, residence and email address, telephone number, photograph, date and place of birth, degrees, honors and awards, grade levels, places and dates of attendance, participation in athletics and enrollment status

Must tell parents & allow parents to request that the school not disclose directory information about them (Opt out)



FERPA

- FERPA Policy
 - Board Policy Handbook
 - Website
- Annual FERPA Notice
 - Special letter, News Article
 - PTA Bulletin, Student Handbook
 - Website



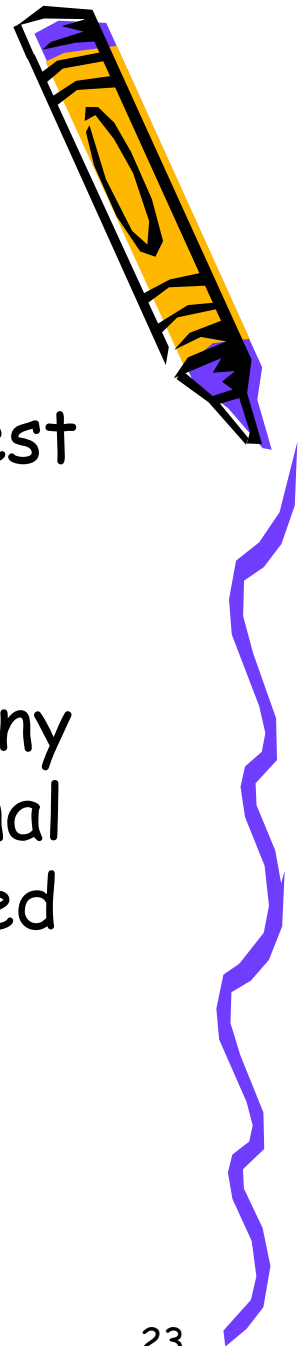
Divorced Parent Rights

- Divorced Parent Request for Records
- unless school has copy of court order revoking parental rights, either parent has equal rights to student records under FERPA (See definition of "parent" in 34 CFR Section 99.3)



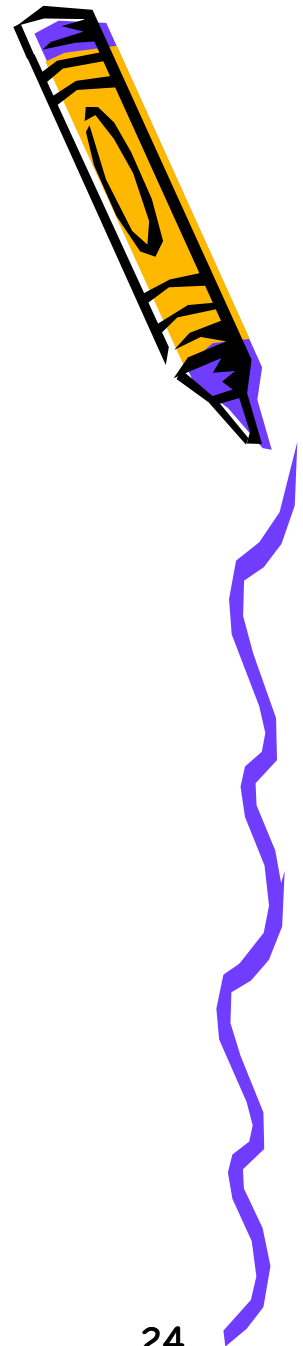
IPRA Requests

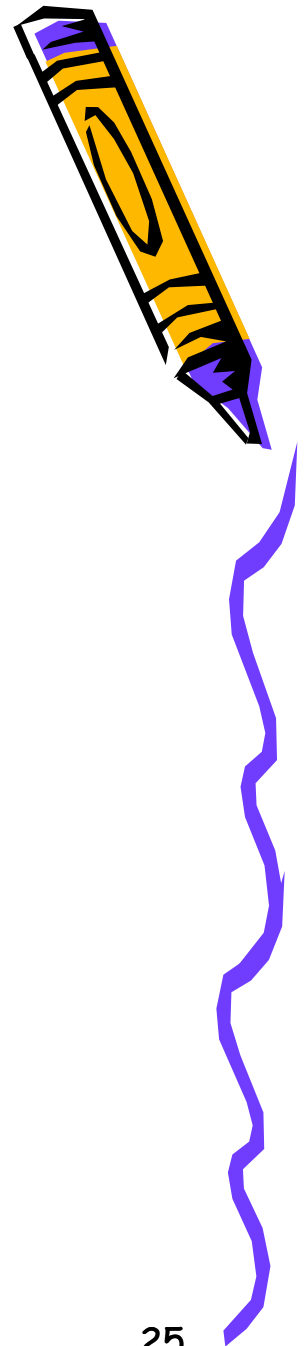
- Inspection of Public Records Act Request to inspect or copy student records by third party (media)
- 14-2-1(12) of IPRA allows schools to deny inspection or copy of student educational records as records "otherwise protected by law" (FERPA)



2011 Amendments to IPRA

The 2011 Legislature made
changes to the Inspection of
Public Records Act
[IPRA]





SB52: Electronic Copies of Public Records (Fischmann)

A. This bill requires public records to be transmitted electronically if requested, as long as it can be done efficiently and with available resources. **SB52 passed both the Senate (39-0) and the House (63-0), and was signed by the Governor on April 8th, 2011.**



IPRA AMENDMENTS

B. A custodian shall provide a copy of a public record in electronic format if the public record is available in electronic format and an electronic copy is specifically requested. However, a custodian is only required to provide the electronic record in the file format in which it exists at the time of the request.



IPRA AMENDMENTS

C. A custodian:

(1) may charge reasonable fees for copying the public records, unless a different fee is otherwise prescribed by law;



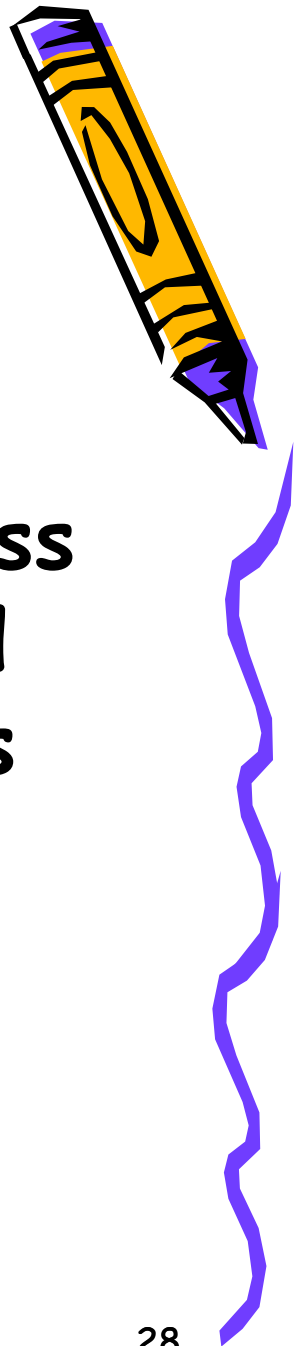
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IPRA AMENDMENTS

(2) shall not charge fees in excess of one dollar (\$1.00) per printed page for documents eleven inches by seventeen inches in size or smaller;



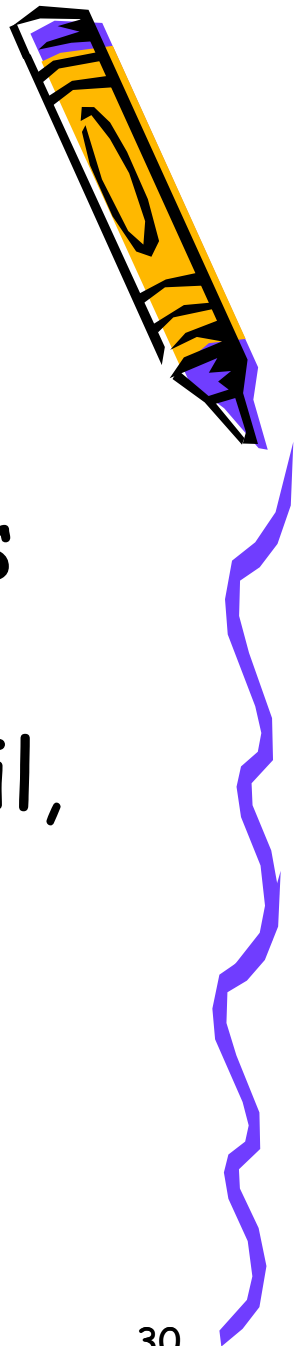
IPRA AMENDMENTS

(3) may charge the actual costs associated with downloading copies of public records to a computer disk or storage device, including the actual cost of the computer disk or storage device;

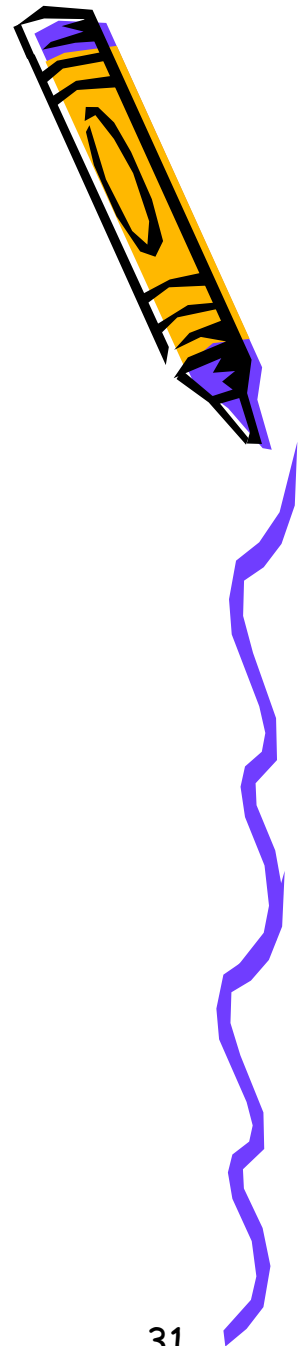


IPRA AMENDMENTS

(4) may charge the actual costs associated with transmitting copies of public records by mail, electronic mail or facsimile;



Q & A



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