

On December 16, 2004, Ms. XXXXXXXXXXXXXXX (“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 violated her son’s right to protected information.

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. XXXXXXXXXXXXXXX, Parent, Mr. Scott Daniels, School Psychologist, and Ms. Sharon Keller, District Special Education Director. Documents reviewed included e-mail correspondence, Permission Forms, and Parent Contact Notes.

Findings

1. Student was five years old and was receiving home schooling at the time of this complaint.
2. Parent called District on 12/6/04 and told District that she was interested in pursuing a referral for special education. District explained process to her and told her that a psychologist would call to schedule an evaluation for special education eligibility.
3. Psychologist stated that he called Parent’s home on 12/14/04. A female answered the phone. He asked if Parent was home. Female said no, and psychologist asked if there was another way to contact Parent. Female said she did not have another number, and Psychologist told her that he was a psychologist with the District and was calling to schedule an appointment for an evaluation for the Child. Psychologist states that he did not know who the female was that answered the phone.
4. Parent states in complaint that female who answered phone was a babysitter.
5. Parent spoke to psychologist ½ hour later. Psychologist states that they set up an appointment for her child and that Parent never brought up any concerns about earlier conversation with the babysitter. Parent states that she does not remember the details of this conversation.
6. Parent spoke to Psychologist again on 12/14/04 to determine a place to hold the evaluation. Psychologist states that Parent did not raise issue of confidentiality during this conversation.
7. A different District psychologist spoke to Parent on 12/15/04. District states that the change in psychologist occurred because the parent had previous concerns about a male psychologist evaluating her child, and that this psychologist’s school was geographically closer to Parent. Parent states during the interview that she preferred the new psychologist because she was not comfortable with the previous psychologist who revealed confidential information about her child.

Conclusions

Both IDEA and FERPA discuss specific instances when information from the “educational record” can and cannot be released. FERPA 34 CFR § 99.3 also defines a “record” as “... any information recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche.” The information released (psychologist identifying himself, the student’s name, and the reason for the call) does not meet the definition of an “educational record”. Both of these laws specifically mention actual documents that are covered, and the information shared does not fall under this category.

Therefore, I find that the District complied with Federal and State regulations with respect to release of information about the Child.