

Discipline of Students in Special Education Series

Part 8 of 9

Reporting Crimes

Discussion

IDEA makes clear that schools are not prohibited from reporting a crime committed by a child with a disability to appropriate authorities. Similarly, the law does not prevent State law enforcement and judicial authorities from exercising their responsibilities. The agency reporting the crime must ensure that copies of the special education and disciplinary records are transmitted for consideration by the appropriate authorities-however, only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act (FERPA), a Federal law that protects the privacy of children's education records. As the Department explains:

Under FERPA, personally identifiable information (such as the child's status as a special education child) can only be released with parental consent, except in certain very limited circumstances. Therefore, the transmission of a child's special education and disciplinary records... without parental consent is permissible only to the extent that such transmission is permitted under FERPA. (71 Fed. Reg. 46728)

FERPA's Regulations

FERPA's regulations are available online. Find them at:
<http://www.ed.gov/policy/gen/reg/ferpa/index.html>

IDEA's Regulations at Â§300.535
Â§300.535 Referral to and action by law enforcement and judicial authorities.

(a) Rule of construction. Nothing in this part prohibits an agency from reporting a crime committed by a child with a disability to appropriate authorities or prevents State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.

(b) Transmittal of records. (1) An agency reporting a crime committed by a child with a disability must ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom the agency reports the crime.

(2) An agency reporting a crime under this section may transmit copies of the child's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act.