

SMYRNA SCHOOL DISTRICT

POLICY

Section:	5000 Students	Office Responsible:	Superintendent
Policy:	5106 Privacy Right of Students		
Related Policies:	N/A		

I. Purpose

The Smyrna School District recognizes the importance of protecting the privacy and confidentiality of students' education records while ensuring parents, eligible students, and other authorized parties have appropriate access to those records.

II. Authority

Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g
34 C.F.R. Part 99
14 Del. C. § 4111
14 DE Admin. Code § 251
Individuals with Disabilities Education Act, 20 U.S.C. § 1400 et seq.
Applicable Delaware student data privacy laws and regulations

III. Definitions

Education record- a record that is directly related to a student and maintained by the district or by a party acting for the district, as defined by FERPA and its implementing regulations. Not every record maintained by the district is an education record under FERPA. Records excluded from the federal definition shall be treated in accordance with applicable federal and state law.

Parent- a guardian or other person who meets the definition of parents under applicable federal and Delaware law. FERPA rights generally belong to parents while a student is under 18 and not attending a postsecondary institution. FERPA rights transfer to the student when the student reaches 18 years of age or attends a postsecondary educational institution at any age, subject to applicable exceptions.

Eligible student- a student who has reached 18 years of age or is attending a postsecondary educational institution.

Personally identifiable information- information that may reasonably identify a student, whether directly or indirectly.

Directory information- information contained in an education record that would not generally be considered harmful, or an invasion of privacy is disclosed and that the district has designated as directory information in accordance with FERPA.

School official- may include an employee, official, or other party acting for the district who meets the requirement of FERPA.

SMYRNA SCHOOL DISTRICT

POLICY

Legitimate educational interest- when access to education records is reasonably necessary for an individual to perform responsibilities assigned by the district or to provide, manage, or support educational services to a student.

IV. Policy Statement

This policy applies to all schools, departments, administrators, employees, agents, contractors, volunteers, and other individuals acting on behalf of the Smyrna School District who create, maintain, access, use or disclose student education records. This policy applies to education records maintained in any format, including paper, electronic, digital, photographic, audiovisual, or other media.

Nothing in this policy shall be interpreted to diminish any rights or confidentiality protections provided to students with disabilities under the Individuals with Disabilities Education Act (IDEA), Delaware law, or applicable regulations.

V. Rights of Parents and Eligible Students

The district shall provide parents and eligible students with the rights established by FERPA, including the right to:

1. Inspect the review the student's education records;
2. Request amendment of education records believed to be inaccurate, misleading, or otherwise in violation of the student's privacy rights;
3. Consent to disclose of personally identifiable information from education records, except where FERPA or other applicable law authorizes disclosure without consent;
4. Receive annual notice of FERPA rights; and
5. File a complaint with the U.S. Department of Education concerning an alleged violation of FERPA.

These rights shall be provided in accordance with applicable federal and state requirements.

VI. Inspection and Review of Education Records

A parent or eligible student may request to inspect and review the student's education records. The district shall comply with a valid request within a reasonable period of time, but not more than 45 days after receiving the request, as required by FERPA.

The district shall:

1. Establish reasonable procedures for submitting and processing requests;
2. Verify the identify and authority of the requesting individual when appropriate;

SMYRNA SCHOOL DISTRICT

POLICY

3. Provide reasonable explanations and interpretations of records upon request;
4. Protect the privacy of other students whose information may appear in the records;
5. Not destroy education records when there is an outstanding request to inspect and review those records;
6. Provide copies or make other appropriate arrangements when circumstances effectively prevent the parent or eligible student from exercising the right to inspect and review the records.

When education records contain information concerning more than one student, the requesting parent or eligible student shall have access only to information directly related to that student, consistent with FERPA.

VII. Amendment of Education Records

A parent or eligible student who believes that information contained in the student's education records is inaccurate, misleading, or otherwise in violation of the student's privacy rights may request that the district amend the record.

The district shall establish administrative procedures for:

1. Receiving written requests for amendment;
2. Reviewing the challenged information;
3. Notifying the parent or eligible student of the district's decision;
4. Providing an opportunity for a hearing when required by FERPA; and
5. Maintaining any required statement of disagreement with the record.

The amendment process shall be used to challenge the accuracy or privacy status of information contained in an education record. It shall not be used to challenge a grade, an opinion, or a substantive decision of a school official unless the circumstances provide a basis under FERPA for doing so.

VIII. Confidentiality of Education Records

Education records and personally identifiable information contained therein shall be treated as confidential. District employees and other individuals acting on behalf of the district shall access and use student education records only when they have a legitimate educational interest or otherwise have legal authorization to access the information.

Employees shall:

1. Protect student information from unauthorized access, disclosure, alteration, or destruction;
2. Access only the information reasonably necessary to perform their assigned duties;
3. Not disclose student information to unauthorized individuals;
4. Use reasonable safeguards when discussing, transmitting, storing, or disposing of student information; and

SMYRNA SCHOOL DISTRICT

POLICY

5. Follow district procedures governing electronic systems, passwords, data security, records retention, and disposal.

The district may establish additional administrative procedures to protect education records and personally identifiable information.

IX. Disclosure or Education Records

Except as otherwise permitted or required by FERPA or applicable law, the district shall obtain written consent from a parent or eligible student before disclosing personally identifiable information from a student's education records.

Written consent shall:

1. Specify the records that may be disclosed;
2. State the purpose of the disclosure; and
3. Identify the party or class of parties to whom disclosure may be made.

The district shall maintain documentation of consent and disclosures when required by FERPA.

X. Disclosures Without Prior Consent

The district may disclose education records without prior written consent when FERPA or applicable law permits or requires such disclosure.

Permitted or required disclosures may include, but are not limited to:

1. Disclosure to school officials with legitimate educational interests;
2. Disclosure to another school or educational institution in connection with a student's enrollment or transfer, as permitted by FERPA;
3. Disclosure in connection with certain audits or evaluation of education programs;
4. Disclosure for certain studies conducted in accordance with FERPA;
5. Disclosure to authorized state or federal officials as permitted by law;
6. Disclosure in response to a valid judicial order or lawfully issued subpoena, consistent with applicable requirements;
7. Disclosure in connection with a health or safety emergency when the requirements of FERPA are satisfied;
8. Disclosure of directory information in accordance with this policy;
9. Disclosure to appropriate parties in connection with financial aid when authorized by law;
10. Disclosure to organizations conducting certain specified accreditation functions;
11. Disclosure to state and local authorities when otherwise authorized by law; and
12. Other disclosures specifically authorized or required by FERPA or applicable law.

SMYRNA SCHOOL DISTRICT

POLICY

The district shall not treat an exception to FERPA's consent requirement as a general authorization to disclose student information. Each disclosure must satisfy the specific requirements applicable to the exception being used.

XI. School Officials and Legitimate Educational Interest

The district may disclose education records without consent to school officials who have a legitimate educational interest in the information, consistent with FERPA. The district shall use reasonable methods to ensure that school officials obtain access only to education records in which they have a legitimate educational interest. Contractors, consultants, volunteers, service providers, and other non-employees may be considered school officials only when they satisfy the requirements of FERPA and applicable district procedures.

XII. Directory Information

The district may designate certain categories of student information as directory information in accordance with FERPA.

The district shall annually notify parents and eligible students of:

1. The types of information designated as directory information;
2. The right to refuse disclosure of directory information; and
3. The procedure and deadline for submitting an opt-out request.

The district shall not disclose directory information concerning a student who has properly exercise the right to opt out, except as otherwise permitted or required by law. FERPA requires public notice before a school may disclose designated directory information and requires notice of the right to opt out.

XIII. Military Recruiters and Institutions of Higher Education

Consistent with applicable federal law, the district shall provide required access to secondary school student information for military recruiters and institutions of higher education, subject to applicable notice and opt-out requirements. The district shall provide parents and eligible students with notice of their rights concerning such a disclosure as required by federal law.

XIV. Annual Notification

The district shall annually notify parents of students currently in attendance and eligible students currently in attendance of their rights under FERPA.

The annual notice shall include, at a minimum:

1. The right to inspect and review education records;
2. The procedures for exercising that right;

SMYRNA SCHOOL DISTRICT

POLICY

3. The right to request amendment of education records;
4. The procedures for requesting amendment;
5. The right to consent to disclosures of personally identifiable information, except where disclosure without consent is permitted or required by law;
6. The right to file a complaint with the U.S. Department of Education;
7. The district's criteria for determining who is a school official and what constitutes a legitimate education interest; and
8. The district's directory formation policy and applicable opt-out procedures.

The district shall provide the annual notice in a manner reasonably calculated to inform parents and eligible students of their rights. The district shall take reasonable steps to effectively notify those who have a disability or who's primary or home language is not English.

XV. Records of Disclosures

The district shall maintain a record of requests for access to and disclosures of personally identifiable information from education records when required by FERPA. The record shall identify the parties, as required applicable federal regulations. Parents and eligible students shall have the right to inspect the record of disclosures to the extent provided by FERPA.

XVI. Student Records Maintained by the Delaware Department of Education

The district recognizes that Delaware law established specific requirements governing the sharing of education records with the Delaware Department of Education for authorized state and federal reporting, audit, evaluation, and data-exchange purposes. The district may disclose education records and personally identifiable information to the Delaware Department of Education without parental consent when the disclosure is authorized or required by applicable law and FERPA. The department's use, maintenance, protecting, distribution, redisclosure, and destruction of such information must comply with FERPA and applicable state and federal privacy laws.

XVII. Electronic Records and Student Information Systems

Education records maintained electronically shall receive the same confidentiality protections as paper records.

The district shall establish reasonable administrative, technical, and physical safeguards to protect student information, including appropriate controls related to:

1. User access;
2. Authentication;
3. Passwords and account security;
4. Data transmission;
5. Storage;

SMYRNA SCHOOL DISTRICT

POLICY

6. Third-party applications and service providers;
7. Data-sharing;
8. Mobile devices;
9. Email and electronic communications;
10. Data retention; and
11. Secure destruction.

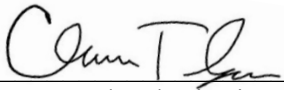
Employees shall not use personal accounts, unauthorized applications, or unauthorized storage locations to transmit or maintain personally identifiable student information.

XVIII. Third-Party Service Providers

When the district uses a contractor, consultant, software provider, cloud service, or other third party that received access to education records, the district shall ensure that the arrangement complies with FERPA and applicable Delaware law. Contracts or other legally appropriate arrangements shall establish appropriate limitations on the use and redisclosure of student information and shall require reasonable safeguards for student information, as applicable. The district shall not permit a third party to use education records for purposes inconsistent with FERPA, applicable law, or the terms under which the information was disclosed.

XIX. Complaints

Parents and eligible students who believe the district has violated FERPA may raise the concern through the district's administrative procedures. Nothing in this policy limits a parent or eligible student's right to file a complaint with the U.S. Department of Education's Student Privacy Policy Office in accordance with federal law. The federal regulations provide parents and eligible students with the right to file a complaint concerning an alleged failure by an educational agency or institution to comply with FERPA.



Smyrna School District Board of Education

Policy Actions

Adopted: April 29, 1998

Revised: October 16, 2019

Revised: October 14, 2026