



Key points:

- **Appoint all students to general ed classrooms**
- **Use electronic means to communicate with students**
- **Offer opt-out policy**

3 simple ways to avoid compliance concerns when it comes to student yearbooks

A school yearbook is printed and distributed. The students in the school's applied behavior analysis class are accidentally not included. To fix the mistake, the school creates a supplement page of just the students in the ABA class for everyone to slide into their yearbooks.

Did the school in this scenario do anything wrong?

Yes, said Jocelyn P. Kramer, a school attorney at [Weiss, Burkardt, Kramer LLC](#) in Pittsburgh. The school violated FERPA and ran afoul of both the IDEA and Section 504.

Per Section 504, all students must have equal opportunity to participate in school-related activities, such as having their pictures in the yearbook. By not including the ABA students in the yearbook, the school discriminated against the students on the basis of their disabilities. This was the school's first misstep.

Singling out the students with disabilities on their own supplemental page and stating that it was the ABA class was the second misstep. Calling out a student's disability, even indirectly, could violate FERPA and the IDEA because the information would otherwise be confidential, Kramer said.

"Should you inadvertently miss [including] any students, I would suggest talking to counsel prior to jumping to an immediate fix which could further jeopardize confidentiality," she said.

Ideally, you want to ensure from the start that you will not run into this problem. Here are a few ideas for how to make sure that all your students have equal access to be included in the yearbook and that you stay in compliance with the law.

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Assign all students with disabilities to a general ed homeroom class

As a general rule, all students should be assigned to a general ed homeroom class and teacher, even if they are full-time special ed students, Kramer said. Then sort all students by homeroom to include them in the yearbook.

"You scatter those children who may be in special ed classrooms amongst their typically developing peers and avoid inadvertently identifying anyone as a person with a disability," Kramer said.

Communicate to the family that their student will be assigned to a general ed homeroom teacher for organizational purposes even though their caseload teacher may be the special ed teacher.

Assigning students with disabilities to general ed homerooms is good for other things as well, such as notification of school trips. "You're not inadvertently excluding someone," said Kramer. "There are more opportunities for inclusion."

Employ electronic means to ensure all students receive information

An OCR complaint was filed against a West Virginia school district that did not provide timely notice to homebound students about senior pictures and yearbooks, among other events. *Kanawha County (WV) Pub. Schs.*, [112 LRP 7430](#) (OCR 11/09/11). OCR required the district to review and develop policies and procedures to ensure that all seniors received appropriate notice regarding senior pictures, yearbooks, and other events.

"With all of the different electronic media devices available, it could be very simple for schools to make sure kids and families of kids with disabilities are notified," said Michelle Laubin, a school attorney at [Berchem Moses PC](#) in Milford, Conn. "My experience is a lot of districts are doing a lot of things electronically, so many schools are taking advantage of electronic means of notifying students of activities and opportunities." This could include email, Facebook, and the school website, said Laubin.

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[Bossier Parish Schools](#) in Benton, La., utilizes school app notifications, website posting, social media, and newsletters, 504 program coordinator Jennifer Campbell said.

Give all students the choice to opt out

At the beginning of the year, allow all students to opt out of being included in the yearbook. Cast a broad net, explaining your opt-out policy to parents and giving them the opportunity to return a signed form if they don't want their child included or only want to include their child's name. This could be similar to school media releases, which are also completed at the start of the year, Kramer said.

Don't share the reason students have opted out. "Just say 'Not pictured,' and leave it at that so it could be anything," Kramer said. "They didn't want pictures taken, or they were not available."

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