

ACCESS TO SCHOOL RECORDS

This advice relates solely to information held on pupils by schools. It is the responsibility of the school to comply with the legal obligations.

As regards information held by the Governing Body of a school on a pupil, the relevant statutory instrument is the Education (Pupil Information) (England) Regulations 2000. Guidance on the application of this statutory instrument is contained in DfEE Guidance 15/2000 and Circular 17/1989.

Under the new regulations, and given the changes to access to information governed by the Data Protection Act 1998, it is possible for parents and pupils to see the child's record. The right of parents to see the children's record is contained in the Pupil Information Regulations 2000. The right of the pupil to see the educational record is different. It is no longer related to the age of the child. Instead, children who submit written requests to see their records should be allowed to do so unless it is obvious that they do not understand what they are asking for. That right arises under the Data Protection Act 1998. If schools are in any doubt whether, and to what extent, pupils should be allowed to access their records, they should seek guidance from the office of the Information Commissioner at 01625 545745. General guidance on the Data Protection Act can also be found on the Information Commissioners website at www.dataprotection.gov.uk.

ACCESS TO SCHOOL RECORDS BY PARENTS

Under regulation 5 of the 2000 Pupil Information Regulations, where a Headteacher receives a written request by a parent for disclosure of a pupil's educational record, the Headteacher of a maintained school must make the record available for inspection free of charge to the parent within 15 school days. If there is any doubt as to the person's identity, then the school should ask for further proof of identity.

If the parent requests a copy of a pupil's educational record, the Headteacher must comply with that request within 15 school days. The Headteacher may charge for this service but it shall not exceed the cost of supplying the material.

The Headteacher must not disclose any documents which are the subject of an order under Section 30(2) Data Protection Act 1998. This relates to issues of child abuse. The Headteacher should also have regard to the guidance issued by the DfEE.

The parent is entitled to see the "educational record". This record is defined as any record information which :

1. Is processed by, or on behalf of, the Governing Body of, or a teacher at, a school maintained by the Local Education Authority.
2. Relates to any person who is or has been a pupil at the school; and

3. Originated from or was supplied by or on behalf:
 - a) an employee of the Local Education Authority which maintains a school
 - b) a teacher or other employee of the Governing Body of a VA or foundation school (including a foundation special school)
 - c) the pupil to whom the record relates; or
 - d) a parent of that pupil

The Guidance states that schools should not disclose anything on a pupil's record which would be likely to cause serious harm to their physical or mental health or that of anyone else. This includes any suggestion within the report of the child being at risk or being the subject of child abuse.

Statements of Special Educational Needs are outside these provisions as disclosure of those statements is covered within the regulations relating to special educational needs. The following items are also exempt from disclosure:

1. Educational records which were made prior to 1 September 1989.
2. Information from third parties, i.e. those persons not falling within part 3 of the definition of educational record.
3. Any information concerning another pupil.
4. References for University or Polytechnic places.
5. Ethnic data.
6. Reports for juvenile courts.

If you have any concerns about access to school records by parents, you should contact County Secretary's Department on 01992 555520

ACCESS TO SCHOOL RECORDS BY PUPILS UNDER THE DATA PROTECTION ACT 1998

A pupil has to follow the procedures set out under the above Act to gain access to his/her records.

A pupil must make a request in writing and pay the appropriate fee to the Data Protection Controller (headteacher/governing body). The child will then be entitled:

- a) to be told if his or her personal data is being processed by the Data Controller;

- b) if so, he should be given a description of that personal data, the purposes for which it has been processed and to whom that data may be disclosed;
- c) to be provided with all information which forms personal data in an intelligible manner except where;
 - i) the supply of a copy of that data is not possible
 - ii) it would involve disproportionate efforts;
 - iii) the pupil agrees that no copy is required;
 - iv) to disclose any information as to the source of the personal data unless the data will disclose information relating to a third party and that third party can be identified from the information

There will be no requirement to disclose the personal data including information about a third party unless:

- 1) The third party consents to disclosure.
- 2) Where it is reasonable in all the circumstances to disclose without consent having regard to any duty of confidentiality owed, the steps taken to consent, whether the third party is capable of giving consent or any express refusal to disclosure by the third party.
- 3) Any correct and proper request for access under this Act should be complied within 40 days of receipt of a written request and the appropriate fee.

If you have any doubts about such a request, you should contact County Secretary's Department on 01992 555520

October 2003