

BOARD POLICY**VIRTUAL LEARNING ACADEMY OF ST. CLAIR COUNTY****SUBJECT: STUDENT AND EMPLOYEE RECORDS**

Virtual Learning Academy of St. Clair County ("Academy"), as a public educational institution and public sector employer, is subject to legal restrictions and requirements regarding the retention of Academy student and employee records. The purpose of this policy is to define and implement the legal requirements regarding the retention of student and employment records of the Academy.

I. Student Records

The Family Education Right to Privacy Act, 20 USC § 1232g, and the implementing federal regulations, 34 C.F.R., Part 99, ("FERPA") require educational agencies to adopt a written policy regarding the retention of student educational records. Education records shall not be release except as provided in this policy, which shall be implemented and interpreted in light of FERPA. To the extent this policy is inconsistent with the provisions of FERPA, the Academy shall comply with FERPA.

All rights under this policy shall be afforded to the individual who is or has been attending the Academy ("student(s)"), if the individual has reached 18 years of age, or the parents or guardian of the individual ("parent"), if less than 18 years of age.

A. Student Rights: A student of the Academy has the right to review and inspect his/her education records. (See subsection E of this policy). A student may obtain a copy of his/her education records if the failure to do so would prevent the student from exercising his/her right to inspect and review. (See subsection F of this policy). The Academy shall not permit the release of education records or personally identifiable information contained in education records without the written consent of the student, except as otherwise permitted by FERPA. (See subsection G of this policy).

B. Education Records: The Academy shall maintain a file for each student in accordance with 34 C.F.R. § 99.32, containing the student's education records. Education records include all records that are directly related to a student and which are maintained by an educational agency or a party acting on its behalf.

C. Directory Information: Unless a student otherwise informs the Academy in writing, the Academy may disclose student directory information. Directory information includes information contained in an education record of a student which would not generally be considered harmful or an invasion of privacy if disclosed, as defined in 34 C.F.R. § 99.3. The Academy shall give public notice to students in attendance and their parent of the types of personally identifiable information designated as directory information, their right to refuse to let the Academy release their directory information and the period of time to notify the Academy of their refusal.

D. Notification of Rights: The Academy shall annually notify students currently in attendance at the Academy and their parent, by any means reasonably likely to inform students, of the following rights:

- (1) To inspect and review student's records;
- (2) To request an amendment of their educational records to ensure they are not inaccurate, misleading, or otherwise in violation of the student's privacy or other rights;
- (3) To consent to the disclosure of personally identifiable information contained in an education records, as defined by 34 C.F.R. § 99.3, except as the Academy is otherwise authorized to do so by law.
- (4) To file a complaint with the U.S. Department of Education under 34 C.F.R. § 99.64 concerning alleged failures to comply with FERPA.
- (5) To obtain copies of this policy and the location where this can be done.

E. Inspection of Education Records: Academy students have the right inspect and review his/her education records upon making a reasonable request to the Academy Director. Such requests shall be in writing and sent or delivered to c/o Director, Academy for Plastics Manufacturing Technology, St. Clair County Intermediate School District, TEC, P.O. Box 5001, Port Huron, Michigan 48061-5001. A student may have his/her treatment records reviewed by his/her physician or appropriate professional of his/her choice.

F. Copies: Upon request, the Academy shall provide a copy of an education record to a student if the failure to do so would prevent the student from exercising his/her right to inspect and review. The Academy may charge the student the cost to duplicate the record.

G. Personally Identifiable Information: The personally identifiable information of a student, as defined by 34 C.F.R. § 99.3, will not be disclosed without the written consent of the student except as otherwise permitted by C.F.R. § 99.31.

H. Academy Officials and Other Educational Agencies: Academy officials who are involved in defining and implementing Academy policies and procedures and the student curriculum, including the Academy Director, members of the Board of Trustees and instructors of the Academy have a legitimate educational interest in education records and will have access to these records in accordance with 34 C.F.R. § 99.31. The Academy will also release educational records and personally identifiable information contained therein to other educational agencies in which a student seeks or intends to enroll upon the request of the agency, in accordance with 34 C.F.R. § 99.34.

I. Academy Responses: The Academy shall respond to all requests under this policy, providing reasonable explanations and interpretations, within 45 days of receipt of the request, in accordance with the provisions of FERPA.

J. Request to Amend: A student may request the Academy to amend an education record which he/she feels is inaccurate, misleading or in violation of the student's right to privacy or other rights. If the Academy decides not to amend the education record, the Academy shall inform the student of the decision and his/her right to a hearing in accordance

with 34 C.F.R. §§ 99.21 and 99.22.

K. Disability Records: Student special education records or records regarding a handicap or disability of a student will also be maintained in accordance with provisions of IDEA, Michigan Special Education Rules, Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, as applicable.

II. Employee Records

Provisions of both federal and Michigan law regulate the maintenance and inspection of public sector employment records.

The Michigan Bullard-Plawecki Employee Right-to-Know Act, MCL 423.501 *et. seq.*, regulates the content of employee records and the right of employees to review and challenge the content of their employee records and contains protection from the disclosure of certain disciplinary and other records.

The Michigan Freedom of Information Act ("FOIA"), MCL 15.231 *et. seq.*, allows the general public to inspect and review records in the possession of a public body unless specifically exempted or otherwise protected by law.

The law also provides specific protections for information relating to a disability and/or other information which is deemed confidential and private. This information may not be disclosed without the written consent of the person(s) whose interest is involved.

To the extent consistent with the requirements of the law, employment records of Academy employees will be maintained in accordance with the following provisions:

- A. Personnel Records: The Academy shall maintain a personnel file for each employee of the Academy. The Academy may also maintain separate employee records for information which is not appropriate for placement in a personnel file or which is exempt from public disclosure. To the extent applicable, personnel files shall be maintained in accordance with the provision of the Employee Right to Know Act and FOIA.
- B. Right to Inspect:
 - 1. Academy Employees: Upon written request and to the extent provided by the Employee Right to Know Act, an Academy employee has the right to periodically inspect his/her employee records and challenge the accuracy thereof.

2. General Public: Upon request and to the extent provided by FOIA, the general public may review employee records, including wage information, performance reviews, disciplinary reports and other Academy records pertaining to its employees unless specifically exempt or otherwise protected by law.

C. Response Procedure: Upon the receipt of a request to inspect or to receive a copy of employee records, the Academy Director shall review the file to determine whether the information requested is subject to disclosure, redact any protected information and remove any disciplinary report more than 4 years old. The Director shall respond to a request in writing within 5 business days of the request. Under unusual circumstances, the period for responding may be extended for an additional 10 days. A denial of a request, or a portion thereof, shall be drafted in compliance with Section 5(4) of FOIA.

D. Employee Notice: To the extent required by law, the Academy shall not divulge a disciplinary report, letter of reprimand, or other disciplinary action to a party who is not a part of the Academy's organization or the labor organization representing the employee without providing written notice under section 6 of the Employee Right to Know Act.

E. Copy Fee: Unless the Director determines a waiver is in the best interest of the Academy, the Academy shall assess the actual mailing cost and the incremental cost of providing copies of employee records, including labor, the cost of the search, examination, review, and the deletion and separation of exempt from nonexempt information.

Approved.

Date: _____