

Student Records – Confidentiality and Access to Student Records

Educational records, defined as records directly related to a student, will be kept for each student and will reflect the physical, emotional, social, and academic aspects of a student's development in the educational process.

The Board of Education (Board) recognizes the need to comply with the legal state and federal requirements regarding the confidentiality, access to, and amendment of student records. The procedures for the confidentiality of student records shall be consistent with federal statutes, including the Family Educational Rights and Privacy Act of 1974 (FERPA) as amended, and its implementing and revised regulations and the Connecticut General Statutes.

Safeguards shall be established by the school administration to protect the student and the student's family from invasion of privacy in the collection, maintenance, and dissemination of information and to provide accessibility to recorded information by those legally entitled thereto. Access to inspect or review a student's educational record or any part thereof may include the right to receive copies under limited circumstances.

I. Annual Notification of Rights/Release of Directory Information

- A. On an annual basis Amity Regional School District No. 5 (ARSD) will notify parents and/or eligible students currently in attendance of their rights regarding a student's education records. This notice will be published in all student handbooks.
- B. On an annual basis ARSD will also notify parents and/or eligible students currently in attendance of any categories of information designated as directory information. This notice will provide such individuals with an opportunity to object to such disclosure. An objection to the disclosure of directory information shall be good for only one school year.
- C. In the annual notification ARSD will also provide notice to parents and/or eligible students that ARSD is legally obligated to provide military recruiters or institutions of higher education, upon request, with the names, addresses, and telephone numbers of secondary school students, unless the secondary student or the parent of the student objects to such disclosure in writing. Such objection must be in writing and shall be effective for one school year.

II. Confidentiality of Education Records

- A. All school staff is directed to maintain the confidentiality of personally identifiable information contained in a student's education records. Each person who has access to education records is responsible for ensuring that personally identifiable information is protected from disclosure at collection, storage,

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disclosure, and destruction stages. Disclosure of information is permitted only in accordance with Board of Education (Board) policy and consistent with state and federal law.

- B. Education records are not public records; and any disclosure other than to persons authorized to receive the records without prior consent of a parent or an eligible student violates the law and Board policy, except as provided in federal and state statutes.
- C. ARSD shall use reasonable methods including administrative policies and procedures, as well as physical and technological access controls, to ensure that school officials obtain access to only those education records in which they have a legitimate educational interest.
- D. ARSD shall use reasonable methods to identify and authenticate the identity of parents, students, school officials, and other parties to whom ARSD discloses personally identifiable information from education records.

III. Access to Education Records

- A. Parents and/or an eligible student have the right to inspect and review all education records of the student, unless such rights have been waived. Parents' rights of inspection and review are restricted to information dealing with their own child. In the case of an eligible student the right to inspect and review is restricted to information concerning the student. All requests for access to education records must be in writing.
- B. When submitting a written request to inspect or review education records the request must identify the record or records being sought. ARSD will notify the parent or eligible student of the date, time, and location where the records may be inspected and reviewed.
- C. The parents or eligible students may designate in writing a representative to inspect and review the records. Consent for disclosure of education records to a designated representative must be signed and dated by the parent or eligible student.
- D. A school professional shall be present at all such inspections and reviews and shall respond to reasonable requests for explanations and interpretations of the records.
- E. For the records of regular education students the Board will make education records available for inspection and review by parents or eligible students within a

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reasonable period of time, but in any event no more than forty-five (45) calendar days from the receipt of a written request.

- F. For students requiring special education the Board will comply with a request to inspect and review a student's education records within ten (10) days of the request or within three (3) days of the request, if the request is in order to prepare for a meeting regarding an IEP meeting (planning and placement team meeting) or any due process proceeding.
- G. Parents of students eligible to receive special education and related services (or the eligible student) have the right to receive one free copy of their child's (his/her) education records. The request for the free copy must be in writing, and the Board shall comply with the written request within ten (10) school days of the request.
- H. Aside from a parent or eligible student, staff members, school employees, and other school officials may access a student's educational records only if they have been determined by the school system to have a legitimate educational interest in accessing the information contained in such records. Disclosures to any other parties may only be made in accordance with the exemptions and provisions set forth in this policy.
- I. ARSD maintains a record of all parties who have requested access to education records.
- J. Non-custodial parents retain their rights to review their child's education records, unless ARSD 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 the non-custodial parent's rights. School notices shall be mailed to the non-custodial parent/guardian requesting the notices at the same time that they are provided to the custodial parent/guardian. Any requests by the non-custodial parent/guardian to receive school notices shall be effective for as long as the child remains in the school the student is attending at the time of the request.
- K. Copies and Fees:
 - 1. The Board reserves the right to charge for copies of a student's education records. Such charge will be \$0.50 per one-sided page or \$1.00 per two-sided page. ARSD cannot charge a fee to search for or to retrieve the education records of a student.
 - 2. If a student has been identified as requiring special education and related

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services, the parents' (or eligible student's) right to inspect and review the child's records shall include the right to receive one free copy of those records. The request for the free copy shall be made in writing. The Board shall comply with such request as stated above. A charge will be levied for additional copies; such charge will be \$0.50 per one-sided page or \$1.00 per two-sided page.

IV. Documentation of Access to Records

- A. A log or record shall be maintained for each student's record, which lists all persons, agencies, or organizations requesting or receiving information from the record and the legitimate educational interests.
- B. Such listing need not include the following:
 - 1. Parents or students to whom access is granted.
 - 2. Parties to whom directory information is released.
 - 3. Parties for whom written consent has been executed by the parent or guardian.
 - 4. School officials or employees having a legitimate educational interest.
- C. The log or record shall be open to inspection only by a parent or guardian and the custodian of student records or the custodian's designee and to other school officials with legitimate interests in the records and to the Comptroller General of the United States, the Secretary of the Office of Education, an administrative head of an education agency as defined in 20 U.S.C. 1232g., and state educational authorities as a means of auditing the school system's operations.

V. The Release of Records or Personally Identifiable Information

- A. The school system or its designated agent(s) may not permit release of education records or any information from such records, which contains personally identifiable student information to any outside individual, agency, or organization without the signed and dated written consent of the parents or eligible student, except as indicated in Section VII.C below. Personally identifiable information contained in the education record other than directory information will not be furnished in any form (i.e., written, taped, person-to-person, statement over the telephone, on computer disk, e-mailed, etc.) to any person other than those listed below, unless prior written consent has been obtained.

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- B. To be effective the written consent must be signed and dated and must specify the records that may be disclosed, state the purpose of the disclosure, and identify the party or class of parties to whom the disclosure may be made.
- C. Personally identifiable information may be released without consent of the parents or the eligible student, only if the disclosure meets one of the criteria set forth below:
 - 1. The disclosure is to other school officials within ARSD, including teachers, who have been determined by ARSD to have legitimate educational interests in the education records.
 - 2. The disclosure is to a contractor, consultant, volunteer, or other party to whom an agency or institution has out-sourced institutional services or functions, provided that the outside party: (a) performs an institutional service or function for which ARSD would otherwise use employees, (b) is under the direct control of ARSD with respect to the use and maintenance of education records and is subject to the requirements of FERPA, along with Connecticut student data privacy laws, with respect to the use and re-disclosure of personally identifiable information from education records.
 - 3. The disclosure is to officials of another school including other public schools, charter schools, and post-secondary institutions, 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 or transfer. Disclosure of personally identifiable information will be made only upon condition that the student's parents be notified of the transfer, receive a copy of the record if desired, and have an opportunity for a hearing to challenge the content of the record.
 - 4. The disclosure is to authorized representatives of the Comptroller General of the United States, the Attorney General of the United States, the Secretary of Education, or State and local educational authorities under the following conditions: the school shall provide such authorized representatives access to student or other records that may be necessary in connection with the audit, evaluation, or enforcement of state and federally supported education programs but shall not permit such representatives to collect personally identifiable information, unless specifically authorized to do so by state and federal law or if the parent or eligible student has given written consent for the disclosure.
 - 5. The disclosure is made in connection with a student's application for, or receipt of, financial aid, if such information is necessary to determine

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eligibility for, the amount of, or the conditions for financial aid or to enforce the terms and conditions of financial aid.

6. The disclosure is to state and local officials or authorities within the juvenile justice system as long as the officials and authorities to whom the records are disclosed certify in writing to ARSD that: (a) the information is required by the court, (b) will not be disclosed to any other party without the prior written consent of the parent of the student except as provided under State law. Disclosure shall be permitted for information relating to the student's school attendance, adjustment, and behavior, as well as the student's individualized education program (IEP) and related documents, if the student receives special education services. If a student is placed on probation by the juvenile court, school officials may issue their own recommendation concerning the conditions of the student's probation.
7. The disclosure is to organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, or improving instruction, so long as: (a) the study does not permit personal identification of parents or students by individuals other than representatives of the organization, (b) the information is destroyed after it is no longer needed for the purposes for which the study was conducted, and (c) ARSD enters into a written agreement with the organization conducting the study that ensures that the study protects the confidentiality of personally identifiable student information consistent with FERPA requirements.
8. The disclosure is to accrediting organizations in order to carry out their accrediting functions.
9. The disclosure is to parents of an eligible student who claim that student as a dependent student as defined in Section 152 of the Internal Revenue Code of 1986.
10. The disclosure is to comply with a judicial order or lawfully issued subpoena, provided that the educational agency makes a reasonable effort to notify the parent or the eligible student in advance of compliance, unless such disclosure is in compliance with: (a) 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; or (b) 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

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disclosed; or (c) an ex parte order obtained by the United States Attorney General (or designee not lower than an Assistant Attorney General) concerning the investigation or prosecution of terrorism crimes specified in sections 2332b(g)(5)(B) and 2331 of title 18, U.S. Code.

11. If ARSD initiates legal action against a parent or student, ARSD may disclose to the court without a court order or subpoena the education records of the student that are relevant for ARSD to proceed with the legal action as plaintiff.
12. If a parent or eligible student initiates legal action against ARSD, ARSD may disclose to the court without a court order or subpoena the student's education records that are relevant for ARSD to defend itself.
13. The disclosure is to appropriate parties including parents of an eligible student in connection with a health and safety emergency, if knowledge of the information is necessary to protect the health or safety of the student or other individuals. In making a determination regarding the disclosure of education records without consent in a health and safety emergency ARSD may take into account the totality of the circumstances pertaining to the threat to the health or safety of a student or other individuals. If ARSD reasonably determines that there is an articulable and significant threat to the health or safety of a student or other individuals, it may disclose information from education records to any person whose knowledge of the information is necessary to protect the health or safety of the student or other individuals provided, however, that ARSD record such disclosure in accordance with Section VI. D, above.
14. The disclosure is to the parent of a student who is under 18 years of age or to the student.
15. The disclosure concerns sex offenders and other individuals required to register under Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. 14071, and the information was provided to ARSD under 42 U.S.C. 14071 and applicable federal guidelines.

VI. Directory Information

- A. ARSD will notify parents (of students currently enrolled within ARSD) or eligible students (currently enrolled in the district) annually of any categories of information designated as directory information. This notice will provide such individuals with an opportunity to object to such disclosure. An objection to the

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disclosure of directory information shall be good for only one school year.

- B. ARSD is legally obligated to provide military recruiters or institutions of higher education, upon request, with the names, addresses, and telephone numbers of secondary school students, unless the secondary student or the parent of the student objects to such disclosure in writing. Such objection must be in writing and shall be effective for one school year.
- C. In all other circumstances information designated as directory information will not be released when requested by a third party, unless the release of such information is determined by the administration to be in the educational interest of ARSD and is consistent with ARSD's obligations under both state and federal law.
- D. ARSD may disclose directory information about students after they are no longer in enrollment in ARSD. Notwithstanding the foregoing, ARSD will continue to honor any valid objection to the disclosure of directory information made while a student was in attendance unless the student rescinds the objection.
- E. An objection to the disclosure of directory information shall not prevent ARSD from disclosing or requiring a student to disclose the student's name and identified or institutional email address in a class in which the student is enrolled.
- F. ARSD will not use the student's social security number or other non-directory information alone or combined with other elements to identify or help identify the student or the student's records.

VII. De-identified Records and Information

- A. ARSD may release education records or information from education records without the consent of a parent or eligible student after the removal of all personally identifiable information, provided that ARSD has made a reasonable determination that a student's identity is not personally identifiable, whether through single or multiple releases, taking into account other reasonably available information.
- B. ARSD may release de-identified education records including student level data from education records for the purpose of education research by attaching a code to each record that may allow the recipient to match information received from the same source, provided that:
 - 1. ARSD does not disclose any information about how it generates and assigns a record code, or that would allow a recipient of the information to

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identify a student based on the record code;

2. The record code is used for no purpose other than identifying a de-identified record for the purposes of education research and cannot be used to ascertain personally identifiable information about a student; and
3. The record code is not based on a student's social security number or other personal information.

VIII. Disciplinary Records

Nothing in this policy shall prevent ARSD from:

- A. Including in the education records of a student appropriate information concerning disciplinary action taken against the student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community.
- B. Disclosing appropriate information concerning disciplinary action taken against a student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community to teachers and school officials who have been determined to have legitimate educational interests in the behavior of the student.
- C. In accordance with state and federal law ARSD will facilitate the transfer of records of suspension and expulsion of a student to officials of any private elementary or secondary school in which the student is subsequently enrolled or seeks, intends, or is instructed to enroll.

IX. Records of the Department of Children and Families (“DCF”)

- A. Documents related to any Department of Children and Families (“DCF”) child abuse and/or neglect investigations that are maintained by the Board are considered education records under the Family Educational Rights and Privacy Act (“FERPA”). As such, they are subject to the confidentiality and disclosure requirements set forth in this policy and in corresponding provisions of state and federal law. Such records should be kept in a confidential location with restricted access and shall be disclosed only as authorized by law. In addition to meeting the requirements under FERPA, should the Board receive a request to disclose confidential DCF records to an outside third party the Board shall redact the name or other personally identifiable information concerning the individual suspected of being responsible for the alleged abuse and/or neglect, unless the requested records are being released to the individual named in the DCF records.

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- B. In addition, ARSD shall redact the name or any personally identifiable information related to the identity of any individual responsible for making a report of alleged child abuse and/or neglect before releasing or transferring any DCF records containing such reports.

X. Redisclosure of Educational Records

- A. Federal and State officials who receive education records for audits, evaluation, and compliance and enforcement purposes may redisclose such records under the same conditions that apply to other recipients of education records.
- B. A state educational agency that received records for audit, evaluation, compliance, or enforcement purposes may redisclose records for other qualifying purposes, such as:
 - 1. Forwarding records to a student's new school district;
 - 2. Forwarding records to another listed official including the Education Secretary or a post-secondary authority;
 - 3. Forwarding to an accrediting agency; or
 - 4. In connection with a health or safety emergency.
- C. In the event that the Family Policy Compliance Office determines that a third party outside of ARSD has improperly redisclosed personally identifiable information from education records in violation of FERPA, ARSD may not allow that third party access to personally identifiable information from education records for at least five (5) years.

XI. Amendment of Education Records

- A. If a parent or an eligible student believes that information in the student's education records is inaccurate, misleading, or in violation of the student's right to privacy, he/she is entitled to:
 - 1. Request in writing that ARSD amend the records;
 - 2. Receive within a reasonable period of time a decision from ARSD with respect to its decision on the amendment(s) requested by the parent or eligible student.

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- B. If ARSD decides to amend the records, ARSD shall promptly take such steps as may be necessary to put the decision into effect with respect to the requested amendments and shall inform the parent or eligible student of the amendment.

- C. If ARSD decides that an amendment of the records in accordance with the request is not warranted, it shall so inform the parent or eligible student and advise him/her of the right to a hearing pursuant to this policy.

XI. Hearing Rights and Procedures

A. Rights:

- 1. Upon written request of a parent or eligible student to the Superintendent, an opportunity for a hearing shall be provided to challenge the content of a 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 rights of the student.

- 2. If, as a result of the hearing, ARSD decides that information contained in the education records of a student is inaccurate, misleading, or otherwise in violation of the privacy rights of the student, the records shall be amended; and the parent or eligible student shall be informed in writing.

- 3. If, as a result of the hearing, ARSD decides that information contained in the education records of a student is not inaccurate, misleading, or otherwise in violation of the privacy rights of the student, the parent or eligible student shall be informed of the right to place in the student’s education records a statement commenting on the contested information or stating why he or she disagrees with ARSD’s decision or both.
 - a. Any statement placed in the records of the student shall be maintained by the school system as part of the records of the student as long as the record or contested portion is maintained by the school system.

 - b. If the contested portion of the education record is disclosed by the school system, the statement of disagreement by the parents and/or eligible student shall also be disclosed.

B. Procedures:

- 1. The hearing shall be held within a reasonable time after the school system

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has received the request, unless the parent or eligible student requests a delay.

2. The parent or eligible student shall be given notice of the date, place, and time of the hearing within a reasonable time in advance of the hearing.
3. The hearing will be conducted by a person or persons appointed by the Superintendent of Schools. This person(s) shall be knowledgeable of the policies relating to confidentiality and shall not have a direct interest in the outcome of the hearing.
4. The parent or eligible student and the school system shall have the right to be represented by person(s) of their choosing at their own expense, to cross-examine witnesses, to present evidence, and to receive a written decision of the hearing.
5. The decision reached through the hearing shall be made in writing within a reasonable period of time after the hearing. The decision will be based solely upon the evidence presented at the hearing and shall include a summary of the evidence and the reasons for the decision.

XII. HIV-Related Confidentiality

- A. All school staff must understand that no person who obtains confidential HIV-related information regarding a protected individual may disclose or be compelled to disclose such information. Each person who has access to confidential HIV-related information is responsible for ensuring that confidential HIV-related information is protected from disclosure and/or redisclosure.
- B. Confidential HIV-related information is not public information; and any disclosure, other than to persons pursuant to a legally sufficient release or to persons authorized by law to receive such information without a legally sufficient release, violates the law and Board policy.
- C. Accessibility of Confidential HIV-related Information. No school staff member who obtains confidential HIV-related information may disclose or be compelled to disclose such information, except to the following:
 1. The protected individual, his/her legal guardian, or a person authorized to consent to health care for such individual.
 2. Any person who secures a release of confidential HIV-related information.

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3. A federal, state, or local health law officer when such disclosure is mandated or authorized by federal or state law.
4. A health care provider or health facility when knowledge of the HIV-related information is necessary to provide appropriate care or treatment to the protected individual or when confidential HIV-related information is already recorded in a medical chart or record, and a health care provider has access to such record for the purpose of providing medical care to the protected individual.
5. A medical examiner to assist in determining cause of death,
6. Any person allowed access to such information by a court order.

D. Procedures

1. If a school staff member other than school medical personnel is given confidential HIV-related information regarding a protected individual who is also a student from the student's legal guardian or the student, the school staff member shall attempt to secure a release of confidential HIV-related information for the sole purpose of disclosing such information to school medical personnel.
2. If a school medical personnel member is given confidential HIV-related information regarding a protected individual who is also a student by a student's legal guardian or by the student and the legal guardian or the student requests accommodations to the student's program for reasons related thereto, the school medical personnel member shall inform the legal guardian or the student, if an eligible student, that a release of confidential HIV-related information is necessary before such information may be disclosed to other educational personnel capable of assessing the need for and implementing appropriate accommodations to the student's program.
3. Any school staff member who obtains confidential HIV-related information from a source other than the protected individual or his/her legal guardian shall keep such information confidential and shall not disclose such information.
4. No school staff member may disclose confidential HIV-related information to other school staff members without first obtaining a release of confidential HIV-related information.

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5. Any record containing confidential HIV-related information shall be maintained in a separate file and shall not be subject to the provisions of this policy regarding accessibility of general student records.
 6. If school medical personnel determine that the health and safety of the student and/or others would be threatened if a release of confidential HIV-related information is not obtained, the school medical personnel may seek a court order authorizing disclosure. In such cases such confidential HIV-related information may be disclosed as set forth in and subject to any limitation of such court order.
- E. Disclosures Pursuant to a Release
1. Any disclosure pursuant to a release shall be accompanied by a notice in writing stating, “This information has been disclosed to you from records whose confidentiality is protected by state law. State law prohibits you from making any further disclosure of it without the specific written consent of the person to whom it pertains or as otherwise permitted by said law. A general authorization for the release of medical or other information is NOT sufficient for this purpose.”
 2. Oral disclosures must be accompanied or followed by the above notice within ten (10) days.
 3. Except for disclosures made to a federal, state, or local health officer when such disclosure is mandated or authorized by federal or state law, a notation of all disclosures shall be placed in the medical record or with any HIV-related test result of a protected individual who shall be informed of such disclosures on request.

XIII. Retention and Destruction of Student Records

- A. No additions, except routine updating, shall be made to a student’s records after high school graduation or permanent departure without the parent’s or guardian’s prior consent for those students who have not reached the age of eighteen years. Adult students may give consent themselves.
- B. The guide to disposal of municipal records for Connecticut is located in Connecticut General Statutes Section 7-109. For disposal of education records see Schedule V of “Records Retention schedules 1982” (Revised 1983) published by the Public Records Administration, Connecticut State Library, Hartford, Connecticut.

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XIV. Child Abuse Reporting

Nothing in this policy shall limit a mandated reporter's responsibility to report suspected child abuse, neglect, and sexual assault under the Board Policy 5141.4 Reporting of Suspected Child Abuse, Neglect, and Sexual Assault.

XV. Right to File a Complaint

FERPA affords parents and eligible students the right to file a complaint with the U.S. Department of Education concerning alleged failures by ARSD to comply with the requirements of FERPA. The name and address of the agency that administers FERPA is:

Family Policy Compliance Office
U.S. Department of Education 400
Maryland Avenue, S.W.
Washington, DC 20202-4605

Legal Reference: Connecticut General Statutes
1-19(b)(11) Access to public records. Exempt records. 7-109 Destruction of documents.
10-15b Access of parent or guardians to student's records.
10-154a Professional communications between teacher or nurse & student. 10-209 Records not to be public.
10-221b Boards of education to establish written uniform policy re: treatment of recruiters.
11-8a Retention, destruction and transfer of documents
11-8b Transfer or disposal of public records. State Library Board to adopt regulations.
17a-28 Definitions. Confidentiality of and access to records; exceptions. Procedures for aggrieved persons. Regulations.
17a-101k Registry of findings of abuse or neglect of children maintained by Commissioner of Children and Families. Notice of finding of abuse or neglect of child. Appeal of finding. Hearing procedure. Appeal after hearing. Confidentiality. Regulations.
19a-581 *et. seq.* AIDS Testing and Medical Information Regulations of Connecticut State Agencies §10-76d-18 46b-56 (e) Access to Records of Minors.
Office of the Public Records Administrator, Retention Schedule M8 Education Records (Revised 2/2005)
Federal Family Educational Rights and Privacy Act of 1974 (section 438 of the General Education Provisions Act, as amended, added by section 513 of P.L. 93-568, codified at 20 U.S.C.1232g.).

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Dept. of Educ. 34 C.F.R. Part 99 (May 9, 1980 45 FR 30802) regs. implementing FERPA enacted as part of 438 of General Educ. provisions act (20 U.S.C. 1232g)-parent and student privacy and other rights with respect to educational records, as amended 11/21/96, and Final Rule 34 CFR Part 99, December 9, 2008)
USA Patriot Act of 2001, PL 107-56, 115 Stat. 272, Sec 507, 18 U.S.C. §2332b(g)(5)(B) and 2331
PL 107-110 “No Child Left Behind Act of 2001” Sections 5208 and 9528
Owasso Independent Sch. Dist. No.1-011 v. Falvo, 534 U.S.426 (2002)