

	ABERDEEN SCHOOL DISTRICT	NEPN Code: JLDAA
	POLICIES AND REGULATIONS	

CONFIDENTIALITY OF INFORMATION

The Aberdeen School District has developed and implemented policies and procedures on the confidentiality of information consistent with the Family Education Rights and Privacy Act.

The parents/guardians of a child who is now or was enrolled in the Aberdeen Public Schools shall be afforded, in accordance with this policy, an opportunity to inspect and review all education records concerning that child.

Confidentiality procedures are assurances that personally identifiable data shall be used for the purpose for which it is collected and be released only in the manner provided by law.

DEFINITIONS

The following definitions apply to this policy:

1. "**Act**": The Family Education Rights and Privacy Act (FERPA) (20 U.S.C. Section 1232 g; 34 CFR Part 99)
2. "**Attendance**": Includes attendance in person or by correspondence and the period during which a person is working under a work-study program.
3. "**Destruction**": "Destruction" means physical destruction or removal of personal identifiers from the information so that the information is no longer personally identifiable.
4. "**Directory Information**": "Directory information" means information contained in an education record of a student which would not generally be considered harmful or an invasion of privacy if disclosed. It includes, but is not limited to the student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended by the student.
5. "**Disclosure**": To permit access to or the release, transfer, or other communication of education records or the personally identifiable information contained in those records to any party, by any means, including oral, written, or electronic means.
6. "**District**": Aberdeen School District 6-1.
7. "**Education records**":
 - (a) The term "education records" means that records are:
 - (1) Directly related to a student; and
 - (2) Maintained by the District or by a party acting for the District.
 - (b) The term "education records" does not include:
 - (1) Records of instructional, supervisory, and administrative personnel and educational personnel ancillary to those persons that are kept in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a temporary substitute for the maker of the record;
 - (2) Records maintained by a law enforcement unit of the District that were created by that law enforcement unit for purposes of law enforcement

- (3) Records relating to an individual who is employed by the District that are made and maintained in the normal course of business, relate exclusively to such person in that person's capacity as an employee and are not available for use for any other purpose. Records relating to an individual in attendance in the District who is employed as a result of his or her status as a student are education records and not excepted under this paragraph;
 - (4) Records on a student who is eighteen (18) years of age or older, or is attending an institution of post secondary education that are:
 - (a) Made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his professional capacity or assisting in a paraprofessional capacity;
 - (b) Made, maintained, or used only in connection with the provision of treatment of the student; and
 - (c) Disclosed only to individuals providing treatment. For the purposes of this definition, "treatment" does not include remedial educational activities or activities that are part of the program of instruction in the District.
 - (5) Records that only contain information about an individual after he or she is no longer a student in the District.
8. "Eligible student": An "eligible student" is a student who has reached eighteen 18 years of age or is attending an institution of post-secondary education.
9. "IDEA": "IDEA" as used in this policy means the Individuals with Disabilities Education Act (20 U.S.C. 1400-1485).
10. "Institution of postsecondary education": An "institution of postsecondary education" means an institution that provides education to students beyond the secondary school level. "Secondary school level" means the educational level, (not beyond grade 12), at which secondary education is provided as determined under State law
11. "Parent": "Parent" means a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent of a guardian.
12. "Party": The term "party" means an individual, agency, institution, or organization.
13. "Personally identifiable information": "Personally identifiable information" includes, but is not limited to:
- (a) The student's name;
 - (b) The name of the student's parent or other family member;
 - (c) The address of the student or student's family;
 - (d) A personal identifier, such as the student's social security number or student number;
 - (e) A list of personal characteristics that would make the student's identity easily traceable; or,
 - (f) Other information that would make the student's identity easily traceable.

14. "Record": "Record" means any information recorded in any way, including, but not limited to, handwriting, print, tape, film, microfilm, and microfiche.
15. "Student": The term "student", except as otherwise specifically provided, means any individual who is or has been in attendance in the District and regarding whom the District maintains education records.

DISTRICT PROCEDURES

The District's procedures for implementing the requirements of the Act and IDEA shall include the following:

- I. Annual Notification of Rights
 - A. The Superintendent or his or her designee shall annually notify parents of students currently in attendance, and eligible students currently in attendance in the District of their rights under the Act. The notice must include a statement that the parent or eligible student has a right to:
 1. Inspect and review the student's education records;
 2. Request the amendment of the student's education records to ensure that the records are not inaccurate, misleading, or otherwise in violation of the student's privacy or other rights;
 3. Consent to disclosure of personally identifiable information contained in the student's education records, except to the extent that the Act, IDEA, and federal regulations authorize disclosure without consent;
 4. File with the U. S. Department of Education a complaint concerning alleged failures by the District to comply with the requirements of the Act;
 5. Obtain a copy of the District's policy on confidentiality at the student's attendance center;
 6. Be provided with information concerning the categories of directory information, if any, that the District has designated for public release and that they have the right, to be exercised within thirty (30) days of the beginning of the current school term, to advise the District that any or all of the designated directory information should not be released without the parents prior consent;
 7. Be provided, upon request, if the child is within the provisions of the IDEA, with a list of the types and locations of education records collected, maintained, or used by the District and the title and addresses of the officials responsible for the records;
 8. Be advised of the procedure to be followed to inspect and review the records;
 9. Be provided with a description of the circumstances in which the District, while not denying access, believes it has legitimate cause to deny a request for a copy of the records; and,
 10. To know whether or not the District has a policy of disclosing personally identifiable information pursuant to paragraph 5A (1) and, if so, a specification of the criteria for determining which parties are school officials and what the District considers to be a legitimate educational interest.

- B. The Superintendent or his or her designee shall provide this notice by any means that are reasonably likely to inform the parents and eligible students of their rights and that will effectively notify parents of students who have a primary or home language other than English.

II. Access Rights

- A. The District shall permit a parent or eligible student to inspect and review any education records relating to the student that are collected, maintained, or used by District. The District shall comply with a request within a reasonable period of time and in no case more than 45 calendar days after the request is received.
- B. The right to inspect and review education records includes:
 - 1. The right to inspect and review the requested education records before any meeting regarding an IEP or any hearing relating to the identification, evaluation, or educational placement of the child or provision of FAPE to the child;
 - 2. The right to a response from the District to reasonable requests for explanations and interpretations of the records;
 - 3. The right to a copy of the records if failure to provide these copies would effectively prevent the parent or student from exercising the right to inspect and review the records;
 - 4. The right to have a representative of the parent inspect and review the records; and
 - 5. That the District will not destroy any education records if there is an outstanding request to inspect and review the records
- C. If an education record includes information on more than one child, the parents of those children may inspect and review only the information relating to their child or to be informed of that specific information.
- D. The District shall give full rights under the Act and IDEA to either parent unless the District has been provided with evidence that there is a court order, State statute or legally binding document relating to such matters as divorce, separation, or custody that specifically revokes these rights.
- E. The District may charge a fee for copies of records which are made for the parent or eligible student, if the fee does not effectively prevent those persons from exercising their right to inspect and review those records. The District will not charge a fee to search for or to retrieve the education records of a student.
- F. In addition to the parent or eligible student, the following parties may inspect the record relating to each student:
 - 1. The school official or his or her assistants who are responsible for the custody of the records; and
 - 2. Those parties authorized in paragraphs 5A (1) and (3) for the purpose of auditing the record keeping procedures of the District.

III. Records of Access

- A. The District shall maintain a record of each request for access to and each disclosure of personally identifiable information from the education records of each student;
- B. The District shall maintain the record with the education records of the student as long as the records are maintained;
- C. For each request or disclosure the record must include:
 - 1. The parties who have requested or received personally identifiable information from the education records; and
 - 2. The legitimate interests the parties had in requesting or obtaining the information.
- D. If the District discloses personally identifiable information from an education record with the understanding that the party receiving the information may make further disclosure of the information on behalf of the District, the record of disclosure required under this section must include:
 - 1. The names of the additional parties to which the receiving party may disclose the information on behalf of the District; and
 - 2. The legitimate interests under paragraph 5 which each of the additional parties has in requesting or obtaining the information.

IV. Opportunity for Amendment and Hearing

- A. Amendment procedure
 - 1. If a parent or eligible student believes the education records relating to the student contain information that is inaccurate, misleading, or in violation of the student's rights of privacy or other rights, he or she may ask the District to amend the record.
 - 2. The District shall decide whether to amend the record as requested within a reasonable time after it receives the request.
 - 3. If the District decides not to amend the record as requested, it shall inform the parent or eligible student of its decision and of his or her right to a hearing.
 - 4. The District shall give a parent of eligible student, on request, an opportunity for a hearing to challenge the content of the student's education records on the grounds that the information contained in the education records is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student.
- B. Hearing Procedure
 - 1. The hearing shall be held within 30 days after the District receives the written request for a hearing, and the parent or eligible student or eligible student shall be given notice at least 5 days in advance, of the date, place, and time of the hearing;
 - 2. The hearing will be conducted by a Hearing Officer appointed by the Superintendent who may be any person, including an official of the District, who does not have a direct interest in the outcome of the hearing;
 - 3. The parent or eligible student shall be afforded a full and fair opportunity to present evidence relevant to the issues raised and may be assisted or be represented by one or more individuals of his or her choice at his or her own expense, including an attorney;

4. The Hearing Official shall make his/her decision in writing addressed to the Superintendent and the parent or eligible student requesting the hearing within 15 days after the conclusion of the hearing; and
5. The decision of the Hearing Officer shall be based solely upon the evidence presented at the hearing and shall include a summary of the evidence and the reasons for the decision.

C. Decision of the District

1. If, as a result of the hearing, the District decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall:
 - a. Amend the information accordingly; and
 - b. Inform the parent or eligible student of the amendment in writing.
2. If, as a result of the hearing, the District decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall inform the parent or eligible student of the right to place a statement in the record commenting on the contested information or stating why he or she disagrees with the decision of the District, or both.
3. Any explanation placed in the record of the student under the preceding paragraph must be maintained by the District as part of the record of the student for as long as the record is maintained by the District. If the record of the student or the portion of the record to which the statement relates is disclosed by the District to any party, the statement must also be disclosed to the party.

V. Decision of Information and Consent

A. Written parental consent must be obtained before the release of education records or personally identifiable information contained therein, other than directory information designated as public information by the District to any individual, agency, or organization other than to the following:

1. Other school officials, including teachers within the District who have been determined to have legitimate educational interests;
2. Officials of other schools or school systems in which the student seeks or intends to enroll, upon the following conditions:
 - a. The District makes a reasonable attempt to notify the parent or eligible student at the last known address of the parent or eligible student, unless the disclosure is initiated by the parent or eligible student;
 - b. The District provides the parent or eligible student, upon request, with a copy of the record that was disclosed; and
 - c. The District gives the parent or eligible student, upon request, an opportunity for a hearing pursuant to paragraph 4 hereof.
3. Authorized representatives of the Comptroller General of the U.S., Secretary of Education, or state and local educational authorities. These officials may have access subject to the following:
 - a. The access in connection with an audit or evaluation of Federal State supported education programs, or for the enforcement of compliance with Federal legal requirements which relate to those programs;
 - b. Information that is collected under paragraph (a) of this section must:
 - i. Be protected in any manner that does not permit personal identification of individuals by anyone except the officials referred to in paragraph a of this section; and

- ii. Be destroyed and no longer needed for the purposes listed in paragraph a of this section.
 - c. Paragraph (b) of this section does not apply if:
 - i. The parent or eligible student has given written consent for the disclosure; or
 - ii. The collection of personally identifiable information is specifically authorized by Federal law.
 - d. When there is a Federal or State audit of District programs that require file review, parents will be notified if their child's file will be reviewed.
4. The disclosure is in connection with application for financial aid for which the student has applied or which the student has received, if the information is necessary for such purposes as to:
- a. Determine eligibility for the aid;
 - b. Determine the amount of the aid;
 - c. Determine the conditions for the aid;
 - or
 - d. Enforce terms and conditions of the aid.

Financial aid as used herein means a payment of funds provided to an individual (or a payment in kind of tangible or intangible property to the individual) that is conditioned on the individual's attendance at an educational agency or institution.

5. State and local officials or authorities to whom such information is specifically required to be reported or disclosed pursuant to a State statute adopted prior to November 19, 1974, unless otherwise limited by South Dakota law;
6. Organizations conducting studies for, or on behalf of, educational agencies or institutions to:
- a. Develop, validate, or administer predictive tests; or
 - b. Administer student aid programs; or
 - c. Improve instruction.
- The District may disclose information under this paragraph 6 only if:
- i. The study is conducted in a manner that does not permit personal identification of parents and students by individuals other than representatives of the organization; and
 - ii. The information is destroyed when no longer needed for the purpose for which the study was conducted.
- For the purposes of this section, the term organization includes, but is not limited to, Federal, State, and local agencies, and independent organizations.
7. Accrediting organizations to carry out their accrediting functions;
8. Parents of a dependent student as defined in the Internal Revenue Code of 1954 (26 U.S.C. Section 152 (c));
9. To appropriate persons in connections with an emergency, if knowledge of such information is necessary to protect the health or safety of the student or other individuals.

10. Such information is furnished in compliance with a judicial order, or pursuant to a lawfully issued subpoena, upon condition that the District makes a reasonable effort to notify the parent or eligible student of all such orders or subpoenas in advance of compliance therewith by the District.
- B. Except as otherwise provided herein, the District will not release, or provide access to, any personally identifiable information in education records unless:
 1. That the parent or eligible student shall provide a signed and dated written consent which shall:
 - a. Specify the records that may be disclosed;
 - b. State the purpose of the disclosure; and
 - c. Identify the party or class of parties to whom the disclosure may be made.
 2. When a disclosure is made under this section:
 - a. If a parent or eligible student so requests, the District shall provide him or her with a copy of the records disclosed; and
 - b. If the parent of a student who is not an eligible student so requests, the District shall provide the student with a copy of the records disclosed.
- VI. Limitations on Re-Disclosure of Information
 - A. The District may disclose personally identifiable information from an education record only on the condition that the party to whom the information is disclosed will not disclose the information to any other party without the prior consent of the parent or eligible student;
 - B. The officers, employees, and agents of a party that receives information through paragraph 6 (A) above may use the information, but only for the purposes for which the disclosure was made;
 - C. Paragraph 6 (A) above does not prevent an educational agency or institution from disclosing personally identifiable information with the understanding that the party receiving the information may make further disclosures of the information on behalf of the District if:
 1. The disclosures meet the requirements of paragraph 5; and
 2. That the District has complied with requirements of paragraph 3 (B);
 - D. Paragraph 6 (A) does not apply to disclosures of directory information or to disclosure to a parent or student;
 - E. Except for disclosures of directory information or to a parent of a student who is not an eligible student or to the student, the District shall inform the party to whom disclosure is made of the requirements of this section.
- VII. Students Rather than Parents Permission or Consent
 - A. Whenever a student has attained eighteen (18) years of age or is attending an institution of post-secondary education, the permission and consent required of and the rights accorded to the parent of the student shall thereafter only be required of and accorded to the student.

VIII. Safeguards

- A. The District shall protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.
- B. One official in the District designated by the Superintendent shall assume responsibility for ensuring the confidentiality of personally identifiable information in education records.
- C. All persons collecting or using personally identifiable information shall receive training or instruction regarding the provisions of this policy.
- D. The District shall maintain for public inspection a current listing of the names and positions of those employees within the District who may have access to personally identifiable information on enrolled students being served under IDEA

IX. Compliance with Applicable Laws

- A. The District in adopting this Policy intends to comply with the terms of the Act and IDEA and in the event that there is any conflict between the provisions of this policy and the Act or IDEA, then the terms of the Act or IDEA shall govern.

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