

On December 13, 2005, Ms. XXXXXXXXXXXX (“Parent”) filed a complaint on behalf of her son (“Student”) against the Colonial School District (“District”). The complaint alleges that the District has violated state and federal laws relating to children with disabilities. Parent states that the District failed to request permission to release records to High Roads and also to two doctors who were to provide an independent evaluation.

Investigation of the complaint has been conducted as required by the *Individuals with Disabilities Education Act* (IDEA) Regulations at 34 C.F.R. § 300.660 to 300.662, and according to the Department of Education’s regulations and procedures, including Sections 15.12 to 15.14 of the *Administrative Manual for Special Education Services* (“AMSES”). Specifically, the investigation included interviews with Ms. Sharon Keller and Ms. XXXXXXXXXXXX [Parent]. Documents reviewed included Parent Contact Documentation, the Due Process Hearing Panel decision, correspondence between District and Parent, and the information packet and application sent to High Roads.

### **Findings**

1. Student is in fourth grade receiving special education services as emotionally disturbed.
2. Special Education Due Process Panel decision dated 11/30/04 states that “Child should be placed in an interim alternate educational setting at High Roads for up to 45 calendar days immediately, and both parties are to cooperate by filling out applications and providing documents necessary for this to occur.”
3. District and Parent state that on 12/2/04 Parent was given opportunity to sign a release of information for records to be sent to the interim alternative education setting (IAES) after the Due Process Hearing decision.
4. District states that Parent refused to sign until her attorney had the opportunity to review the Hearing Panel decision.
5. Parent stated during interview that the information was sent to the IAES prior to her permission to release the records. She also states that her interpretation of the decision was that she would fill out the application and forward educational materials to the IAES.
6. District sent a letter to Parent on 12/6/04 informing Parent that they were going to send the Student’s educational records to the IAES. District also explained in this letter to Parent that Parent did not need to complete an application, as the District was going to include a letter to the Director of the IAES. A copy of both the letter and all documents to be forwarded was included.
7. In letter from District to Parent dated 12/7/04, District stated “We wanted to afford you the opportunity to provide your written consent in advance. At this point, we assume you are refusing to provide it...Please be advised the District, at this time, intends to provide the Application Packet to the [IAES].”
8. Decision in #2 also states that “An Independent Education Evaluation to be conducted by a Board Certified Psychiatrist ... is to be done at District’s expense. All parties are to cooperate for this evaluation.”

9. District stated during interview that they did not forward any information to any doctors prior to receiving Parent's permission.
10. Parent stated during interview that this was a misunderstanding on her part, and that the District had explained to her that they had only contacted the doctors, and that no records had been sent.

### **Conclusions**

It is clear that the Due Process Panel decision intended that the Student would attend an IAES, and this panel also named the specific school in which to place the student. The panel stated in its decision that "Child should be placed in an interim alternative education setting at High Roads for up to 45 days immediately, and both parties are to cooperate by filling out applications and providing documents necessary for this to occur." (pg. 4) District sent the student information to the IAES in order to comply with this decision. It is also appropriate that District sent this directly to the transferring school and not to Parent to forward on their behalf.

Thirty-four CFR § 99.31 (FERPA Regulation) states: "(a) An educational agency or institution may disclose personally identifiable information from an education record of a student without the consent required by § 99.30 if the disclosure meets one or more of the following conditions: (2) The disclosure is subject to the requirements of § 99.34, to officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll." The Due Process Panel's direction to place student in the IAES is consistent with a transfer to another school. District was not required to seek parental consent to release information.

Therefore, I find that the District complied with Federal and State Regulations in respect to the concern of release of records to the IAES. If Parent did not agree with the Due Process Panel's decision about the placement in this IAES, the appropriate action was to file an appeal of the Due Process decision with the appropriate court.

With respect to the release of records to independent educational evaluators, during Parent interview it was stated that this was a misunderstanding, and that District had not released the information about her child.

Therefore, I find the District complied with Federal and State Regulations in respect to the concern of release of records to an independent education evaluator.