

## Dear Colleague Letter: Report Cards and Transcripts for Students with Disabilities

### OFFICE OF THE ASSISTANT SECRETARY

The Office for Civil Rights in the United States Department of Education issues this guidance to provide state and local education agencies with information concerning disclosure of disability on report cards and transcripts for students with disabilities attending public elementary and secondary schools, under Section 504 of the *Rehabilitation Act of 1973* (29 U.S.C. § 794) and its implementing regulation (34 C.F.R. Part 104) and Title II of the *Americans with Disabilities Act of 1990* (42 U.S.C. § 12131 *et seq.*) and its implementing regulation (28 C.F.R. Part 35). As appropriate, this document also discusses two other relevant federal laws, the *Individuals with Disabilities Education Act of 2004* (20 U.S.C. § 1400 *et seq.*) and its implementing regulation (34 C.F.R. Part 300) and the *Family Educational Rights and Privacy Act* (20 U.S.C. §1232g) and its implementing regulation (34 C.F.R. Part 99).

This guidance represents the Department's current thinking on this topic. It does not create or confer any rights for or on any person. This guidance does not impose any requirements beyond those required under applicable law and regulations.

If you are interested in commenting on this guidance, please email us your comment at [OCR@ed.gov](mailto:OCR@ed.gov) or write to us at the following address: U.S. Department of Education; Office for Civil Rights; 400 Maryland Avenue, SW; Washington, DC 20202.

October 17, 2008

Dear Colleague:

I am writing to you to address some issues concerning report cards and transcripts for students with disabilities attending public elementary and secondary schools. Through this letter and the enclosed Questions and Answers document, I am clarifying how federal laws apply to statements on report cards and transcripts when these statements identify students as students with disabilities.

The Office for Civil Rights (OCR) in the United States Department of Education (Department) has enforcement responsibilities under two of the applicable federal laws -- Section 504 of the *Rehabilitation Act of 1973* (Section 504) and Title II of the *Americans With Disabilities Act of 1990* (Title II). Section 504 prohibits discrimination on the basis of disability in programs or activities receiving Federal financial assistance, and Title II prohibits discrimination on the basis of disability by public entities, including public elementary and secondary school systems, regardless of receipt of Federal financial assistance. As part of their disability nondiscrimination mandates, Section 504 and Title II require local education agencies (LEAs) to provide a free appropriate public education (FAPE) to qualified individuals with disabilities in their jurisdiction. See 34 C.F.R. § 104.33 and 28 C.F.R. § 35.103(a).

Other federal laws are also relevant. Through the Office of Special Education and Rehabilitative Services (OSERS), the Department of Education administers the *Individuals with Disabilities Education Act (IDEA)*, which provides funds to states to assist in making FAPE available to eligible children with disabilities. *IDEA* requirements apply to state

education agencies (SEAs), school districts, and other public agencies that serve *IDEA*-eligible children. The Department's Family Policy Compliance Office implements and enforces the *Family Educational Rights and Privacy Act (FERPA)*. *FERPA* protects the privacy interests of parents and students with regard to education records, and generally prohibits a policy or practice of disclosing personally identifiable information from education records without consent unless it is subject to a specific exemption.

Report cards and transcripts convey information about students. LEAs issue report cards to parents to indicate their child's progress or level of achievement in specific classes, course content, or curriculum. These report cards are made available to parents, not to postsecondary institutions, potential employers, and others outside the LEA. In contrast, a student's transcript generally is intended to inform postsecondary institutions or prospective employers of a student's academic credentials and achievements. Accordingly, there is an expectation that a student's transcript could be shared with persons other than the student and the student's parents.

For students with disabilities, questions arise about whether the information conveyed by report cards and transcripts can include information about the students' disabilities, including whether those students received special education and related services. As discussed in the enclosed Questions and Answers document, under federal disability discrimination laws, the general principle is that report cards may contain information about a student's disability, including whether that student received special education or related services, as long as the report card informs parents about their child's progress or level of achievement in specific classes, course content, or curriculum, consistent with the underlying purpose of a report card.

However, transcripts may not contain information disclosing students' disabilities. Transcripts are provided to persons other than the student and the student's parents to convey information about a student's academic credentials and achievements. Information about a student's disability, including whether that student received special education or related services due to having a disability, is not information about a student's academic credentials and achievements. Therefore, transcripts may not provide information on a student's disability.

The enclosed Questions and Answers document provides additional information concerning the determination of what statements and notations may be used on report cards and transcripts for students with disabilities.

Compliance with Section 504 and Title II principles in reporting student achievement is one means of providing students with disabilities with equal educational opportunity. I look forward to continuing our work together to improve educational outcomes for all students with disabilities.

Sincerely,

Stephanie J. Monroe  
Assistant Secretary for Civil  
Rights

Enclosure