

## STUDENT RECORDS

In order to provide students with appropriate instruction and educational services, it is necessary for the District to maintain extensive educational and personal information. It is essential that these records be available to appropriate school personnel, accessible to the student's parent(s) or the student, and yet be guarded as confidential information.

It is the policy of the School Board that the principal of each school will be the legal custodian of all student records for that school. Upon request, eligible students (18 years of age or attending post-secondary education) and parent(s) will have access to their school records.

The school will notify parents and adult students annually of the following:

1. The type of records kept;
2. The procedure for inspecting and copying these records;
3. The right for interpretation;
4. The right to challenge data thought to be erroneous, the procedures for correcting or expunging erroneous data or inserting a rebuttal statement;
5. The right to lodge a complaint with the U.S. Department of Education if FERPA mandates are not adequately implemented.

Additionally, the district will notify parents annually of the district's policy on disclosure of personal information for the purpose of marketing or selling that information or otherwise providing that information to others for that purpose, including arrangements to protect student privacy that are provided by the agency in the event of such collection, disclosure or use.

The educational records include all materials directly related to a student that a school maintains. Records and notes maintained by a teacher, administrator, school physician, or school psychologist for his or her own use, and which are not available to others are exempted from this definition as are records maintained by a law enforcement officer assigned to the school and maintained by the officer solely for law enforcement purposes. Unrecorded student peer grading or evaluation does not constitute educational records.

The school will require a prior written consent before information other than directory information may be divulged to third parties. (Directory information, which is information that is generally not considered harmful or an invasion of privacy if released, can also be disclosed to outside organizations without a parent's or eligible student's prior written consent. The superintendent will provide a list of directory information according to U.S. Department of Education regulations

An exception to this rule exists for school district employees who have legitimate interests in viewing the records, as well as officials in other schools in which the student seeks to enroll. A school district in which a student is enrolled or is in the process-of enrolling in, may request the student's education records from any district in which the student was formerly enrolled to ascertain safety issues with incoming students and ensure full disclosure. The records, including the student's disciplinary records, will be forwarded to the requesting district within three (3) business days.

The district may disclose, without the consent of an eligible student or parent, personally identifiable information in the educational records of a student to the U.S. Attorney General or designee in response to an investigation under the U.S. Patriot Act.

The superintendent is directed to establish procedures to ensure compliance with the Family Educational Rights and Privacy Act and other applicable acts and regulations.

A Federal law, the Family Educational Rights and Privacy Act, commonly called FERPA, requires prior written consent from a student's parent or guardian (or student age 18 or older) prior to any disclosure of a student's educational records unless a specific exception is applicable such that prior written consent is not required.

A student's educational records are those records that are:

1. Directly related to a student; and
2. Maintained by the District or by a part acting for the District.

Student educational records do not include:

1. Records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not

- accessible or revealed to any other person except a temporary substitute for the maker of the record.
2. Records of the law enforcement unit of the District, subject to certain limitations.
  3. Record on a student who is 18 years of age or older, or is attending an institution of postsecondary education, that are;
    - i. Made or maintained by a physician, psychiatrist, psychologist, or other recognized professional acting in his or her professional capacity or assisting in a paraprofessional capacity,
    - ii. Made, maintained, or used only in connection with treatment of the student, and
    - iii. Disclosed only to individuals providing the treatment. (For the purpose of this provision, "treatment" does not include remedial educational activities or activities that are part of the program of instruction at the agency or institution.
  4. Records created or received by an educational agency or institution after an individual is no longer a student in attendance and that are not directly related to the individual's attendance as a student, and
  5. Grades on peer-graded papers before they are collected and recorded by a teacher.

FERPA permits the disclosure of Personally Identifiable Information (PII) from students' education records, without consent of the parent or eligible student, if the disclosure meets certain conditions. Except for disclosures to school officials, disclosures related to some judicial orders or lawfully issued subpoenas, disclosures of directory information, and disclosures to the parent or eligible student, FERPA regulations requires the school to record the disclosure. Parents and eligible students have a right to inspect and review the record of disclosures. A school may disclose PII from the education records of a student without obtaining prior written consent of the parents or the eligible student -

- o To other school officials, including teachers, within the educational agency or institution whom the school has determined to have legitimate educational interests. This includes contractors, consultants, volunteers or other parties to whom the school has outsourced institutional services or functions, provided that certain conditions are met.
- o To officials of another school, school system, or institution of postsecondary education where the student

seeks or intends to enroll, or where the student is already enrolled if the disclosure is for purposes related to the student's enrollment or transfer, subject to certain requirements.

- o To authorized representatives of the U.S. Comptroller General, the U.S. Attorney General, the U.S. Secretary of Education, or State and local educational authorities, such as the State educational agency in the parent or eligible student's State (SEA). Disclosures under this provision may be made, subject to the requirements of §99.35, in connection with an audit or evaluation of Federal- or State-supported education programs, or for the enforcement of or compliance with Federal legal requirements that relate to those programs. These entities may make further disclosures of PII to outside entities that are designated by them as their authorized representatives to conduct any audit, evaluation, or enforcement or compliance activity on their behalf.
- o To State and local officials or authorities to whom information is specifically allowed to be reported or disclosed by a State statute that concerns the juvenile justice system and the system's ability to effectively serve, prior to adjudication, the student whose records were released, subject to certain limitations.
- o To organizations conducting studies for, or on behalf of, the school, in order to
  - Develop, validate, or administer predictive tests;
  - Administer student aid programs; or
  - Improve instruction.
- o To accrediting organizations to carry out their accrediting functions.
- o To parents of a student if the student is a dependent for IRS tax purposes.
- o To comply with a judicial order or lawfully issued subpoena.
- o To appropriate officials in connection with a health or safety emergency, subject to certain limitations.
- o Information the school has designated as "directory information."
- o Addition of the following from KSB Law: For purposes of the district's compliance with state and federal law, the district "maintains" student records which are printed and kept in the student's physical file or which school district staff have intentionally saved within the official school district digital student information system that specifically identifies the student for whom those records are maintained. The school district may

also use learning management systems, which deliver and manage instructional content. The school district maintains student records within its student information system but not in its learning management system. The official school district student information system is Infinite Campus. Other records such as video recordings, which constitute student records, must be reduced to a physical medium in order to be "maintained." For example, a video must be put on a compact disk or other compatible hardware and placed within the student's file to be "maintained."

The District shall not collect information which is not necessary for the determination of student academic progress, state and federal reporting requirements, or other duties prescribed to a school district, or for the calculation of funding for public education.

REFERENCE: ARSD 24:43:09:02 (Student Records)  
Public Law 107-110 (No Child Left Behind Act of 2001)  
20 USC §1232 (Family Education and Privacy Rights)  
34 CFR §99.31 (Conditions Prior Consent Not Required)

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