

PROTECTION OF THE PRIVACY OF STUDENTS

The Milford School District seeks to protect the rights and private information of all students. Additionally, the Federal Family Educational Rights and Privacy Act (FERPA) gives parents certain protections with regard to their child's education records. Under FERPA, school districts must maintain the confidentiality of all personally identifiable information in education records related to students and may only disclose student information to certain parties outlined in section B of this policy. To protect a student's privacy, the law generally requires schools to ask for written parent consent before disclosing a student's personally identifiable information to individuals other than their parents and those parties outlined in section B, and other than Directory Information (as defined below).

In the event Federal, State or Local agents request access to any Education Records other than Directory Information for students whose parents have not opted out pursuant to section H(1)(c) of this policy, the Superintendent or Designee shall be notified immediately before disclosure.

I. DEFINITIONS

- A. "Attendance" – Attendance at school, on homebound instruction or correspondence instruction and the period during which a person is working under a work-study program.
- B. "Consent" – A parent or eligible student has been fully informed of this Policy in his or her native language or other mode of communication, unless it clearly is not feasible to do so; the parent or eligible student understands and agrees in writing to be carrying out of the activity for which consent is sought and the consent sets forth that activity and lists the records (if any) which will be released and to whom; and the parent or eligible student understands that the granting of consent is voluntary.
- C. "Directory Information" – Information in an educational record including, but is not limited to, a student's name, parent/guardian names, 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, pictures of in school activities (i.e., yearbook pictures) video or print images for District purposes, and the most recent previous educational agency or institution attended by the student, and other similar information. Directory Information may be disclosed without consent,

unless the Eligible Student or Parent opts out of disclosing such information pursuant to section H(1)(c) of this policy.

- D. “Disclosure” – Permitting access or the release, transfer or other communication of education records of the student or the personally identifiable information contained therein, orally or in writing, or by electronic means, or by any other means to any party.
- E. “District” – The Milford School District.
- F. “District Staff” or “Staff” – Anyone employed by the Milford School District, on a full or part time basis, who has responsibility for any educational or operational aspect of the District.
- G. “Eligible Student” – Student who has attained eighteen years of age or has been emancipated pursuant to court order or is attending a post-secondary educational institution.
- H. “Education Records” – Those records that are directly related to a student and are maintained in District Offices or the Building Office, the term does **NOT** include:
 - 1. The personal records of District Staff, which are in the sole possession of the particular Staff member, are not accessible or revealed to any other individual except a Substitute and are used by the Staff member for professional purposes only.
 - 2. Records of a law enforcement unit providing services to the District that are:
 - a. Maintained apart from the records that are directly related to a student and are
 - b. Maintained solely for law enforcement purposes and are
 - c. Not disclosed to individuals other than law enforcement officials of the same jurisdiction: provided that the District does not directly disclose the education records of the student to the personnel of the law enforcement unit.
 - 3. Records relating to an individual employed by the District which are made and maintained in the normal course of business.
 - 4. Records relating to a student that are:
 - a. Created or maintained by a physician, psychiatrist, psychologist or other recognized professional acting in his or her professional capacity

- b. Created, maintained or used only in connection with the provision of treatment to the student and
 - c. Disclosed only to individuals providing the treatment, provided that a physician or other appropriate professional of the student's choice can personally review the records. For the purpose of this definition, "treatment" does not include remedial educational activities, diagnostic and evaluative data, and other activities used in the development of the student's instructional program.
- 5. Records of the District that contain only information related to a person after that person is no longer a student of the District. An example would be information collected by the District pertaining to the accomplishments of its alumni.
- 6. General recording of students where no one student is the focus.
- I. "Financial Aid" – 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.
- J. "Organizations" – Includes, but is not limited to Federal, State, and local agencies and independent contractors or organizations.
- K. "Parents" – A parent, parents, legal guardian or relative caregiver or an individual acting as a parent of a student in the absence of a parent or guardian by written consent of a parent or legal guardian, unless there is a court order to the contrary.
- L. "Party" – An individual, agency, institution or organization.
- M. "Personally Identifiable" – The data or information includes the name of the child, the child's parent or other family member, the address of the child, a child identifier, such as the child's social security number or student number, or a list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty.
- N. "Records" – Any information or data recorded in any medium including, but not limited to: handwriting, print, tapes, film, microfilm and microfiche.
- O. "Statutorily authorized governmental or educational agencies" - agencies permitted by law.

- P. “Student” – Any individual, not an adult employee of the District, for whom the District maintains educational records.
- Q. “Student with Disability” – A person who because of mental, physical, emotional or learning disability problems as defined by the Department of Education, requires special educational services in order to develop his or her capabilities.
- R. “Substitute” – An individual who performs, on a temporary basis, the duties of the Staff member. This definition does not refer to an individual who permanently succeeds a particular staff member.

II. POLICY

A. RECORDS TO BE MAINTAINED

1. The Building Principal of each school in the District shall ensure that Education Records are maintained for every student attending his/her school.
2. The following education records will be maintained for every student in the District:
 - a. Directory information.
 - b. A cumulative record, which can include identifying data, academic work completed, level of achievement, attendance data, grades, scores on group or individual intelligence, achievement, aptitude, psychological, socio-metric or interest inventory tests, health data, family background information, teacher, counselor, or other school personnel ratings and observations, discipline history and verified reports of serious or recurrent behavior patterns.
 - c. A School Health Record Card and Emergency Treatment Data Card as provided by the State of Delaware.
 - d. A record of persons requesting disclosure of the education record of the student.
 - e. Transportation data.
 - f. The reason for leaving school (i.e., graduated, transferred, or dropped out.).
3. Education Records for Students with Disabilities will also include a separate file with documents related to the identification,

evaluation, placement and provision of a free appropriate public education for each student with disabilities.

4. Education records shall be maintained at the school building until:
 - a. The student progresses out of the building into another grade cluster within the District.
 - b. The student withdraws from the District and the school receives a request for education records from another educational institution, parents or eligible student for the student's education records.
5. For students who have graduated from a District high school, or who have withdrawn from the District and no request for education records has been received, the student's education records shall be maintained at the school the student last attended consistent with the provisions of the School District General Records Retention Schedule.
6. Education Records shall be maintained consistent with the requirements of Delaware law on records retention and Department of Education Regulations. Records shall be consolidated and be centrally located in each school building and kept under lock and key at all times except for periods of authorized use under the supervision of appropriate staff.
7. The District shall take every reasonable step to protect the confidentiality of personally identifiable information at the collection, storage, disclosure and destruction stages for all education records.

B. PARENTS' AND ELIGIBLE STUDENTS' RIGHTS

1. Parents and Eligible Students shall have access to education records as allowable under Delaware and Federal law and regulations in accordance to this policy and the procedures established pursuant to this policy.
2. It is presumed that either parent of a student has authority to inspect and review the education records of the student unless an agent of the District has been provided with evidence that there is a legally binding instrument or a court order that provides evidence to the contrary.
3. Whenever a student has attained eighteen years of age, he/she becomes an Eligible Student for the purposes of this policy. The rights accorded to and the consent required of the Parents of the student shall thereafter only be accorded to and required of the

Eligible Student, unless the student is legally determined to be incompetent to make such decisions for himself/herself, and for whom legal guardianship is required beyond the age of majority.

4. Parents and Eligible Students have the right to:
 - a. Review and inspect education records.
 - b. Attain copies of education records consistent with the procedures established pursuant to this policy.
 - c. Receive an explanation or interpretation of the education records from appropriate instructional or administrative staff.
 - d. Seek the correction of education records through a written request to amend, upon the belief that information in the education records collected, maintained or used by the District is
 - inaccurate
 - misleading
 - violates the privacy or other rights.
 - e. Be informed, in writing, if a request to amend the education records is denied and the reason for the denial.
 - f. Have a formal hearing if the request to amend the record is denied.
 - g. Be permitted to place a statement in the education records if the request continues to be denied after the formal hearing.
 - h. Request a copy of this Policy and all written procedures created pursuant to this Policy.
 - i. File complaints concerning alleged failure to Staff to comply with the requirements of this Policy.
5. An Eligible Student must give his/her consent in order for his/her information contained in his/her education records to be disclosed to his/her Parents, unless the District receives a court order establishing Parents as the legal guardian of the Eligible Student.

C. DISCLOSURE OF EDUCATIONAL RECORDS

1. Personally identifiable information from education records shall not be disclosed to anyone without the written consent of Parents or Eligible Students except under the following circumstances:

- a. To Staff members who have been determined by the Superintendent or his/her Designee to have legitimate educational interest in reviewing the education record.
- b. To the District's attorneys for purposes of advising and counseling the District or representing the District in threatened or pending litigation.
- c. To officials of another school or school system or institution of post-secondary education in which the student seeks or intends to enroll.
- d. To certain statutorily authorized governmental or educational agencies.
- e. In connection with financial aid for which a student has applied or which a student has received.
- f. To State or local officials involved in the Juvenile justice system to whom information is specifically allowed to be reported or disclosed per state statute.
- g. To organizations conducting studies for or on behalf of the District for the purpose of administering predictive tests, administering student aid programs and improving instruction. Individuals other than representatives of the organization must conduct the studies in a manner that will not permit the personal identification of students and their parents and the information will be destroyed when no longer needed for the purposes for which the study was conducted.
- h. To accrediting organizations in order to carry out their accrediting functions.
- i. To Parents or Eligible Students requesting information in education records as described above.
- j. To comply with a judicial order or lawfully issued subpoena. The District shall make a reasonable effort to notify Parent or Eligible Student of the order or subpoena in advance of compliance. A judicial order or issued subpoena presented to the school must be further presented to and reviewed by the Superintendent or Designee.

- k. To the appropriate officials in health or safety emergency.
 - l. For directory information.
 - m. To a caseworker or other representative of a State or tribal organization authorized to access a student's case plan when the agency or organization is legally responsible for the care and protection of the student under State or tribal law.
 - n. To law enforcement when there is documentation that DFS is investigating or prosecuting cases concerning child abuse, molestation, dependency or neglect (as defined by the Child Abuse Prevention and Treatment Act) where the parent is a party.
 - o. Subpoenas issued by the Delaware Commission on Child Death.
 - p. When a deputy attorney general affirms pursuant to the Uninterrupted Scholars Act that disclosure of a subpoena would jeopardize a criminal investigation for extraordinary reasons.
- 2. All persons, agencies or organizations desiring access to the records of a student shall be required to request access in writing. The request shall be kept permanently with the file of the student.
 - 3. If the Education Records of a student contain information on more than one student, Parents or Eligible Students may inspect and review or be informed of only the specific information that pertains to that student.

D. RECORDS OF REQUESTS AND DISCLOSURES:

- 1. Except for requests from Parents, Eligible Students, Staff, other School Officials, or to persons for whom Parents or Eligible Students have given written permission, all files containing education records shall include a record of requests and disclosures of personally identifiable information other than Directory Information from the education records of a student.
- 2. The Record of Requests and Disclosures must indicate:
 - a. The parties who have requested or obtained personally identifiable information from the education records of the student.

- b. The legitimate interests these parties had in requesting or obtaining the information.

E. SCHOOL OFFICIALS AND LEGITIMATE EDUCATIONAL INTERESTS:
A member of District Staff has a legitimate educational interest in having access to confidential information from the education records of a student disclosed to him/her under the following conditions:

1. To provide educational services
2. To provide related services, e.g., counseling, testing, etc.
3. To provide support in maintaining records, such as secretaries or paraprofessionals
4. To address issues requiring due process such as expulsion hearings and IDEA matters.

F. COPYING EDUCATION RECORDS

1. Parents, Eligible Students and persons with permission may request a copy of a student's education record.
2. Material protected by copyright or other similar State or Federal laws or regulations will not be copied under any circumstances.
3. The District shall charge a fee of \$0.20 per page for all copies, unless the fee effectively prevents Parents or Eligible Students from exercising their right to inspect and review those records.

G. WAIVER

1. Parents or Eligible Students may waive any of the rights listed in this Policy. The waiver shall not be valid unless in writing and signed by Parents or Eligible Student, as appropriate.
2. Parents or Eligible Students cannot be required to waive rights listed in this Policy.
3. This paragraph does not preclude the District from requesting such a waiver.
4. Revocation of any waiver must be in writing. If Parents execute a waiver under this section, the student may revoke the waiver at any time after he or she becomes an Eligible Student.

H. ANNUAL NOTIFICATION OF RIGHTS

1. The Superintendent or his/her Designee, shall provide Parents and Eligible Students annual notice by such means as are reasonably likely to inform them of:
 - a. Their rights as listed in this policy.
 - b. The right of the parent of the student or the eligible student to permit the designation of any or all of the categories of personally identifiable information with respect to that student as directory information.
 - c. The period of time within which the parent of the student or the eligible student must inform the agency or institution in writing that such personally identifiable information is not to be designated as directory information with respect to that student.
 - d. The fact that Directory Information may be disclosed without written consent unless the District receives a request in writing that Directory Information not be disclosed.
2. The Notice shall include a manner in which to notify Parents of students identified as having a primary or home language other than English.

I. Staff Notification of Policy

1. This policy shall be reviewed with administrators prior to ten-month staff's first workday of each school year.
2. This policy shall be referenced in the staff handbook of each school within the District.
3. This policy shall be reviewed with staff during in-service prior to the students' first school day of each school year.

ADOPTED: 10/19/20;