



Book	Policy Manual
Section	300 Series: Instruction
Title	Rule: Procedures for the Maintenance and Confidentiality of Student Records
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A. CONTENT OF STUDENT RECORDS

1. **Student records** means all records relating to individual students maintained by a school, regardless of format, other than: (a) notes or records maintained for personal use by a teacher or other certified/licensed staff that are not available to others, and (b) records necessary for and available only to persons involved in the psychological treatment of a student.
2. **Progress records** means those student records which include the student's grades, a statement of the courses the student has taken, the student's immunization records, the student's attendance record and records of the student's school extracurricular activities.
3. **Behavioral records** means those student records which include psychological tests, personality evaluations, records of conversations, any written statement relating specifically to an individual student's behavior, tests relating specifically to achievement or measurement of ability, the student's physical health records other than immunization records, law enforcement agency records, and any other student records which are not progress records.
 - a. **"Law enforcement agency records"** include those records and other information obtained from a law enforcement agency relating to: (1) the use, possession or distribution of alcohol or a controlled substance by a student enrolled in the District, (2) the illegal possession of a dangerous weapon by a child, (3) an act for which a District student was taken into custody based on the law enforcement officer's belief that he/she violated or was violating any state or federal criminal laws, and (4) the act for which a juvenile enrolled in the District was adjudged delinquent. The law enforcement agency may provide such record information to the District on its own initiative or on the request of the District Administrator or designee, subject to the agency's official policy. The District may also enter into an interagency agreement with law enforcement and other appropriate agencies to provide for the routine disclosure of record information in accordance with state law provisions. If a law enforcement agency denies access to any of the aforementioned records, the District may file a petition with the court seeking access to the records based on legitimate educational or safety interests in the records. Once the law enforcement agency record information is received, the student named in the records and the parent/guardian of any minor student named in the records shall be notified of the information.
 - b. **"Law enforcement unit records"** include those records maintained by a law enforcement unit of the District that were created for the purpose of law enforcement. A "law enforcement unit of the District" is an individual, office, department, division or other component of the District that is authorized by the School Board to do any of the following: (1) enforce any law or ordinance, or refer to the appropriate authorities a matter for enforcement of any law or ordinance against any person

other than school district, and/or (2) maintain the physical security and safety of a public school.

- c. **"Court records"** include those records received from a court clerk concerning a juvenile enrolled in the District who: (1) has had a petition filed with a court alleging that he/she has committed a delinquent act that would be a felony if committed by an adult, (2) has been adjudged delinquent, (3) has school attendance as a condition of his/her court dispositional order, or (4) has been found to have committed a delinquent act at the request of or for the benefit of a criminal gang that would be a felony if committed by an adult, and has been adjudged delinquent on that basis.
 - d. **"Physical health records"** include basic health information about a student, including the student's emergency medical card, a log of first aid and medicine administered to the student, an athletic permit card, a record concerning the student's ability to participate in an education program, the results of any routine screening test such as for hearing, vision or scoliosis, and any follow-up to such test, and any other basic health information as determined by the State Superintendent of Public Instruction.
 - e. **"Patient health care records"** include all records relating to the health of a student prepared by or under the supervision of a health care provider which are not included in the student "physical health records" definition above.
4. **Directory data** means those student records, which include the student's name, participation in officially recognized activities and sports, weight and height of members of athletic teams, photographs (related to athletics and co-curricular activities only), and degrees and awards received.

B. CONFIDENTIALITY OF STUDENT RECORDS

All student records shall be confidential with the following exceptions:

1. Release of Student Records to Students and Parents or Guardians

- a. An adult student, or the parent/guardian of a minor student, shall, upon request, be shown and provided with a copy of the student's progress records.
- b. An adult student, or the parent/guardian of a minor student, shall, upon request, be shown the student's behavioral records in the presence of a person qualified to explain and interpret the records. Such student or parent/guardian shall, upon request, be provided with a copy of the behavioral records.
- c. Personally identifiable information from an adult student's records may be disclosed to the student's parent(s)/guardian(s), without the adult student's written consent, if the adult student is a dependent of his/her parent(s)/guardian for tax purposes (under the Internal Revenue Code, 26 USC). This may be done unless the adult student has informed the school, in writing, that the information may not be disclosed.
- d. A parent shall have access to a student's school records regardless of whether the parent has legal custody of the child, unless the parent has been denied periods of physical placement with the child or ordered by the court.

2. Access to Student Record Information (Other than Patient Health Care Records) by District Staff and Other Designated School Officials

- a. Student records shall be made available to school officials who have been determined to have legitimate educational interests, including safety interests, in such student records. A "school official" is a person employed by the District who is required by the DPI to hold a license; a person who is employed by or working on behalf of the District as an administrator, supervisor, instructor or support staff member (including health or medical staff and police-school liaison personnel); a person serving on the Board; a person or company with whom the District has contracted to perform a specific task (such as an attorney, auditor, medical consultant or therapist); or a parent or student serving on an official committee such as a disciplinary or grievance committee, or assisting another school official in performing his/her tasks. A school official has a "legitimate educational interest" if the official needs to review a student record in order to fulfill his/her professional or District responsibility.
- b. Law enforcement agency record information received by the District shall be made available to those school officials with legitimate educational interests, including safety interests, in the information. If law enforcement agency record information obtained by the District relates to a District student, the

information may also be disclosed to those District employees who have been designated to receive that information for the purpose of providing treatment programs for District students. The information may not be used as the sole basis for suspending or expelling a student from school, or as the sole basis for taking any other disciplinary action against a student, including action under the District's athletic/activity code.

- c. Law enforcement unit records may be made available to school officials under the same conditions as outlined above regarding access to law enforcement agency record information.
- d. Court records obtained by the District shall be disclosed to District employees who work directly with the juvenile named in the records or who have been determined by the Board to have legitimate educational interests, including safety interests, in the information. An employee cannot further disclose the information, and the information cannot be used as the sole basis for suspending or expelling a student from school, or as the sole basis for taking any other disciplinary action against a student, including action under the District's athletic/activity code.
- e. Information related to a student's physically harmful behavior may be provided to a student's teachers and to any other District official who has a legitimate educational interest, including a safety interest, in the information. The information may only be provided if the District determines that: (1) the student engaged in physically harmful behavior to another person, and (2) there is reasonable cause to believe that the student may engage in physically harmful behavior to another person at school or while under the supervision of a school authority. The information provided shall be limited to information reasonably necessary to meet the educational needs of the student and the safety needs of other students and school personnel. The teacher or other designated school official who receives the information may not disclose the information to any other person.
- f. Notwithstanding their confidential status, student records may be used in suspension and expulsion proceedings and by individualized education program (IEP) teams.

3. Release of Student Record Information (Other Than Patient Health Care Records) to Others

- a. Student records shall be disclosed at the request or order of a court. The District shall make a reasonable effort to notify the parent/guardian or adult student of an order in advance of compliance therewith, except as otherwise provided by law.
- b. If school attendance is a condition of a student's court dispositional order under state law, the District shall notify the court or, if the student is under the supervision of an agency, the agency that is responsible for supervising the student within five days after any violation of the condition by the student.
- c. A law enforcement agency shall be provided a copy of a student's attendance record if the law enforcement agency certifies in writing that the student is under investigation for truancy or for allegedly committing a criminal or delinquent act and that the law enforcement agency will not further disclose the student's attendance record information except as permitted by law. When a student's attendance record is disclosed to a law enforcement agency for purposes of truancy, the student's parent/guardian shall be notified of that disclosure as soon as practicable after the disclosure.
- d. A fire investigator shall be provided a copy of a student's attendance record if the fire investigator certifies in writing that: (1) the student is under investigation for arson, (2) the student's attendance record is necessary for the fire investigator to pursue his/her investigation, and (3) the fire investigator will use and further disclose the student's attendance record only for the purpose of pursuing that investigation.
- e. The District may disclose student records to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of any individual.
- f. For the purpose of providing services to a student before adjudication, the District may disclose student records to a law enforcement agency, district attorney, city attorney, corporation counsel, agency as defined in section 938.78(1) of the state statutes, intake worker under section 48.067 or 938.067 of the statutes, court of record, municipal court, private school or another school board if disclosure is pursuant to an interagency agreement and the person to whom the records are disclosed certifies in writing that the records will not be disclosed to any other person except as permitted under state law.

- g. Upon the written permission of an adult student, or the parent/guardian of a minor student, the school shall make available to the person named in the permission form the student's progress records or such portion of his/her behavioral records as determined by the person authorizing the release. Law enforcement agency and law enforcement unit records may not be made available under this exception unless specifically identified by the adult student or by the parent/guardian of a minor student in the written request.
- h. Student records shall be provided to a court in response to a subpoena by parties to an action for in camera inspection, to be used only for purposes of impeachment of any witness who has testified in the action. The court may turn said records or parts thereof over to parties in the action or their attorneys if said records would be relevant and material to a witness's credibility or competency. The District shall make a reasonable effort to notify the parents/guardians or adult student of the subpoena in advance of compliance therewith, except as otherwise provided by law.
- i. The District may provide the DPI or any public officer with information required under Chapters 115 to 121 of the state statutes. Upon request, the District shall provide the DPI with any student record information that relates to an audit or evaluation of a federal or state-supported program or that is required to determine compliance with state law provisions.
- j. Information from a student's immunization records shall be made available to state and local health officials to carry out state immunization requirements.
- k. Upon request, the names of students who have withdrawn from school prior to graduation shall be provided to the technical college district board in which the public school is located or, for verification of eligibility for public assistance, to the Department of Health and Family Services, the Department of Workforce Development or a county department under sections 46.215, 46.22 or 46.23 of the state statutes.
- l. Annually, on or before August 15, the District shall report to the appropriate community services boards established under sections 51.42 and 51.437 the names of students who reside in the District, who are 16 years of age or older, who are not expected to be enrolled in an educational program two years from the date of the report and who may require services under sections 51.42 or 51.437 (community mental health, development disabilities, alcoholism and drug abuse). The parent(s)/guardian(s) of such students shall be contacted to obtain informed consent prior to making such a report.
- m. The District shall, upon request, provide student disciplinary records necessary for purposes of student enrollment in another public school district as permitted by law. These records may include: (1) a copy of any expulsion findings and orders or records of any pending disciplinary proceedings involving the student; (2) a written explanation of the reasons for the expulsion or pending disciplinary proceedings; and (3) the length of the term of the expulsion or the possible outcomes of the pending disciplinary proceedings.
- n. The District shall make student records available for inspection or, upon request, disclose the contents of student records to authorized representatives of the Department of Corrections, the Department of Health and Family Services, the Department of Justice, or a district attorney for use in the prosecution of any proceeding or any evaluation conducted under chapter 980 (sexually violent persons commitment), if the student records involve or relate to an individual who is the subject of the proceeding or evaluation. The court in which the proceeding is pending may issue any protective orders that it determines are appropriate concerning student records made available or disclosed under this provision. Any representative of the Department of Corrections, the Department of Health and Family Services, the Department of Justice, or a district attorney may disclose information obtained under this provision for any purpose consistent with any proceeding under chapter 980.

4. Access to Student Patient Health Care Records

All student patient health care records shall remain confidential. They may be released only to persons specifically designated in state or federal law or to other persons with the informed consent of the patient or a person authorized by the patient. Student patient health care records maintained by the District may only be released without informed consent to a District employee or agent if any of the following apply:

- a. The employee or agent has responsibility for the preparation or storage of patient health care records.
- b. Access to patient health care records is necessary to comply with a requirement in federal or state law.

Any record that concerns the results of a test for the presence of HIV or antibody to HIV (the virus which causes acquired immunodeficiency syndrome - AIDS) shall be confidential and may be disclosed only with

the informed written consent of the test subject.

5. Release of Student Directory Data

Except as otherwise provided below, directory data may be disclosed to any person, on request, after the school has: (a) notified the adult student or parent, legal guardian or guardian ad litem of a minor student of the categories of information which it has designated as directory data with respect to each student, (b) informed such persons that they have 14 days to inform the school that all or any part of the directory data may not be released without their prior consent, and (c) allowed 14 days for such persons to inform the school, in writing, of all the directory data items they refuse to permit the District to designate as directory data about that student. The District will not release directory data earlier than 14 days after the initial written notice to the adult student or parent/guardian/guardian ad litem, or after the District has been restricted from doing so by any of those parties.

- a. If the District has followed the notification procedure outlined above, and the parent/guardian or adult student does not object to the directory data being released, the District shall, upon request, provide the name of each student expected to graduate from high school in the current school year to the technical college district board.
- b. If the District has followed the notification procedure outlined above, and the parent/guardian or adult student does not object to the directory data being released, the District shall, upon request, provide any representative of a law enforcement agency, city attorney, district attorney or corporation counsel, county department under sections 46.215, 46.22 or 46.23, a court of record or municipal court with such directory data information relating to any such student enrolled in the school district for the purpose of enforcing that student's school attendance, to respond to a health or safety emergency, or to aid in the investigation of alleged criminal or delinquent activity by a student enrolled in the District
- c. The District shall provide, on a request made by military recruiters or institutions of higher education, access to secondary school students' names, addresses and telephone numbers. A secondary school student or the student's parent/guardian may request that the student's name, address and telephone number not be released to military recruiters or institutions of higher education without written parental consent. An adult student may request that the information may not be released without his/her written consent. The District shall notify parents/guardians of their option to make such a request and shall comply with any request. The District shall provide military recruiters the same access to secondary school students and student directory data about such students as is provided to post-secondary schools or prospective employers. Student directory data may not be furnished to anyone other than school officials without authorization of the building principal.

6. Transfer of Records

Student records relating to a specific student shall be transferred to another school or school district upon receipt of written notice from:

- a. an adult student or the parent/guardian of a minor student that the student intends to enroll in another school or school district;
- b. the other school or school district that the student has enrolled; or
- c. a court that a student has been placed in a secured correctional facility, secured child caring institution or a secured group home.

Student transcripts may be mailed or delivered personally to bona fide educational institutions, prospective employers, the student or his/her parent/guardian, or to other designated persons or entities when appropriate permission forms are signed and received.

C. MAINTENANCE, DISCLOSURE AND DESTRUCTION OF STUDENT RECORDS

1. While students are attending school, their records will be maintained in the school of attendance. Upon transfer of the student to another school operated by the District, the records shall be transferred to that school. Patient health care records and law enforcement records shall be maintained separately from a student's other records.
2. The guidance counselor shall have primary responsibility for maintaining the confidentiality of all student records kept at school. All requests for inspection or for transfer should be directed through the guidance office and/or building principal's office and shall be acted upon in accordance with state and federal laws and

these procedures.

3. A record of each request for access to and each disclosure of personally identifiable information from the school records of a student shall be maintained with such student's records, except when the request is from or the disclosure is to the following person/party:
 - the parent or guardian or adult student;
 - a school official;
 - a party with written consent from the parent or guardian or adult student;
 - a party seeking directory data; or
 - a party seeking or receiving the records as directed by a federal grand jury or other law enforcement subpoena and the issuing court or other issuing agency has ordered that the existence or the contents of the subpoena or the information in response to the subpoena not be disclosed.
4. When a student ceases to be enrolled in a school operated by the District, his/her records will be placed in a non-active file in the school last attended. Records placed in the nonactive files shall be maintained as follows:
 - a. All behavioral records will be destroyed after one year after the date the student graduates from or last attended the school, unless the student (and his/her parent/guardian if the student is a minor) requests that the records be maintained for longer period of time. Where such written permission is received, behavioral records shall be maintained for the time period specified in the written permission or, if no such time period is noted, for as long as the District's needs require. The District shall maintain special education records to show compliance with requirements of the Individuals with Disabilities Education Act (IDEA) for at least five years. When a student with a disability graduates, the District will obtain permission from the student's parent/guardian or the adult student to maintain the special education records for at least five years for audit purposes.
 - b. Progress records will be destroyed five (5) years after the student ceases to be enrolled in the District.

D. RIGHT TO CHALLENGE RECORD CONTENT

1. A student's parent/guardian or an adult student shall have the right and opportunity to examine the content of the student's school records to ensure that the records are not inaccurate, misleading or otherwise in violation of the student's rights of privacy and to request the correction or deletion of any inaccurate or inappropriate data contained therein.
2. If the person having custody of the records refuses to amend the records, he/she shall inform the parent/guardian or adult student of the refusal and advise him/her of the right to a hearing. The request for the hearing shall be filed in writing with the District Administrator or designee. The parent/guardian or adult student shall be given notice of the date, place and time of the hearing reasonably in advance of the hearing.
 - a. The hearing shall be conducted by the District Administrator or designee, who must be someone who does not have a direct interest in the outcome of the hearing.
 - b. The parent/guardian or adult student shall be afforded the opportunity to present relevant evidence and may be assisted or represented by individuals of his/her choice at his/her own expense, including an attorney.
 - c. The decision of the hearing officer shall be based solely upon the evidence presented and shall include a summary of the evidence and the reason for the decision.
 - d. The hearing shall be held and the parent(s)/guardian or adult student informed of the hearing officer's decision in writing within a reasonable period of time after the hearing.
 - e. If the hearing officer decides that the information is inaccurate, misleading or otherwise in violation of the student's privacy rights, the school records of the student shall be amended accordingly.
3. If the hearing officer decides that the information is not inaccurate, misleading or otherwise in violation of the student's privacy rights, the District shall inform the parent/guardian or adult student of the right to

place a statement commenting upon the information in the school records and/or describing reasons for disagreeing with the decision of the hearing officer.

E. COMPLAINTS REGARDING ALLEGED NONCOMPLIANCE WITH FEDERAL REQUIREMENTS

Adult students or parents/guardians of minor students may file a complaint with the Family Policy Compliance Office of the U.S. Department of Education for alleged District noncompliance with requirements of the federal Family Educational Rights and Privacy Act (FERPA).

F. ANNUAL NOTICE

Parents/guardians and adult students shall be notified annually of the following: (1) their rights to inspect, review and obtain copies of student records; (2) their rights to request the amendment of the student's school records if they believe the records are inaccurate, misleading or otherwise in violation of the student's rights of privacy; (3) their rights to consent to the disclosure of the student's school records, except to the extent state and federal law authorizes disclosure without consent; (4) the categories of student record information which have been designated as directory data and their right to deny the release of such information; and, (5) their right to file a complaint with the Family Policy Compliance Office of the U.S. Department of Education.

Parents/guardians of secondary school students shall also be notified of their option to request the district not to release the secondary school student's name, address or telephone listing to military recruiters or institutions of higher education without prior written parental consent.

The notice shall be distributed to parents/guardians and adult students at the beginning of each school year. When a student transfers into the District after the above notice has been given, the student and his/her parent(s)/guardian shall receive a copy of the notice at the time and place of enrollment.

Cross Reference

WASB PRG 347 Sample Rule 1