

Student Education Records and Privacy

The Fargo Public School District (“District”) believes that while collection and use of student information is necessary to provide educational and student support services, the District must implement safeguards to ensure information is appropriately protected and used to serve the best interests of students.

DEFINITIONS

Directory information is defined as personally identifiable information contained in a student education record that is generally considered not harmful or an invasion of privacy if disclosed and includes:

- Address
- Date of Birth
- Dates of attendance
- Degrees, honors, and awards received
- Grade level
- Most recent school attended
- Name (first and last)
- Parent/Guardian contact information
- Participation in officially recognized activities and sports
- Photograph
- School email address
- Student identification number if it cannot be used alone to access an educational record and is not the student’s social security number
- Telephone number

Education records are records that are directly related to a student and that are maintained by the District or by a party acting on behalf of the District. These records include but are not limited to grades, transcripts, class lists, student course schedules, health records, and student discipline files. This definition excludes law enforcement records and records in the sole possession of the maker used only as a memory aid.

Eligible student means a student who has reached the age of 18.

FERPA stands for the Family Educational Rights and Privacy Act.

Legitimate educational interest is defined as access that is needed in order for a school official to fulfill their professional responsibility.

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

Permanent record is defined as a record containing a student's name, address, phone number, record of grades, years enrolled, courses attended, and grades completed.

Personally Identifiable Information ("PII") includes information maintained in the student's education record that could be used alone or in combination to trace a student's identity directly or indirectly and would allow a reasonable person, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.

Record means any information recorded in any way including, but not limited to, handwriting, print, computer media, video or audiotape, film, microfilm, and microfiche.

School officials are defined as an individual who has a legitimate educational interest in accessing student educational records and is affiliated with the District in one of the following capacities:

1. An individual employed by the District in an administrative, instructional, or support staff position;
2. School board members; or
3. Contractors, consultants, volunteers, service providers, or other party with whom the District has outsourced institutional services or functions for which the District would otherwise use employees; records provided to these third parties must remain directly under the District's control for purposes of maintenance and use and the third party must agree to comply with 34 C.F.R. 99.33(a). Examples include, but are not limited to, school resource officers, interns, student teachers, statewide student information systems, learning management software, transportation tracking software, and district alert systems.

DESIGNATION & RESPONSIBILITIES OF PRIVACY OFFICERS

The Superintendent, or their designee, shall serve as Chief Privacy Officer. In this role, the Chief Privacy Officer is responsible for student information sharing requests from third-party individuals/entities other than parties to which the District reports student information under law. The Superintendent shall also maintain a master list of all individuals and entities having access to student information, including school district personnel listed by title. To ensure this list remains current and is manageable to maintain, it shall not contain names of individuals who have access to data.

The Chief Privacy Officer may designate privacy officers at the District and building level. These privacy officers are responsible for:

1. Maintaining a list of school personnel by title who have access to student information; this list shall be provided to the Chief Privacy Officer each time it is updated;
2. Submitting to the Chief Privacy Officer new requests to share student information with third-party individuals and entities other than parties to which the District reports student information under law;
3. Ensuring that access to student information is granted only to the extent there is a legitimate educational interest and in accordance with this policy and any applicable agreements;
4. Enforcing this and other applicable district confidentiality and data protection policies;

5. Providing a list of students who have opted out of directory information to classroom teachers and other district staff who have a need to know.

INFORMATION RELEASE SAFEGUARDS

1. Access by Parents & Eligible Students

In order to ensure compliance with parental and eligible student access requirements under FERPA:

- a. The District shall comply with a request by a parent or eligible student to access education records within a reasonable period of time, not to exceed 45 days after receipt of a request; and
- b. The District shall develop procedures for a parent/guardian or eligible student to review and amend educational records. These procedures shall include measures to verify the identity of a requesting parent/guardian or eligible student. The regulations shall be delineated in District approved regulations and disseminated annually in accordance with law.

2. **Classroom Use of Instructional Tools Requiring Release of Student Information** Teachers are encouraged to use instructional technological tools that allow for use of an alias or that do not require submission of directory information or PII. Whenever a teacher wishes to use an online resource that requires the use of directory information or PII, they will follow the instructions provided in AP 5266 Use of Online Resources Requiring Student Information.

3. Data Breaches

District employees are responsible for informing a privacy officer of any known or suspected breach of PII. When a privacy officer becomes aware of a breach of student PII, they shall contact the Chief Privacy Officer. The Chief Privacy Officer, in consultation with the District General Counsel, shall determine if the enactment of data breach response procedures and NDCC Ch. 51-30 is appropriate.

4. Directory Information

The District may disclose directory information without parental or eligible student consent if it has given parents or eligible students a reasonable amount of time to opt-out of directory information release. Opt-out notices should be provided at the beginning of the school year and when a student otherwise enrolls in the District. These notices shall contain a reasonable deadline of at least ten (10) days for parents or eligible students to opt-out.

The Board approves the release of directory information as follows:

- a. Publication on the district's website and social media accounts;
- b. To District -approved vendors for purposes of sale of school-related items including yearbooks, school pictures, graduation items, district apparel, and book orders;
- c. To government entities;
- d. Student names, addresses, and telephone numbers to military and college recruiters in accordance with 20 U.S.C. 7908 and NDCC 15.1-07-25.1;

- e. To official district newspaper for purposes of recognizing student accomplishments and coverage of extracurricular events;
- f. To school-affiliated groups for purposes of communicating and fundraising;
- g. To school-sponsored student publications including newspapers, yearbooks, playbill showing the student's role in a drama production, honor roll or other recognition list, graduation program, sports activity sheets such as wrestling showing the weight and height of team members; and
- h. When the District receives and approves a directory information release request; directory information shall only be released and used for purposes specified in the release request and the Chief Privacy Officer shall add approved requestors to the district's master list of individuals and entities having access to student information. The superintendent shall develop criteria in regulations for approving and denying these requests.

Any district employee who wishes to disseminate student directory information to a third party shall contact their assigned privacy officer. The privacy officer shall determine if the Chief Privacy Officer has previously approved the entity to receive directory information and, if not, deny the request or submit it to the Chief Privacy Officer for approval. Upon approval by the Chief Privacy Officer, they shall instruct the assigned privacy officer to ensure compliance with any opt-out requests made by parents.

6. Personally Identifiable Information (PII)

Any third party requesting or receiving access to student PII must receive Chief Privacy Officer approval unless the third party is required to receive PII under state or federal law. Any school employee who wishes to share PII with a third party shall contact their assigned privacy officer. The assigned privacy officer shall determine if the Chief Privacy Officer has previously approved such release and, if not, deny the request or submit it to the Chief Privacy Officer for approval. Upon approval by the Chief Privacy Officer of any PII release request, the applicable privacy officer shall inform the requestor of any parental consent requirements (see #7) and ensure the requestor complies with such requirements.

Parental or eligible student consent is not required to release PII under the following circumstances:

- a. The District receives information under 42 U.S.C. 14071 and applicable federal guidelines about a student who is a registered sex offender under section 170101 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071), and the district has a need to disclose the student's status as a sex offender for safety purposes.
- b. In connection with a health or safety emergency under the conditions described in 34 C.F.R. 99.36.
- c. If records have been de-identified by the district; third party individuals and entities that receive de-identified information shall be included on the District's master list of individuals and entities having access to student information
- d. To a school official who has a legitimate educational interest in the education records if the following conditions are satisfied:

- i. Access shall be limited to only information the school official has a legitimate need to know;
 - ii. School officials shall use the information only for the purposes for which the disclosure was made and shall not redisclose the information to any other party without proper consent or legal authority; and
 - iii. Titles of individuals and entities considered school officials shall be included on the District's master list of individuals and entities having access to student information.
- e. To a court without a court order or subpoena when the district initiates legal action against a parent/student or a parent/student initiates legal action against the District.
- f. To accrediting bodies for purposes of accreditation.
- g. To an organization conducting a study for the District to develop, validate, or administer a predictive test; administer student aid programs; or improve instruction so long as the organization has entered into a written agreement with the District in accordance with law; if the organization is conducting a survey of students, the District shall ensure parents are notified in compliance with the Protection of Pupil Rights Amendment and shall obtain parental consent, if applicable (see #7)
- h. To another school in which the student seeks, intends to, or is already enrolled.
- i. To authorized representative of the Comptroller General of the United States, the Attorney General of the United States, the U.S. Secretary of Education, and state and local education authorities for audit and evaluation of federal or state supported education programs or for the enforcement of or compliance with federal legal requirements that relate to those programs.
- j. To comply with a judicial order or lawfully issued subpoena; the District must make reasonable attempt to contact the parent or eligible student before disclosure unless the court instructs otherwise., or
- k. To the parents of an eligible student who is also a "dependent student" as defined in IRS Section 152.

The District will take all necessary measures to ensure that individuals and entities to which PII is released shall only have access to information necessary to fulfill their responsibilities under law and to the District. Measures may include, but not be limited to, controlling access to computer data through password restrictions, controlled access to paper records, and ensuring that any information access agreements required by law are properly executed.

7. When Parental Consent is Required

The District must obtain parental or eligible student consent to release student information under the following circumstances:

- 1. The District has approved release of PII to an individual or entity not meeting the definition of school official under law and/or not meeting an exception to the parental consent requirement under FERPA.
- 2. The District has approved release of directory information, other than or in addition to name, or PII to an online service provider for commercial purposes and the impacted students are under 13.
- 3. When administering a survey funded in whole or in part by the U.S. Department of Education and concerning any of the following areas:
 - a. Political affiliations or beliefs of the student or the student's parent;

- b. Mental or psychological problems of the student or the student's families;
- c. Sex behavior or attitudes;
- d. Illegal, anti-social, self-incriminating, or demeaning behavior;
- e. Critical appraisals of other individuals with whom respondents have close family relationships;
- f. Legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers;
- g. Religious practices, affiliations, or beliefs of the student or student's parent; or
- h. Income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program).

If the District is unable to obtain this consent, it shall not release the impacted student's information.

8. Non-Directory Data Sharing with External Entities

External organizations exist that provide additional educational support to students. With cooperation between the schools, the parents, and these organizations, struggling and disadvantaged students can be supplied with useful supplementary assistance. Often, this cooperation involves the two-way transmission of information between the school and the organization about individual student schedule, attendance, grade, and discipline information that is above what is considered basic demographic information.

For an organization to participate in the two-way exchange of student information:

1. The organization must apply to the Associate Superintendent of Teaching and Learning for consideration. In the application, the organization should provide a summary of the services provided, the student data sharing needs being requested, the corresponding data that will be shared in return with Fargo Public Schools, and a recommendation of support from a Fargo Public Schools building principal.
2. The Associate Superintendent will review the request and either approve, approve with amendments, or deny the request. Approval will depend on the usefulness of the services provided to the individual student and the appropriateness of the data requested to be shared.
3. If the organization is approved, permission from the parent is still necessary before non-directory student information can be provided from Fargo Public Schools. This permission can be obtained in the form of a signature from the parent on the Student Data Sharing Agreement Form included at the end of this policy document.

504 Plans and Individual Educational Programs (IEPs)

Sharing of student information necessary for developing, amending, or implementing an IEP or 504 Plan and sharing student information needed to determine eligibility for special education or disability services are not subject to board approval requirements in NDCC Ch. 15.1-07-25.3 because the District provides these services in fulfillment of requirements under state and federal law.

Policy Violations

Failure by a District employee or volunteer to comply with this policy, other district confidentiality requirements, or any improper disclosure of student information by a school employee or volunteer shall result in disciplinary action up to and including termination of employment for cause. Failure by a third party to comply with this policy, any information-sharing agreements between the District and third party, or any improper disclosure of student information by the third party may result in termination of the third-party's access to student information and termination of the District's agreement with the third party if permitted under the terms of such agreement.

Training

School officials employed or volunteering for the District shall receive information and/or training on confidentiality requirements pertaining to student education records and consequences for breaching confidentiality. The District shall also provide training to applicable school personnel on the procedures for requesting to release student information contained in this policy.

STUDENT EDUCATION RECORDS ACCESS AND AMENDMENT**Reviewing an Educational Record**

The District shall comply with a parent or eligible student's right to inspect and review their student's education records within 45 days of receiving a request. If circumstances prevent a parent or eligible student from reviewing their child's education records through the student information system or at District location, the District shall prepare and mail a copy of the records or make alternative arrangements for the parent or eligible student to inspect and review the records. These records will only be provided after the District has obtained a copy of the requestor's state or federally issued identification. Any expenses incurred from copying and/or mailing the records may be charged to the parent or eligible student at state rates, except as prohibited by law.

Amending an Educational Record

A parent or eligible student has the right to request an amendment to any portion of the education records they believe to be inaccurate, misleading, or in violation of the student's privacy rights. Parents or eligible students who wish to amend their child's or their education record must submit a written request to the appropriate Associate Superintendent clearly identifying the part of the record they want changed and specify why the record should be changed. If the District decides not to amend the record as requested by the parent or eligible student, the school will notify the parent or eligible student of the decision of their right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the parent or eligible student when notified of the right to a hearing.

STUDENT EDUCATION RECORD RETENTION

All student education records shall be retained and destroyed in accordance with state and federal law.

Legal Citations

Children's Online Privacy Protection Act, 16 CFR 312

Family Educational Rights and Privacy Act, 34 C.F.R. 99.33(a)

Protection of Pupil Rights Amendment, 20 U.S.C. § 1232h; 34 CFR Part 98

Original 11-26-1974

Reviewed 1-15-03

Revised 8-29-03

Revised 3-9-09

Revised 1-2013
Revised 7-2015
Reviewed 7-2021
Revised 6/2025
Revised 6/2026

NOTICE OF DIRECTORY INFORMATION

The Family Educational Rights and Privacy Act (FERPA), requires that **Fargo Public School District (“District”)** with certain exceptions, obtain your written consent prior to the disclosure of personally identifiable information from your child's education records. However, the District may disclose appropriately designated "directory information" without written consent, unless you have advised the District to the contrary in accordance with District procedures.

The primary purpose of directory information is to allow the District to include this type of information from your child's education records in certain school and/or District publications.

Examples include:

- a. A playbill, showing your student's role in a drama production;
- b. The annual yearbook;
- c. Honor roll or other recognition lists;
- d. Graduation programs; and
- e. Sports activity sheets, such as for wrestling, showing weight and height of team members.

Directory information, which is information that is generally not considered harmful or an invasion of privacy if released, can also be disclosed to outside organizations without a parent's prior written consent. Outside organizations include universities, colleges, government organizations, companies that manufacture class rings or publish yearbooks. In addition, two federal laws require school districts receiving assistance under the Elementary and Secondary Education Act of 1965 (“ESEA”) to provide military recruiters, upon request, with three directory information categories - names, addresses and telephone listings - unless parents have advised the school district that they do not want their student's information disclosed without their prior written consent.

If you do not want the District to disclose directory information from your child's education records without your prior written consent, you must notify the District in writing by completing the Parent Release Form in the Student Information System by the first day of school. The District has designated the following information as directory information: 1) student’s name (first and last); 2) address; 3) date of birth; 4) dates of attendance; 5) degrees, honors, and awards received; 6) electronic personal identifier; 7) grade level; 8) most recent school attended; 9) participation in officially recognized activities and sports; 10) photograph; 11) school email address; 12) telephone listing; and 13) weight and height of members of athletic teams. This information may be publicly released unless parents or eligible students inform the District otherwise.