

281—120.414(34CFR303) Consent prior to disclosure or use.

120.414(1) General. Except as provided in subrule 120.414(2), prior parental consent must be obtained before personally identifiable information is:

a. Disclosed to anyone other than authorized representatives, officials, or employees of participating agencies collecting, maintaining, or using the information under this chapter, subject to subrule 120.414(2); or

b. Used for any purpose other than meeting a requirement of this chapter.

120.414(2) Exceptions. The department or other participating agency may not disclose personally identifiable information, as defined in rule 281—120.29(34CFR303), to any party except participating agencies (including the department and EIS providers) that are part of the state's Part C system without parental consent unless authorized to do so under:

a. Subrules 120.401(1) and 120.209(2); or

b. One of the exceptions enumerated in 34 CFR 99.31 (where applicable to Part C), which are expressly adopted to apply to Part C through this reference. In applying the exceptions in 34 CFR 99.31 to this chapter, participating agencies must also comply with the pertinent conditions in 34 CFR 99.32, 99.33, 99.34, 99.35, 99.36, 99.38, and 99.39. In applying these provisions in 34 CFR Part 99 to Part C, the reference to:

(1) 34 CFR 99.30 means subrule 120.414(1);

(2) "Education records" means early intervention records under subrule 120.403(2);

(3) "Educational" means early intervention under this chapter;

(4) "Educational agency or institution" means the participating agency under subrule 120.403(3);

(5) "School officials and officials of another school or school system" means qualified personnel or service coordinators under this chapter;

(6) "State and local educational authorities" means the department and EIS providers and grantees; and

(7) "Student" means child under this chapter.

120.414(3) Policies and procedures regarding refusal to provide consent. The department must provide policies and procedures to be used when a parent refuses to provide consent under this rule (such as a meeting to explain to parents how their failure to consent affects the ability of their child to receive services under this chapter), provided that those procedures do not override a parent's right to refuse consent under rule 281—120.420(34CFR303).

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