

10900 STUDENT INFORMATION AND MISCELLANEOUS

10920 Family Educational Rights and Privacy Act (FERPA)

General

~~The Family Educational Rights and Privacy Act (FERPA) and the Privacy Act of 1974 are made applicable to the District by virtue of its acceptance of funds from the federal government. So long as the District wishes to continue receiving funds from the federal government, it must comply with the dictates of these two acts. The purpose of the Acts is to protect the privacy of parents and students.~~

~~Under the Privacy Act of 1974 and FERPA personally identifiable information and information directly related to a student are protected from release unless special circumstances (set forth later in this policy) apply. Information is considered directly related to a student if it contains a student name (or the student's parents' names), address, or any other type of information that would lead a person viewing the information back to the student that it concerns. The following items have been deemed personally identifiable information by the district:~~

- ~~• Name of their student, the student's parents, guardian, or family members.~~
- ~~• The address of the student~~
- ~~• Personal identifiers such as a Social Security Number~~
- ~~• List of personal characteristics which would make the student's identity easily traceable.~~
- ~~• Other information which would make the student's identity easily traceable.~~

~~Any rights guaranteed by FERPA belong to the parents of a student unless the student is over 18, in which case the Act and regulations will refer to that student as an eligible student. The rights of an eligible student and the parents of a minor child who is a student are the same. A court order, state statute, or other legally binding document relating to custody or divorce that specifically revokes parental rights will be binding on the school district and will terminate a parent's rights under FERPA.~~

Specific Duties

A. Maintaining Records

~~Each year the District must notify parents of all students currently in attendance and all eligible students of their rights under FERPA. These rights include:~~

- ~~1. Inspection and review of a student education record.~~
- ~~2. The right to seek amendment of that record if a parent or eligible student feels that the information contained therein is incorrect, misleading or otherwise in violation of a student's privacy right.~~
- ~~3. The right to consent to disclosure of any information contained in the record.~~
- ~~4. The right to file a complaint with the Department of Education concerning the district's alleged failures to comply with FERPA.~~

~~Additionally, the annual notice must contain the following information:~~

- ~~1. The procedure by which an eligible student or parent will inspect and review an education record.~~
- ~~2. The procedure for requesting an amendment.~~
- ~~3. The District's procedure, if any, concerning release of student information to school officials, including teachers, within the District who have a legitimate educational interest in that information. The annual notice shall also define school officials and legitimate educational interest.~~

~~Upon request, a parent or eligible student shall have the right to inspect a student's record. No fee may be charged for obtaining the record or compiling it. If the parent wishes to have a copy made, the District shall charge a fee of 25¢ per page for that copying. However, if the fee will effectively prevent a parent from obtaining the record, the Superintendent or his/her designee shall have the authority to waive the fee upon demonstration of financial hardship.~~

~~If, upon inspection of a student's record, a parent or eligible student feels that any information contained therein is "inaccurate, misleading or in violation of the student's right of privacy," that person may request the District to amend the record. Upon a request for amendment, the District must either make the amendment or inform the parent or eligible student that a hearing is available (because of a denial to amend). After the hearing and upon the results thereof, the District again must either amend or inform the parent or eligible student of its denial of amendment in writing. If the District denies the amendment after a hearing, it shall allow the parent or eligible student to place a statement concerning the issue in the student record. That statement shall be disclosed whenever the information to which it relates is disclosed.~~

~~Any hearing under FERPA shall be held within a reasonable time after the request. The District will give the parents or eligible student reasonable notice of the date, time and place of the hearing. The parent or eligible student shall have a full and fair opportunity to present evidence and may be represented by a person of his or her choice, including an attorney. The District will make a determination~~

on the merits of the hearing within a reasonable time and provide an answer to the parent or eligible student in writing. The decision that the District arrives at will be based solely upon the evidence presented at the hearing and will include a summary of that evidence and reasons for the decision.

B. Releasing Records

If a parent or eligible student provides a specific signed and dated consent for the District to release an educational record, then the District may do so. The consent must state to whom and for what purpose specifically identified records may be released. FERPA also allows release to certain persons without consent. Included among these are school officials within the District who have a legitimate educational interest in the record, other specifically enumerated government officials, school officials of other districts or post secondary educational institutions where a student seeks or intends to enroll, financial aid officers under specific conditions, organizations that compile statistical information for the district, the district's accrediting organization and a variety of others. In certain circumstances, even if release without consent is lawful, a parent or eligible student must be provided notice of such release.

One category of information that is not necessary to be held private under the terms of FERPA is directory information. This term means any information contained in an education record which would not generally be considered harmful or an invasion of privacy if disclosed. The following items have been designated as "directory information" by the District.

- Name
- Address
- Phone # (unless unlisted)
- Photograph
- Participation in co-curricular activities
- Dates of attendance
- Special awards and recognitions
- Major course of study
- Activities and Sports

The rules stated above are for student information to which FERPA applies. Directory information is not subject to the same standards as other personally identifiable information about students. If the District wishes to disclose directory information—that is name, address, telephone listing, etc.—it may do so if it provides appropriate notice to parents and eligible students. The district will make every effort to provide this notice in the native tongue of the parent/guardian of record.

Notice will contain a list of the types of information included in directory information and will advise parents of the right to refuse to allow this information to be released even though it is directory information.

1 C. Procedures for Implementation

2
3 ~~The Superintendent or his/her designee shall establish procedures for the~~
4 ~~implementation of FERPA and the Privacy Act of 1974, as amended.~~

5
6
7 The Board recognizes the requirement to comply with the Family Educational
8 Rights and Privacy Act (FERPA) and its associated regulations. The Board also
9 understands its obligation to adopt and maintain a plan for the collection,
10 maintenance and dissemination of education records in compliance with 22 Pa.
11 Code §12.31 and §12.32.

12
13 Definitions

14
15 When used in this Policy, the following terms shall have the following meanings:

16
17 **Directory information** – Information contained in an education record of a
18 student that would not generally be considered harmful or an invasion of privacy
19 if disclosed. Directory information may include, but is not limited to, the
20 student's name, address, listed telephone number, date and place of birth; program
21 or major field of study; dates of attendance; participation in officially recognized
22 school activities and sports; weight and height of members of athletic teams;
23 placement on the honor roll; certificates and awards received; the most recent
24 previous educational agency or institution attended by the student; grade level and
25 homeroom teacher; enrollment status; and photograph/school picture. The
26 Superintendent shall determine the information to be designated as directory
27 information by the District.

28
29 Directory information does not include a student's social security number or
30 student identification (ID) number, except that directory information may include
31 a student ID number, user ID, or other unique personal identifier displayed on a
32 student ID card/badge or used by the student for purposes of accessing or
33 communicating in electronic systems, but only if the identifier cannot be used to
34 gain access to education records except when used in conjunction with one or
35 more factors that authenticate the user's identity, such as a personal identification
36 number (PIN), password, or other factor known or possessed only by the
37 authorized user.

38
39 **Education records** – records directly related to a student, maintained by the
40 school district, or by a party acting for the school district. The term does not
41 include: records kept in the sole possession of the maker; are used only as a
42 personal memory aid; and are not accessible or revealed to another individual
43 except a temporary substitute for the maker of the record; records created or
44 received by the District after an individual is no longer a student in attendance and
45 are not directly related to the individual's attendance as a student; grades on peer-
46 graded papers before they are collected and recorded by a teacher; other records
47 specifically excluded from the definition of education records under the Family
48 Educational Rights and Privacy Act (FERPA) and its associated regulations.

49

Eligible student – a student who has attained eighteen (18) years of age or is attending an institution of postsecondary education.

Parent – includes a natural parent, a guardian, or an individual acting as a parent of a student in the absence of a parent/guardian.

Personally identifiable information – the name of a student and the student's parents or other family members'; the address of the student or student's family; a personal identifier, such as the student's Social Security Number, student number, or biometric record; other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name; other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; information requested by a person who the District reasonably believes knows the identity of the student to whom the education record relates.

School official with a legitimate educational interest – a school official is a person employed by the District as an administrator, supervisor, teacher, or support staff member (including health or medial staff and law enforcement unit personnel); a person serving on the School Board; a person or company with whom the school has outsourced services or functions it would otherwise use its own employees to perform (such as an attorney, auditor, medical consultant, or therapist); a parent or student serving on an official committee, such as a disciplinary or grievance committee; or a parent, student, or other volunteer assisting another school official in performing his/her tasks. A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his/her professional responsibility. The term also applies to District officials and support staff who are responsible for the maintenance and security of education records or auditing the District's recordkeeping procedures and to attorneys, consultants, and Board members when Board action concerning the student is required by law or when the education or treatment of the student is the subject of present or potential litigation or legal dispute.

Rights of Parents and Eligible Students

The District shall give full FERPA rights to either parent unless the District has been provided with evidence there is a state law, court order, or legally binding document governing such matters as divorce, separation, or custody specifically revoking the rights of a parent.

When a student becomes an eligible student, all FERPA rights previously accorded to parents shall thereafter only be accorded to the eligible student. However, in cases when an eligible student is dependent on a parent, as the term dependent is defined in the Internal Revenue Code, the District shall make the education records accessible to the parent of the student.

Annual Notification of Rights

Parents and eligible students shall be notified annually and upon initial enrollment of:

1. The rights and procedures for parents or eligible students:
 - a. To access, inspect and review the student records; and
 - b. To seek an amendment of the student's education records which the parent or eligible student believes to be inaccurate or misleading.
2. The right to consent to disclosures of personally identifiable information contained in the student's education records, except to the extent the Family Educational rights and Privacy Act (FERPA) and its associated regulations authorize disclosure without consent.
3. The right to file a complaint with the U.S. Department of Education concerning alleged failures by the District to comply with the requirements of the FERPA and its associated regulations.
4. The District's practice of permitting school officials with legitimate educational interests to access student records without prior consent of the parent or eligible student, as well as, the criteria used by the District to determine who constitutes a school official and what constitutes a legitimate educational interest.
5. The types of personally identifiable information the District has designated as directory information; the parent's/eligible student's right to opt out of the disclosure of directory information; and the time period within which a parent/eligible student has to notify the District, in writing, of their decision to opt out.

Disclosure of Personally Identifiable Information from Education Records

The District shall obtain the signed and dated written consent of a parent of a student (the consent of both parents is not required) or the eligible student before disclosing personally identifiable information from the education records of the student, other than directory information, except as specifically permitted by applicable law and regulations. When disclosure is made pursuant to signed and dated written consent, the District shall, upon request, provide the parent, eligible student, and/or student who is not an eligible student with a copy of the record(s) disclosed.

Permitted Disclosures of Personally Identifiable Information Without Consent.

The District may disclose personally identifiable information from the education records of a student without written consent of a parent or the eligible student if

the information is designated as directory information in the Annual Notification of Rights, the parent or eligible student did not opt out of the disclosure of directory information, and the time period within which a parent/eligible student has to notify the District in writing of their decision to opt out has expired. The District may continue to disclose directory information about former students without providing annual notice and opt out opportunities; however, the District must continue to honor any valid request to opt out of the disclosure of directory information made while a student was in attendance unless the student rescinds the opt out request.

The District may disclose personally identifiable information from the education records of a student without written consent of a parent or the eligible student if the disclosure is:

1. To other school officials within the District who have been determined by the District to have legitimate educational interests. A contractor, consultant, volunteer, or other party providing educational services or functions may be considered a school official provided that the party:
 - a. Performs an institutional service or function for which the District would otherwise use employees.
 - b. Is under the direct control of the District with respect to the use and maintenance of education records; and
 - c. Uses the information only for the purposes for which disclosure was made and does not re-disclose information to any other party without the prior consent of the parent or eligible student.
2. To officials of another school system or postsecondary schools in which the student seeks or intends to enroll, or where the student is already enrolled so long as the disclosure is for purposes related to the student's enrollment/transfer or where the student is enrolled and receiving services.
3. To authorized representatives of the state or federal government, subject to the conditions set forth in law and regulations.
4. In connection with financial aid for which the student has applied or which the student has received, if the information is necessary to determine the eligibility for, amount of, and conditions for aid, and to enforce the terms and conditions of the aid.
5. To organizations conducting studies for or on behalf of the District to develop, validate or administer predictive tests, administer student aid programs or improve instruction. Such disclosures are permissible only if:
 - a. The study is conducted in a manner that does not permit personal identification of parents or students to be disclosed to individuals other than representatives of the organization having legitimate interests in the information;

- b. The information is destroyed or returned to the District when it is no longer needed for the purposes for which the study was conducted; and
 - c. The District enters into a written agreement with the organization that:
 - i. Specifies the purpose, scope, and duration of the study or studies and the information to be disclosed;
 - ii. Requires the organization to use personally identifiable information from education records only to meet the purpose(s) of the study as stated in the written agreement;
 - iii. Requires the organization to conduct the study in a manner that does not permit personal identification of parents or students to be disclosed to anyone other than representatives of the organization with legitimate interests; and
 - iv. Requires the organization to destroy or return to the District all personally identifiable information when the information is no longer needed for the purposes for which the study was conducted and specifies the time period in which the information must be returned or destroyed.
6. To parents of a dependent student, as defined in the Internal Revenue Code.
7. To comply with a judicial order or lawfully issued subpoena:
 - a. The District shall make a reasonable effort to notify the parent or eligible student of the order or subpoena in advance of compliance unless the disclosure is in compliance with:
 - i. A federal grand jury subpoena and the court has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed;
 - ii. Any other subpoena issued for a law enforcement purpose and the court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed; or
 - iii. An *ex parte* order obtained by the U.S. Attorney General in connection with the investigation or prosecution of specified terrorism offenses.
 - b. The District may disclose to a court, without court order or subpoena, the education records of a student relevant for the District to proceed with or defend a legal action.

8. To appropriate parties in connection with a health or safety emergency, if the District determines that there is a health or safety emergency involving the student or other individuals, and the District determines that knowledge of the information is necessary to protect the health or safety of the student or other individuals.

9. As otherwise required or permitted by applicable law or regulation.

De-Identified Education Records

The District may release education records without the consent of a parent or the eligible student if all personally identifiable information is removed and a student's identity will not be known, whether through single or multiple releases, and taking into account other information available to the party to whom the information will be released.

Re-Disclosure of Personally Identifiable Information in Education Records

The District will disclose personally identifiable information from education records only on the condition it be used by the party only for the purpose(s) for which the disclosure was made and 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, unless the disclosure is permitted by applicable law and regulations.

Review and Inspection of Education Records by Parents and/or Eligible Students

Requests by a parent or eligible student to inspect and review the education records of a student are to be directed to the principal of the school in which the student is enrolled. Access shall be granted within 45 calendar days after the principal receives the request.

If circumstances effectively prevent the parent or eligible student from exercising the right to inspect and review the student's education records, the District shall provide the parent or eligible student with a copy of the records requested or make other arrangements for the parent or eligible student to inspect and review the requested records. The District may charge a fee for copies of records so long as the fee does not effectively prevent a parent or eligible student from exercising their right to inspect and review those records.

Record of Requests and Disclosures of Personally Identifiable Information

The District shall maintain a record of each request for and each disclosure of personally identifiable information from the education records of a student. The District will maintain the record of disclosure with the education records of the student for as long as the records are maintained. For each disclosure, the record must include the parties who have requested or obtained personally identifiable information from the student's education records and the legitimate interests these

parties had in requesting or obtaining the information. If a disclosure is made pursuant to a health or safety emergency, the District shall record the specific threat to the health or safety of a student or other individuals that formed the basis for the disclosure, as well as the parties to whom the District disclosed the information. The record of disclosure shall be available for inspection by parents, eligible students, school officials responsible for the custody of the records, and authorized representatives of the federal or state government for the purpose of auditing the District's recordkeeping procedures.

This requirement does not apply if the request was from or the disclosure was to:

1. A parent or eligible student;
2. School officials whom the District has determined to have a legitimate educational interest;
3. A party with the written consent of a parent or an eligible student;
4. A party seeking directory information; or
5. A party seeking or obtaining records in response to a lawfully issued subpoena or court order.

Amendment of Education Records

A parent or eligible student who believes information in education records collected, maintained, or used by the District is inaccurate or misleading has the right to request the District correct, amend, or delete the information pursuant to the procedure to be set forth in a separate administrative procedure.

Missing Child Registration

A missing child notation shall be placed on school records of a student under the age of eighteen (18) reported as missing to school officials by a law enforcement agency. Such notation shall be removed when the District is notified by the appropriate law enforcement agency a missing child has been recovered.

In the event the District receives a request for information from the school records of a missing child, the District shall:

1. Attempt to obtain information on the identity of the requester.
2. Contact the appropriate law enforcement agency to coordinate a response.

No information in the records shall be released to the requester without first contacting the appropriate law enforcement agency.

Authorization

The Superintendent or his/her designee is authorized to develop any administrative procedures he/she deems necessary to implement this Policy, FERPA, and its associated regulations.

Adoption Date - September 13, 1999

Revision Date - February 12, 2007; June 8, 2009,
August _____, 2017

Review Date -

~~Legal Reference~~ ~~20 U.S.C. § 1415(a)~~

~~IDEA 2004~~

~~34 C.F.R. § 99.1 et seq.~~

Legal Reference - 20 U.S.C. § 1232g; IDEA 2004; 34 C.F.R. § 99.1 *et seq.*, 22 Pa. Code §12.31; 22 Pa. Code §12.32; 22 Pa. Code §15.9; 22 Pa. Code §16.65; 35 P.S. §450.401-A, *et. seq.*; 24 PS §14-1409;

~~Cross Reference~~

Cross Reference - Policy 10140, Policy 11025