

## PROCEDURES FOR THE MAINTENANCE AND CONFIDENTIALITY OF STUDENT RECORDS

- A. **CONTENT OF RECORDS** – Student records include all records relating to an individual student other than notes or records maintained for personal use by teachers or other certified personnel which are not available to others, and records necessary for and available only to persons involved in the psychological treatment of a student.
1. **Progress records** maintained by the school include a statement of courses taken by the student, the student's grades, the student's immunization records, the student's extracurricular activities and the student's attendance record.
  2. **Behavioral records** maintained by the school include psychological tests, personality evaluations, records of conversations, written statements 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 his/her 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 student, (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. A law enforcement agency may also enter into an interagency agreement with the District to provide for the routine disclosure of this information to the District. 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.
    - b. **"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.
    - c. **"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.
    - d. **"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.

3. **Directory data** are those student records that include the student's name, address, telephone listing, date and place of birth, participation in officially recognized activities and sports, weights and heights of athletic team members, major field of study, dates of attendance, photographs, degrees and awards received and the name of the school most recently previously attended by the student.

B. **CONFIDENTIALITY** - All student records are confidential, with the following exceptions:

1. **Release of Student Records to Students and Parents/Guardians**

- a. A 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 a student or parent/guardian shall, upon request, be provided with a copy of the behavioral records.
- c. A parent/guardian shall have access to a student's school records regardless of whether the parent/guardian has legal custody of the child, unless the parent/guardian has been denied periods of physical placement with the child or ordered by the court.
- d. 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(s) under the Internal Revenue Code. An exception shall be made when an adult student has informed the school, in writing, that the information may not be disclosed.

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

- a. School officials shall have access to a student's records only if they have a legitimate educational interest, including safety interest, in the record. A "school official" is a person employed by the District who is required by the Department of Public Instruction (DPI) to hold a license; a law enforcement officer(s) who is individually designated by the school board and assigned to the school district, 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); 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 person 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 may 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 by the Board 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. If legitimate educational interests, including safety interests in the information exists, court records obtained by the District must be disclosed to District employees who work directly with the student named in the records or those so determined by the Board. 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.

- d. Notwithstanding their confidential status, student records may be used in suspension and expulsion proceedings and by individualized education program teams under state special education laws.

3. **Release of Student Progress and Behavioral Records (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 a judicial 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 principal or his/her designee 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. In making this determination, the District may take into account the totality of the circumstances pertaining to a threat to the health or safety of a student or other individuals. If the District 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 student records to any person whose knowledge of the information is necessary to protect the health or safety of the student or other individuals. The District shall record the following information when it discloses student record information under this exception: (1) the articulable and significant threat to the health or safety of a student or other individuals that formed the basis for the disclosure, and (2) the parties to whom the District disclosed the information.
- f. The District shall disclose pertinent student records to an investigating law enforcement agency or district attorney if the person to whom the records are disclosed certifies in writing that the records concern the juvenile justice system and the system's ability to effectively serve the student, relate to an ongoing investigation or pending delinquency petition, and will not be disclosed to any other person except as otherwise authorized by law.
- g. The District may disclose student records to a 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 otherwise authorized by law.
- h. The school district clerk or his/her designee 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.

- i. 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 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.
- j. 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.
- k. The District may provide the DPI or any public officer with information as required by state statutes. Upon request, the Board 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.
- l. Information from a student's immunization records shall be made available to state and local health officials to carry out immunization requirements.
- m. 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.
- n. 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.
- o. The District shall, upon request, provide student disciplinary records necessary for purposes of open 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.
- p. Interagency Agreements: The District will enter into interagency agreements with appropriate governmental units to govern the disclosure, use, and confidentiality of student records.

#### 4. **Release of Patient Health Care Records**

All student patient health care records shall remain confidential. They may be released only to

persons specifically designated in state 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 in locked storage files 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 Directory Data**

Except as otherwise provided, directory data may be disclosed to any person 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, 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 principal or designee shall, upon request, provide the name and address 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 principal or designee 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 listings. A secondary school student or the parent/guardian of a student may request that the student's name, address and telephone listing not be released to military recruiters or institutions of higher education without prior written parental consent. The District shall notify parents/guardians of the option to make 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.

When reviewing student directory data requests, as well as when implementing other provisions of these guidelines, consideration shall be given to applicable provisions of the public records law and the District's policy and procedures dealing with public records.

#### 6. **Transfer of Records**

The District shall transfer to another school or school district all student records relating to a

specific student if it has received written notice:

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

The District forwards student records as requested so long as the disclosure is for purposes related to the student's enrollment or transfer.

Student records shall be transferred within five working days of receiving the request.

7. **Violation of Confidentiality**

Persons accessing records without a legitimate education interest or need to know may be subject to disciplinary action up to and including legal action.

**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, law enforcement agency and law enforcement unit records shall be maintained separately from a student's other records.
2. The building principal shall have primary responsibility for maintaining the confidentiality of all student records kept at that school. Except as otherwise provided, all requests for inspection or for transfer to another school or school district should be directed to the building principal who will determine whether inspection or transfer is permitted under state and federal law and these procedures. The building principal or his/her designee shall be present to interpret behavioral records when inspection is made under Section B(1)(b) above. Upon transfer of student records to the district administrative office, the District Administrator or his/her designee shall assume these duties.
3. A record of each request for access to and each disclosure of personally identifiable information from the education 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:
  - a. the parent/guardian or adult student;
  - b. a school official;
  - c. a party with written consent from the parent/guardian or adult student;
  - d. a party seeking directory data; or
  - e. 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 the student ceases to be enrolled in a school operated by the District, his/her records will be transferred to the district administrative office. Records that are transferred to the district administrative office shall be maintained as follows:
  - a. Behavioral records will be maintained for no longer than one year after the student graduated from or last attended school unless the student or his/her parent/guardian, if the student is a minor, gives permission that the records may be maintained for a longer period of time.

- b. Student progress records shall be maintained for 30 years after the student ceases to be enrolled in the District.
5. The Director of Student Services shall be responsible for reviewing records of students with disabilities before they are destroyed. Parents/guardians and adult students shall be informed of information that is no longer needed to provide educational services to the student with a disability and of their right to obtain a copy of such information before it is destroyed.

**D. AMENDMENT OF RECORDS**

1. A parent/guardian or adult student who believes that information contained in the student's records is inaccurate, misleading or otherwise in violation of the student's rights of privacy may request the District to amend the records. Such request shall be addressed in writing to the school official having custody of the records. Within a reasonable time after receiving the request, the person having custody of the records shall decide whether to amend the records in accordance with the request and inform the parent/guardian or adult student of the decision.
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 education records of the student shall be amended accordingly.
  - f. 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 education 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)/guardians shall receive a copy of the notice at the time and place of enrollment.

Legal Ref.: Sections 118.125 Wisconsin Statutes (Pupil Records)

118.126 (Privileged Communications)

118.127 (Law Enforcement Agency Information)

118.51(8) (Full-Time Open Enrollment, Disciplinary Records)

118.52(10) (Part-Time Open Enrollment, Disciplinary Records)

146.81 - 146.84 (Health Care Records)

252.15 (Restrictions on Use of an HIV Test)

767.24(7) (Custody and Physical Placement, Access to Records)

938.342(1r) (Disposition, School Attendance Conditions)

938.396 (Records)

950.08(2w) (Information To Be Provided by District Attorney's to Schools in Criminal Cases)

Family Educational Rights and Privacy Act (20 USC Section 1232g, 34 CFR Part 99)

Protection of Pupil Rights Provision of General Education Provisions Act (20 USC 1232h)

U.S.A. Patriot Act

Local Ref.: Policy #347.1-Procedures for the Maintenance and Confidentiality of Student Records

Policy #347-Exhibit-Student Records Notice

Policy #430-School Attendance

Policy #431-Compulsory Student Attendance & Alternative Programs

Policy #823-Open Records Policy and Procedures for Access to Public Records