



SCHOOL BOARD OF BREVARD COUNTY, FLORIDA  
**School Board Policy Executive Summary**  
 Form D

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| <b>Policy Number:</b>                        | 8330  |
| <b>Title of Policy:</b>                      | Student Records   |
| <b>Cabinet Member:</b>                       | Russell Bruhn and Christine Moore   |
| <b>Purpose of Revisions:</b>                 | The purpose of the proposed revisions to the policy is to ensure compliance with all applicable federal and state laws, Florida State Board of Education Rules, Board policies, administrative rules, procedures, and guidelines. In addition, the proposed revisions promote transparency and accountability.  |
| <b>Tentative Schedule:</b>                   | <ul style="list-style-type: none"> <li>• Cabinet – 4/5/2021</li> <li>• Work Session – 4/27/2021</li> <li>• Rule Development Workshop – 5/11/2021</li> <li>• School Board Meeting Information – 5/11/2021</li> <li>• School Board Meeting Approval – 5/25/2021</li> <li>• Effective Date – upon approval</li> </ul>  |
| <b>Summary of Proposed Policy Revisions:</b> | <ul style="list-style-type: none"> <li>• This policy is being revised to clarify the procedures regarding student directory information, and other changes in compliance with applicable Florida law.</li> <li>• Particular areas of revision include the following: student information listed as public record and the cost to produce that information upon request.</li> <li>• Certain proposed revisions encompass the suggested language from NEOLA.</li> </ul> |
| <b>Specific Authority:</b>                   | §§ 1001.41, 1001.52, 1002.22, 1002.221, 1003.25, F.S.; F.A.C. 6A-1.0955; §§ 20 U.S.C. 1232f–1232i (FERPA), 20 U.S.C. 7908, 26 U.S.C. 152, 20 U.S.C. 1400 et seq. (Individuals with Disabilities Act); Privacy Rights of Parents and Students - P.L. 90-247; No Child Left Behind Act of 2001 – P.L. 107-110   |
| <b>Next Steps:</b>                           | <ul style="list-style-type: none"> <li>• Revisions to internal procedures</li> <li>• Training for BPS employees regarding revisions to policy and revised procedures</li> </ul>   |

**Current  
Version**



|              |                    |
|--------------|--------------------|
| Book         | Policy Manual      |
| Section      | 8000 Operations    |
| Title        | STUDENT RECORDS    |
| Code         | po8330             |
| Status       | Active             |
| Adopted      | May 1, 2002        |
| Last Revised | September 11, 2012 |

### 8330 - **STUDENT RECORDS**

In order to provide appropriate educational services and programming, the Board must collect, retain, and use information about individual students. Simultaneously, the Board recognizes the need to safeguard students' privacy and restrict access to students' personally identifiable information.

#### Maintenance of Student Records

The Board is responsible for the records of all students who attend or have attended schools in this District. Only records mandated by the State or Federal government and necessary and relevant to the function of the District or specifically permitted by this Board shall be compiled by District employees.

Each school shall maintain a permanent cumulative record for each student enrolled in the school which shall contain the data as prescribed by Administrative Rule F.A.C. 6A-1.0955 and this policy. Each student's cumulative record shall include the following types of data:

#### A. Category A Records, Permanent Information

1. Student's full legal name.
2. Authenticated birth date, place of birth, race, ethnicity and sex.
3. Last known address of the student.
4. Name(s) of the student's parent(s) or guardian(s).
5. Name and location of last school attended.
6. Number of days present and absent, date enrolled, date withdrawn.
7. Courses taken and record of achievement, such as grades, credits, or certification of competence.
8. Date of graduation or date of program completion.
9. Records of requests for access to and disclosure of personally identifiable information from the student's educational records.

#### B. Category B Records, Temporary Information

1. Health information, family background data, standardized test scores, state-mandated achievement test scores, educational and vocational plans, honors and activities, work experience reports, and teacher/counselor comments.
2. Reports of student services or exceptional student staffing committees including all information required by F.S. 1001.42.
3. Correspondence from community agencies or private professionals.
4. Driver education certificate.
5. A list of schools attended.
6. Written agreements of corrections, deletions, or expunctions as a result of meetings or hearings to amend educational records.
7. Written requests to waive access to confidential records.
8. Written requests to restrict the release of directory information.
9. Court orders of relevance.
10. Records of major student discipline actions, suspension, and/or expulsion records.
11. Home language survey.
12. Student Limited English Proficiency (LEP) Plans.
13. Such other records of educational importance as the school shall deem necessary.
14. Records designated for retention by the Florida Department of State in General Records Schedule GS7 for *Public Schools Pre-K – 12, Adult and Vocational/Technical*.

Category A and B records shall be maintained in compliance with the approved District records retention schedule.

Individual exceptional student records shall be kept separate from regular cumulative records. These records shall be sent to each succeeding school the student attends in the District and shall be maintained in accordance with the approved District records retention plan.

Periodic review for elimination of outdated information in student records by the custodian or designees shall be made in accordance with F.S. 1001.52, and the approved District records retention plan. The custodian of the student records shall be responsible for maintaining the accuracy of information by purging student records in accordance with the General Records Schedule for Public Schools (GS-7). Explanations placed in the education record and the record of access shall be maintained for as long as the education record to which it pertains is maintained. This procedure must be implemented before records are released to any vocational-technical centers, community colleges, or institutions of higher learning in which the student seeks or intends to enroll.

| <b>Type Record</b>   | <b>Location</b>         | <b>Custodian</b>                  | <b>Address</b>                                   |
|--|-------------------------|-----------------------------------|--|
| Active and inactive student records as specified in the current Student Records Manual for the District              | Last school attended    | Principal of last school attended | As shown in local directory                      |
| Inactive student cumulative records (Category A) as specified in the current Student Records Manual for the District | Central District office | Superintendent or designee        | Records Management Educational Services Facility |
| Individual exceptional student education records as specified in the current Student Records Manual for the District | Last school attended    | Principal of last school attended | As shown in local directory                      |
| Individual student psychological records as specified in the current Student Records Manual for the District         | Last school attended    | Principal of last school attended | As shown in local directory                      |

## Fingerprints

No report or record relative to a student which includes a copy of the student's fingerprints will be maintained by the District.

The Superintendent or designee will be responsible for the privacy and security of records that are not under the supervision of the school principal.

## Access to Student Records

The rights of students and their parents with respect to education records created, maintained, or used by the District must be protected in accordance with FERPA, State law, and the implementing regulations and rules issued pursuant thereto. Students and their parents have the right to access their education records, including the right to inspect and review those records, have the right to waive their access to their education records in certain circumstances, have the right to challenge the content of education records, have the right of privacy with respect to such records and reports, and receive notice of their rights with respect to education records.

In addition to students and their parents and eligible students, student records shall be available only to designated school officials and personnel, to such other persons as the parent or eligible student authorizes in writing, a court of competent jurisdiction or to other individuals or organizations as permitted by law. The term "parents" includes legal guardians or other persons standing in loco parentis (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the welfare of the child). The term "eligible student" refers to students who are eighteen (18) years of age or older, or who are enrolled in a postsecondary institution, regardless of age.

Schools may, without consent of parents, guardians, or eligible students, provide access to school officials to perform an administrative, supervisory, or instructional task, or to perform a service or benefit for the student or the student's family, and psychologists within the District providing they have a legitimate educational interest. Support employees may be designated by the principal for the purpose of doing clerical work and maintaining student records. However, such persons shall receive in-service training concerning the confidentiality of student records and work under the supervision and control of an administrative staff member.

Whenever a student has attained eighteen (18) years of age, the permission and consent required of and rights accorded to the parents of the student as to student records maintained by the District, shall thereafter be required of and accorded to the eligible student only, unless the eligible student is a dependent of his/her parents as defined in Title 26 U.S.C. Section 152 of the Internal Revenue Code of 1954. The District may, in this instance, disclose personally identifiable information from the education records to the parents without the prior consent of the eligible student.

Whenever a student has enrolled in a postsecondary institution, regardless of age, the permission and consent required of and rights accorded to the parents of the student as to student records maintained by the postsecondary institution shall thereafter be required of and accorded to the eligible student only. However, if the student is not eighteen (18) years of age, then the permission and consent required of and rights as to the student records maintained by the District shall be retained by the parents.

The custodian of the student record shall permit the eligible student or the parents or guardians of the student who is or has been in attendance in the District to inspect and review the education records of the eligible student or student. Provisions for such inspection and review shall be made within a reasonable period of time of the request, but in no case shall be more than thirty (30) days after the request has been made.

The District presumes that the eligible student or either parent of the student has the right to inspect, review, and receive copies of the education records of the student or eligible student unless the Board, its staff, or the individual school has been provided a legally binding instrument or court order governing such matters as divorce, separation, or custody which provides to the contrary.

In instances where records are opened to parents, guardians, or eligible students, schools shall make available a member of the professional staff to interpret the record and shall provide copies, at the current District copy rate, upon request.

The copy rate will include actual reproduction costs and will not include the labor costs for retrieval.

School officials shall provide requesting parents, guardians, or eligible students an opportunity for a hearing to challenge the content of their child's or the eligible student's school records, to insure that the records are not inaccurate, misleading, or otherwise in violation of the privacy or other rights of students, and to provide an opportunity for the correction or deletion of any such inaccurate, misleading, or otherwise inappropriate data contained therein.

Parents, guardians, and eligible students may waive their right of access to confidential letters or statements of recommendations or evaluation. Such waiver shall be made in writing to the custodian of the records and shall be signed by the parent, guardian, or eligible student. Such waiver shall apply to recommendations or evaluation only if:

A. the parent, guardian, or eligible student is, upon request, notified of the names of all persons submitting confidential letters or statements; and

B. such recommendations or evaluations are used solely for the purpose for which they were specifically intended.

The waiver of right of access may be revoked in writing with respect to actions occurring after the revocation.

#### Court Request of Records

A. Student records may be disclosed to a court of competent jurisdiction provided that reasonable notification is given in advance to the parents and student. If the principal or his/her designee is unable to notify prior to time for compliance set forth in the court order, s/he shall bring to the court's attention the provision of the Family Educational Rights and Privacy Act of 1974 and comply with the court's instruction.

B. Student records may be disclosed pursuant to a lawfully issued subpoena, upon the condition that the student, or his/her parent if the student is either a minor and not attending an institution of postsecondary education or a dependent of such parent as defined in 26 U.S.C. 152 (s. 152 of the Internal Revenue Code of 1954), is notified of the order or subpoena in advance of compliance therewith by the educational institution or agency.

The Superintendent may, in writing, authorize access to student records to representatives of the Federal, State, or local educational authorities.

Transcripts of a student's records may be released without written consent from the student's parents, guardians, or eligible student, to any vocational-technical center, community college, or any postsecondary institutions of higher learning in which the student seeks or intends to enroll. A copy of the records may be released to the student's parents, guardians, or eligible student upon request. This policy is also applicable in instances where such a request is in connection with a student's application for, or receipt of, financial aid.

#### Hearing Procedure to Correct Student Records

Whenever a parent, guardian, or eligible student believes the content of the student record is inaccurate, misleading, or in violation of their privacy, they may request in writing an informal meeting with the custodian of the record for the purpose of requesting the correction, deletion, or expunction of any inaccurate, misleading, or otherwise inappropriate data or material contained in the student record.

If the parties at the informal meeting agree to make deletions, to expunge material, or to add a statement of explanation or rebuttal to the file, such agreement shall be reduced to writing and signed by the parties, and the appropriate school officials shall take the necessary actions to implement the agreement. If agreement is not reached, denial of the request and notification of the right to a formal hearing shall be made in writing to the parent, guardian, or eligible student with a copy to the Superintendent or designee.

Upon the request of a parent, guardian, or eligible student, a formal hearing shall be held. Such hearing shall be requested, in writing, within ten (10) days of the written notice of denial at the informal meeting, to the Superintendent or designee, who shall appoint a hearing officer who shall be any official of the school system with no direct interest in the outcome of the hearing. The hearing officer shall convene and conduct the hearing and shall render a decision in writing to all concerned parties within ten (10) days of the conclusion of the hearing. Such hearing shall be held within a reasonable period of time but in no case shall be held more than thirty (30) days from the date of the written request.

The parents, guardian, eligible student, and officials of the school shall be afforded a full and fair opportunity to present evidence relevant to the issues raised. The hearing shall be recorded and available to all parties. However, the record of such hearings are exempt from disclosure under F.S. Chapter 119.

If the decision of the hearing officer is that the records are not inaccurate, misleading, or otherwise in violation of privacy rights, the parent, guardian, or eligible student shall be allowed to comment in writing on the information in the education record and set forth any reasons for disagreeing with the decision. This written response shall be filed in the education records of the student.

#### DIRECTORY INFORMATION

The District shall make available, upon request, certain information known as "directory information" without prior permission of the parents or the eligible student. Directory information means information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. A student's parent(s) or an adult student, however, may notify the Board that directory information concerning the student shall not be released ("opt out"). Such notification shall be in writing and filed annually with the principal of the school and with the District office. The Board designates as student "directory information":

A. student's name;

- B. photograph;
- C. address;
- D. telephone number, if it is a listed number;
- E. date and place of birth;
- F. participation in officially-recognized activities and sports;
- G. height and weight, if a member of an athletic team;
- H. dates of attendance;
- I. grade level; enrollment status;
- J. date of graduation or program completion;
- K. awards received; and
- L. most recent educational agency or institution attended.

An annual written notice shall be given to inform parents, guardians, and eligible students of their rights of access, waiver of access, challenge and hearing, privacy, categories of personally identifiable student information designated as directory information data, and the location and availability of the District's policy on education records of students. Alternate methods of notice shall be made for parents, guardians, or eligible students unable to comprehend a written notice in English. Parents or eligible students may, by providing a written statement to the principal within two (2) weeks of the first day of the school year or entry into the school system request that all specific portions of directory information for that specific student not be released.

Directory information shall not be provided to any organization for profit-making purposes, unless the request is approved, in a nondiscriminatory manner, by the Superintendent.

In accordance with Federal law, the District shall release the names and addresses of students in grades ten through twelve (10-12) to a recruiting officer for any branch of the United States Armed Forces or an institution of higher education who requests such information. Such data shall not be released if the eligible student or student's parents submit a written request not to release such information. The recruiting officer is to sign a form indicating that "any information received by the recruiting officer shall be used solely for the purpose of informing students about military service and shall not be released to any person other than individuals within the recruiting services of the Armed Forces". The Superintendent is authorized to charge mailing fees for providing this information to a recruiting officer. A secondary school student or parent of the student may request that the student's name, address, and telephone listing not be released without parental consent.

Whenever parental consent is required for the inspection and/or release of a student's health or educational records or for the release of "directory information", either parent may provide such consent unless agreed to otherwise in writing by both parents or specifically stated by court order. If the student is under the guardianship of an institution, the Superintendent shall appoint a person who has no conflicting interest to provide such written consent.

The District may disclose "directory information" on former students without student or parental consent.

### **Disclosure of Student Record Information**

#### **A. Prior Written Consent**

1. Prior written consent of the parent, guardian, or eligible student shall be obtained prior to disclosing personally identifiable student information other than directory information. The written consent shall include: signature of the parent, guardian, or eligible student; date; specification of records or information to be disclosed; purpose of the disclosure; and the party or class of parties to whom a disclosure is to be made.
2. Disclosures of personally identifiable student information will be made only on the condition that the party or parties to whom the information is disclosed shall not disclose the information to any other party without prior written consent of the parent, guardian, or eligible student, as appropriate. Personally identifiable student information which is disclosed to an institution, agency, or organization may be used by its officers, employees, and agents, but only for the purpose for which the disclosure was made. The District presumes the parent, guardian, or eligible student has the authority to grant permission for disclosure of personally identifiable student information unless the District has been provided with evidence that there is a legally binding instrument or State law or court order governing such

matters as divorce, separation, or custody which provides to the contrary.

#### B. Without Prior Written Consent

Personally identifiable information or records of a student, including information identified as "directory information" as specified in this policy may be released to the following persons or organizations without the prior written consent of the student or the student's parent or guardian:

1. Officials of schools, school systems, career centers, or public postsecondary educational institutions in which the student seeks or intends to enroll; and a copy of such records or reports shall be furnished to the parent or student upon request.
2. Other school officials, including teachers within the educational institution or agency, who have a legitimate educational interest in the information contained in the records.
3. The United States Secretary of Education, the Director of the National Institute of Education, the Assistant Secretary for Education, the Comptroller General of the United States, or State or local educational authorities who are authorized to receive such information subject to the conditions set forth in applicable Federal statutes and regulations of the United States Department of Education, or in applicable State statutes and rules of the State Board of Education.

The disclosed records must be used to audit or evaluate a federal or state supported education program, or to enforce or comply with federal requirements related to those education programs. A written agreement between the parties is required under this exception. (See Form 8330 F16)

This written agreement must include:

- a. designation of the receiving individual or entity as an authorized representative;
- b. specification of the information to be disclosed;
- c. specification that the purpose of the disclosure is to carry out an audit or evaluation of a government-supported educational program or to enforce or comply with the program's legal requirements;
- d. a summary of the activity that includes a description of methodology and an explanation of why personally identifiable information is necessary to accomplish the activity;
- e. a statement requiring the organization to destroy all personally identifiable information when it is no longer needed to carry out the audit or evaluation, along with a specific time period in which the information must be destroyed; and
- f. a statement of policies and procedures that will protect personally identifiable information from further disclosure or unauthorized use.

Under the audit exception, the District will use "reasonable methods" to verify that the authorized representative complies with FERPA regulations. Specifically, the District will verify, to the greatest extent practical, that the personally identifiable information is used only for the audit, evaluation or enforcement of a government-supported educational program. The District will also ascertain the legitimacy of the audit or evaluation and will only disclose the specific records that the authorized representative needs. Further, the District will require the authorized representative to use the records only for the specified purpose and not to disclose the information any further, such as for another audit or evaluation. Finally, the District will verify that the information is destroyed when no longer needed for the audit, evaluation or compliance activity.

4. Appropriate parties in connection with a student's application for or receipt of financial aid, if necessary to determine the eligibility for the aid; determine the amount of the aid; determine the conditions for the aid; and/or enforce the terms and conditions of the aid.
5. Individuals or organizations conducting studies for or on behalf of an institution or a board of education for the purpose of developing, validating, or administering predictive tests, administering student aid programs, or improving instruction, if the studies are conducted in a manner that does not permit the personal identification of students and their parents by persons other than representatives of such organizations and if the information will be destroyed when no longer needed for the purpose of conducting such studies.

In order to release information under this provision, the District will enter into a written agreement with the recipient



organization that specifies the purpose of the study. (See Form 8330 F14.)

This written agreement must include: (1) specification of the purpose, scope, duration of the study, and the information to be disclosed; (2) a statement requiring the organization to use the personally identifiable information only to meet the purpose of the study; (3) a statement requiring the organization to prohibit personal identification of parents and students by anyone other than a representative of the organization with legitimate interests; and (4) a requirement that the organization destroy all personally identifiable information when it is no longer needed for the study, along with a specific time period in which the information must be destroyed.

While the disclosure of personally identifiable information without consent is allowed under this exception, it is recommended that whenever possible the administration either release de-identified information or remove the students' names and social security identification numbers to reduce the risk of unauthorized disclosure of personally identifiable information.

6. Accrediting organizations, in order to carry out their accrediting functions.
7. School Readiness Programs as provided in State law in order to carry out their assigned duties.
8. For use as evidence in student expulsion hearings conducted by a district school board under F.S. Chapter 120; however, public records of expulsion hearings shall not contain any personally identifiable information.
9. Appropriate parties in connection with an emergency, if knowledge of the information in the student's educational records is necessary to protect the health or safety of the student or other individuals.
10. The Auditor General and the Office of Program Policy Analysis and Government Accountability in connection with their official functions; however, except when the collection of personally identifiable information is specifically authorized by law, any data collected by the Auditor General and the Office of Program Policy Analysis and Government Accountability is confidential and exempt from F.S. 119.07 (1) and shall be protected in a way that does not permit the personal identification of students and their parents by other than the Auditor General, the Office of Program Policy Analysis and Government Accountability, and their staff, and the personally identifiable data shall be destroyed when no longer needed for the Auditor General's and the Office of Program Policy Analysis and Government Accountability's official use.
11. A court of competent jurisdiction in compliance with an order of that court or the attorney of record in accordance with a lawfully issued subpoena, upon the condition that the student and the student's parent are notified of the order or subpoena in advance of compliance therewith by the educational institution or agency.

Student records may be disclosed pursuant to a lawfully issued subpoena, upon the condition that the student, or his/her parent if the student is either a minor and not attending a postsecondary educational institution or a dependent of such parent as defined in 26 U.S.C. 152 (section 152 of the Internal Revenue Code of 1954), is notified of the order or subpoena in advance of compliance therewith by the educational institution or agency.

12. Credit bureaus, in connection with an agreement for financial aid that the student has executed, if the information is disclosed only to the extent necessary to enforce the terms or conditions of the financial aid agreement. Credit bureaus shall not release any information obtained under this paragraph to any person.
13. Parties to an interagency agreement among the Department of Juvenile Justice, school and law enforcement authorities, and other signatory agencies for the purpose of reducing juvenile crime and especially motor vehicle theft by promoting cooperation and collaboration, and the sharing of appropriate information in a joint effort to improve school safety, to reduce truancy and in-school and out-of-school suspensions, and to support alternatives to in-school and out-of-school suspensions and expulsions that provide structured and well-supervised educational programs supplemented by a coordinated overlay of other appropriate services designed to correct behaviors that lead to truancy, suspensions, and expulsions, and that support students in successfully completing their education. Information provided in furtherance of such interagency agreements is intended solely for use in determining the appropriate programs and services for each juvenile or the juvenile's family, or for coordinating the delivery of such programs and services, and as such is inadmissible in any court proceedings prior to a dispositional hearing unless written consent is provided by a parent or other responsible adult on behalf of the juvenile.
14. Consistent with the Family Educational Rights and Privacy Act, the Department of Children and Families or a community-based care lead agency acting on behalf of the Department of Children and Families, as appropriate.
15. Parents of a dependent student as defined by the Internal Revenue Service Tax Code of 1986 and in this policy.
16. If the District initiates legal action (a lawsuit) against a parent, or if the parent initiates legal action against the District. In such circumstances, the District may disclose to the court, without a court order or subpoena, the

education records of the student that are relevant for the District to proceed with legal action as the plaintiff or to defend itself.

17. If the release is to the Attorney General of the United States or to his/her designee in response to an ex parte order in connection with the investigation or prosecution of terrorism crimes specific in Sections 2331 and 2332 of Title 18, U.S. Code.

Under this exception, school officials are not required to record (i.e., on an access log) the disclosure of information from a student's education record when the school makes pursuant to an ex parte order.

Further, an educational institution that, in good faith, produces information from education records in compliance with an ex parte order shall not be liable to any person for that disclosure.

18. If the release is in conjunction with reporting a crime committed by a child to appropriate authorities, and, with respect to reporting a crime committed by a student with a disability, copies of the student's special education and disciplinary records may be transmitted to the authorities for their consideration.

19. If the release is otherwise permitted under Federal law.

#### C. Record of Disclosures

Record of any requests or disclosures of personally identifiable student information shall be maintained except for disclosures to the parent, guardian, or eligible student; disclosure of directory information; or to any other school officials with a legitimate educational interest. The record of requests for disclosure shall include the following: the parties who have requested or obtained personally identifiable student information, the legitimate interests of the persons requesting or obtaining the information, and date parental/eligible student consent was obtained.

With regard to such disclosures, a "school official" is determined to be any employee of the School Board of Brevard County, Florida, with direct responsibility for providing services to students. A "legitimate educational interest" is determined to mean responsibility for providing direct educational services to students which will include teaching, counseling, psychological services, or other services to students which require access to personally identifiable information and/or those specified in the law.

#### D. Disclosures - Health or Safety Emergencies

Disclosure of personally identifiable student information may be made by school officials in the event of a health or safety emergency. Such emergency situations shall be declared in writing to the Superintendent by a recognized legal official with authority to declare such emergency. The declaration of a health or safety emergency shall include the need for specific personally identifiable student information, the time requirements for the information, and the parties to whom the information is disclosed who are responsible for utilizing the information to deal with the emergency.

### **Transfer of Student Records**

When a student, previously enrolled in a Brevard County school transfers out of the Brevard County School District to another school, public or private, within this state or out of state, the principal, upon written request of the principal of the receiving school, the parent, guardian, or eligible student, shall immediately transfer a copy of the student's cumulative record containing Category A and B information to the requesting school. Pursuant to Federal law, disciplinary records with respect to suspension and expulsion shall be considered "other records of educational importance" and, as a Category B record, shall be transferred to the requesting school. The Board authorizes the administration to forward all Category A and B student records, including disciplinary records with respect to any current suspension and expulsion, upon request to a school or school district in which a student of this District is enrolled, seeks or intends to enroll, or is instructed to enroll, on a full-time or part-time basis, upon condition that the student's parents be notified of the transfer, receive a copy of the record if desired, and have an opportunity for a hearing to challenge the content of the record. The school shall retain a copy of the Category A information in its files. A copy of the Category B (Exceptional Student Education Audit File) records will also be retained. Category B health and testing information shall be retained if it is related to a weighted or categorical program placement which is subject to audit. The files which are retained will be held by the principal who is custodian of the records for the period of time specified in the Student Records Manual. Category A student records and Category B (Exceptional Student Education Audit File) beyond the specified time after the student leaves the District will be forwarded to Records Management. When a request comes to the school for student records after the files have been sent to Records Management, the written request should be forwarded to Records Management. Based upon reasonable requests, viewers of educational records will receive explanation and interpretation of the records. Records Management will make copies of the student's files at the current District copy rate, which shall not exceed the maximum rate for copies of public records as set forth in F.S. Chapter 119.

While all reasonable efforts shall be made to collect for damaged or lost library books or textbooks, under no conditions shall the transfer of a student's cumulative record be delayed or denied for failure to pay any fine or fee assessed by the school. Progress

reports to parents (report cards) may not be withheld for failure to pay any fine, fee, or an assessment for lost or damaged books.

The Superintendent shall prepare administrative procedures to ensure that students and parents are adequately informed each year regarding their rights to:

- A. inspect and review the student's educational records;
- B. request amendments if the parent believes the record is inaccurate, misleading, or otherwise in violation of the student's privacy rights;
- C. consent to disclosures of personally-identifiable information contained in the student's educational records, except to those disclosures allowed by the law;
- D. challenge District noncompliance with a parent's request to amend the records through a hearing;
- E. file a complaint with the Department of Education;
- F. obtain a copy of the District's policy and administrative procedures on student records.

The Superintendent shall also develop, and update as needed, procedures for:

- A. the proper storage and retention of records including a list of the type and location of record;
- B. informing District employees of the Federal and State laws concerning student records.

The District is authorized to use the microfilm process or electromagnetic processes of reproduction for the recording, filing, maintaining, and preserving of records.

No liability shall attach to any member, officer, or employee of this District specifically as a consequence of permitting access or furnishing student records in accordance with this policy and procedures.

Any entity receiving personally identifiable information pursuant to a study, audit, evaluation or enforcement/compliance activity must comply with all FERPA regulations. Further, such an entity must enter into a written contract with the Board of Education delineating its responsibilities in safeguarding the disclosed information. Specifically, the entity must demonstrate the existence of a sound data security plan or data stewardship program, and must also provide assurances that the personally identifiable information will not be re-disclosed without prior authorization from the Board. Further, the entity conducting the study, audit, evaluation or enforcement/compliance activity is required to destroy the disclosed information once it is no longer needed or when the timeframe for the activity has ended, as specified in its written agreement with the Board of Education. See Form 8330 F14 and Form 8330 F16 for additional contract requirements.

Revised 3/25/03  
Revised 7/20/04  
Revised 2/28/06  
Revised 7/06  
Revised 4/27/10  
Revised 9/11/12

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Legal

F.S. 1001.41

F.S. 1001.52

F.S. 1002.22

F.S. 1002.221

F.S. 1003.25

F.A.C. 6A-1.0955

20 U.S.C. Section 1232f (FERPA)

20 U.S.C. Section 1232g (FERPA)

20 U.S.C. Section 1232h (FERPA)

20 U.S.C. Section 1232i (FERPA)

20 U.S.C. 7908

26 U.S.C. 152

20 U.S.C. 1400 et seq., Individuals with Disabilities Act

Privacy Rights of Parents and Students - P.L. 90-247

No Child Left Behind Act of 2001 - P.L. 107-110

# Neola Template



|         |                         |
|---------|-------------------------|
| Book    | Catch-up Templates 2017 |
| Section | 8000 Operations         |
| Title   | STUDENT RECORDS         |
| Code    | po8330                  |
| Status  | From Neola              |

### 8330 - **STUDENT RECORDS**

In order to provide appropriate educational services and programming, the School Board must collect, retain, and use information about individual students. Simultaneously, the Board recognizes the need to safeguard students' privacy and restrict access to students' personally identifiable information.

#### **Maintenance of Student Records**

The Board is responsible for the records of all students who attend or have attended schools in this District. Only records mandated by the State or Federal government and necessary and relevant to the function of the School District or specifically permitted by this Board shall be compiled by District employees.

Each school shall maintain a permanent cumulative record for each student enrolled in the school which shall contain the data as prescribed by Administrative Rule F.A.C. 6A-1.0955 and this policy. Each student's cumulative record shall include the following types of data:

#### A. Category A Records, Permanent Information

1. Student's full legal name.
2. Authenticated birthdate, place of birth, race, ethnicity, and sex.
3. Last known address of the student.
4. Name(s) of the student's parent(s) or guardian(s).
5. Name and location of last school attended.
6. Number of days present and absent, date enrolled, date withdrawn.
7. Courses taken and record of achievement, such as grades, credits, or certification of competence.
8. Date of graduation or date of program completion.
9. Records of requests for access to and disclosure of personally identifiable information from the student's educational records.

#### B. Category B Records, Temporary Information

1. Health information, family background data, standardized test scores, State-mandated achievement test scores, educational and vocational plans, honors and activities, work experience reports, and teacher/counselor comments.

2. Reports of student services or exceptional student staffing committees including all information required by F.S. 1001.42.
3. Correspondence from community agencies or private professionals.
4. Driver education certificate.
5. A list of schools attended.
6. Written agreements of corrections, deletions, or expunctions as a result of meetings or hearings to amend educational records.
7. Written requests to waive access to confidential records.
8. Written requests to restrict the release of directory information.
9. Court orders of relevance.
10. Records of major student discipline actions, suspension, and/or expulsion records.
11. Home language survey.
12. Student Limited English Proficiency (LEP) Plans.
13. Such other records of educational importance as the school shall deem necessary.
14. Records designated for retention by the Florida Department of State in General Records Schedule GS7 for *Public Schools Pre-K - 12, Adult and Vocational/Technical*.

Category A and B records shall be maintained in compliance with the approved District records retention schedule.

Individual exceptional student records shall be kept separate from regular cumulative records. These records shall be sent to each succeeding school the student attends in the District and shall be maintained in accordance with the approved District records retention plan.

Periodic review for elimination of outdated information in student records by the custodian or designees shall be made in accordance with F.S. 1001.52, and the approved District records retention plan. The custodian of the student records shall be responsible for maintaining the accuracy of information by purging student records in accordance with the General Records Schedule for Public Schools (GS-7). Explanations placed in the education record and the record of access shall be maintained for as long as the education record to which it pertains is maintained. This procedure must be implemented before records are released to any vocational-technical centers, community colleges, or institutions of higher learning in which the student seeks or intends to enroll.

| Type Record  | Location                | Custodian                         | Address  |
|--|-------------------------|-----------------------------------|--|
| Active and inactive student records as specified in the current Student Records Manual for the District              | Last school attended    | Principal of last school attended | As shown in local directory                      |
| Inactive student cumulative records (Category A) as specified in the current Student Records Manual for the District | Central District office | Superintendent or designee        | Records Management Educational Services Facility |
| Individual exceptional student education records as specified in the current Student Records Manual for the District | Last school attended    | Principal of last school attended | As shown in local directory                      |
| Individual student psychological records as specified in the current Student Records Manual for the District         | Last school attended    | Principal of last school attended | As shown in local directory                      |

**Limitations on Collection and Retention of Certain Information**

The District shall not collect, obtain, or retain information on the political affiliation, voting history, religious affiliation, or biometric information of a student or a parent or sibling of a student. For purposes of this paragraph, the term "biometric information" means information collected from the electronic measurement or evaluation of any physical or behavioral characteristics that are attributable to a single person, including fingerprint characteristics, hand characteristics, eye characteristics, vocal characteristics, and any other physical characteristics used for the purpose of electronically identifying that person with a high degree of certainty. Examples of biometric information include, but are not limited to, a fingerprint or hand scan, a retina or iris scan, a voice print, or a facial geometry scan.

The District shall not maintain any report or record relative to a student that includes a copy of a student's fingerprints.

The Superintendent or designee will be responsible for the privacy and security of records that are not under the supervision of the school principal.

Notwithstanding the provisions of this paragraph, if the District used a palm scanner system for identifying students for breakfast and lunch programs on March 1, 2014, it may continue to use the palm scanner system through the 2014-2015 school year.

### **Access to Student Records**

The rights of students and their parents with respect to education records created, maintained, or used by the District must be protected in accordance with FERPA, State law, and the implementing regulations and rules issued pursuant thereto. Students and their parents have the right to access their education records, including the right to inspect and review those records, have the right to waive their access to their education records in certain circumstances, have the right to challenge the content of education records, have the right of privacy with respect to such records and reports, and receive annual notice of their rights with respect to education records.

In addition to students and their parents and eligible students, student records shall be available only to designated school officials and personnel, to such other persons as the parent or eligible student authorizes in writing, a court of competent jurisdiction or to other individuals or organizations as permitted by law. The term "parents" includes legal guardians or other persons standing in loco parentis (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the welfare of the child). The term "eligible student" refers to students who are eighteen (18) years of age or older, or who are enrolled in a postsecondary institution, regardless of age.

Schools may, without consent of parents, guardians, or eligible students, provide access to school officials to perform an administrative, supervisory, or instructional task, or to perform a service or benefit for the student or the student's family, and psychologists within the School District providing they have a legitimate educational interest. Support employees may be designated by the principal for the purpose of doing clerical work and maintaining student records. However, such persons shall receive in-service training concerning the confidentiality of student records and work under the supervision and control of an administrative staff member.

Whenever a student has attained eighteen (18) years of age, the permission and consent required of and rights accorded to the parents of the student as to student records maintained by the District, shall thereafter be required of and accorded to the eligible student only, unless the eligible student is a dependent of his/her parents as defined in Title 26 U.S.C. Section 152 of the Internal Revenue Code of 1954. The School District may, in this instance, disclose personally identifiable information from the education records to the parents without the prior consent of the eligible student.

Whenever a student has enrolled in a postsecondary institution, regardless of age, the permission and consent required of and rights accorded to the parents of the student as to student records maintained by the postsecondary institution shall thereafter be required of and accorded to the eligible student only. However, if the student is not eighteen (18) years of age, then the permission and consent required of and rights as to the student records maintained by the District shall be retained by the parents.

The custodian of the student record shall permit the eligible student or the parents or guardians of the student who is or has been in attendance in the School District to inspect and review the education records of the eligible student or student. Provisions for such inspection and review shall be made within a reasonable period of time of the request, but in no case shall be more than thirty (30) days after the request has been made.

The District presumes that the eligible student or either parent of the student has the right to inspect, review, and receive copies of the education records of the student or eligible student unless the Board, its staff, or the individual school has been provided a legally binding instrument or court order governing such matters as divorce, separation, or custody which provides to the contrary.

[NOTE: F.A.C. 6A-1.0955 requires that the policy include a schedule of charges]

In instances where records are opened to parents, guardians, or eligible students, schools shall make available a member of the professional staff to interpret the record and shall provide copies,



( ) upon request and payment of the current District copy rate, which shall not exceed the maximum rate for copies of public records as set forth in F.S. Chapter 119.

( ) upon request, free of charge.

The copy rate will include actual reproduction costs and will not include the labor costs for retrieval.

School officials shall provide requesting parents, guardians, or eligible students an opportunity for a hearing to challenge the content of their child's or the eligible student's school records, to insure that the records are not inaccurate, misleading, or otherwise in violation of the privacy or other rights of students, and to provide an opportunity for the correction or deletion of any such inaccurate, misleading, or otherwise inappropriate data contained therein.

Parents, guardians, and eligible students may waive their right of access to confidential letters or statements of recommendations or evaluation. Such waiver shall be made in writing to the custodian of the records and shall be signed by the parent, guardian, or eligible student. Such waiver shall apply to recommendations or evaluation only if:

- A. the parent, guardian, or eligible student is, upon request, notified of the names of all persons submitting confidential letters or statements; and
- B. such recommendations or evaluations are used solely for the purpose for which they were specifically intended.

The waiver of right of access may be revoked in writing with respect to actions occurring after the revocation.

### **Court Request of Records**

- A. Student records may be disclosed to a court of competent jurisdiction provided that reasonable notification is given in advance to the parents and student. If the principal or his/her designee is unable to notify prior to time for compliance set forth in the court order, s/he shall bring to the court's attention the provision of the Family Educational Rights and Privacy Act of 1974 and comply with the court's instruction.
- B. Student records may be disclosed pursuant to a lawfully issued subpoena, upon the condition that the student, or his/her parent if the student is either a minor and not attending an institution of postsecondary education or a dependent of such parent as defined in 26 U.S.C. 152 (s. 152 of the Internal Revenue Code of 1954), is notified of the order or subpoena in advance of compliance therewith by the educational institution or agency.

The Superintendent may, in writing, authorize access to student records to representatives of the Federal, State, or local educational authorities.

Transcripts of a student's records may be released without written consent from the students' parents, guardians, or eligible student, to any vocational-technical center, community college, or any postsecondary institutions of higher learning in which the student seeks or intends to enroll. A copy of the records may be released to the student's parents, guardians, or eligible student upon request. This policy is also applicable in instances where such a request is in connection with a student's application for, or receipt of, financial aid.

### **Hearing Procedure to Correct Student Records**

Whenever a parent, guardian, or eligible student believes the content of the student record is inaccurate, misleading, or in violation of their privacy, they may request in writing an informal meeting with the custodian of the record for the purpose of requesting the correction, deletion, or expunction of any inaccurate, misleading, or otherwise inappropriate data or material contained in the student record.

If the parties at the informal meeting agree to make deletions, to expunge material, or to add a statement of explanation or rebuttal to the file, such agreement shall be reduced to writing and signed by the parties, and the appropriate school officials shall take the necessary actions to implement the agreement. If agreement is not reached, denial of the request and notification of the right to a formal hearing shall be made in writing to the parent, guardian, or eligible student with a copy to the Superintendent or designee.

Upon the request of a parent, guardian, or eligible student, a formal hearing shall be held. Such hearing shall be requested, in writing, within ten (10) days of the written notice of denial at the informal meeting, to the Superintendent or designee, who shall appoint a hearing officer who shall be any official of the school system with no direct interest in the outcome of the hearing. The hearing officer shall convene and conduct the hearing and shall render a decision in writing to all concerned parties within ten (10) days of the conclusion of the hearing. Such hearing shall be held within a reasonable period of time but in no case shall be held more than thirty (30) days from the date of the written request.

The parents, guardian, eligible student, and officials of the school shall be afforded a full and fair opportunity to present evidence relevant to the issues raised. The hearing shall be recorded and available to all parties. However, the record of such hearings are exempt from disclosure under F.S. Chapter 119.

If the decision of the hearing officer is that the records are not inaccurate, misleading, or otherwise in violation of privacy rights, the parent, guardian, or eligible student shall be allowed to comment in writing on the information in the education record and set forth any reasons for disagreeing with the decision. This written response shall be filed in the education records of the student.

### **Disclosure of Student Record Information**

Notwithstanding any other provision in this policy, student education records shall not be disclosed to any person, public body, body politic, political subdivision, or agency of the Federal government except when authorized by State or Federal law or in response to a lawfully issued subpoena or court order. In accordance with State law, student education records are exempt from the provisions of F.S. Chapter 119.

#### **A. Prior Written Consent**

1. Prior written consent of the parent, guardian, or eligible student shall be obtained prior to disclosing personally identifiable student information other than directory information. The written consent shall include: signature of the parent, guardian, or eligible student; designation of the receiving individual or entity as an authorized representative;
2. specification of the information to be disclosed;
3. specification that the purpose of the disclosure is to carry out an audit or evaluation of a government-supported educational program or to enforce or comply with the program's legal requirements;
4. a summary of the activity that includes a description of methodology and an explanation of why personally identifiable information is necessary to accomplish the activity;
5. a statement requiring the organization to destroy all personally identifiable information when it is no longer needed to carry out the audit or evaluation, along with a specific time period in which the information must be destroyed; and
6. a statement of policies and procedures that will protect personally identifiable information from further disclosure or unauthorized use.

Under the audit exception, the District will use "reasonable methods" to verify that the authorized representative complies with FERPA regulations. Specifically, the District will verify, to the greatest extent practical, that the personally identifiable information is used only for the audit, evaluation, or enforcement of a government-supported educational program. The District will also ascertain the legitimacy of the audit or evaluation and will only disclose the specific records that the authorized representative needs. Further, the District will require the authorized representative to use the records only for the specified purpose and not to disclose the information any further, such as for another audit or evaluation. Finally, the District will verify that the information is destroyed when no longer needed for the audit, evaluation, or compliance activity.

4. Appropriate parties in connection with a student's application for or receipt of financial aid, if necessary to determine the eligibility for the aid; determine the amount of the aid; determine the conditions of the aid; and/or enforce the terms and conditions of the aid.
5. Individuals or organizations conducting studies for or on behalf of an institution or a board of education for the purpose of developing, validating, or administering predictive tests, administering student aid programs, or improving instruction, if the studies are conducted in a manner that does not permit the personal identification of students and their parents by persons other than representatives of such organizations and if the information will be destroyed when no longer needed for the purpose of conducting such studies.

In order to release information under this provision, the District will enter into a written agreement with the recipient organization that specifies the purpose of the study. (see Form 8330 F14)

This written agreement must include: (1) specification of the purpose, scope, duration of the study, and the information to be disclosed; (2) a statement requiring the organization to use the personally identifiable information only to meet the purpose of the study; (3) a statement requiring the organization to prohibit personal identification of parents and students by anyone other than a representative of the organization with legitimate interests; and (4) a requirement that the organization destroy all personally identifiable information when it is no longer needed for the study, along with a specific time period in which the information must be destroyed.

While the disclosure of personally identifiable information without consent is allowed under this exception, it is recommended that whenever possible the administration either release de-identified information or remove the students' names and social security identification numbers to reduce the risk of unauthorized disclosure of personally

identifiable information.

6. Accrediting organizations, in order to carry out their accrediting functions.
7. School Readiness programs as provided in State law in order to carry out their assigned duties.
8. For use as evidence in student expulsion hearings conducted by a district school board under F.S. Chapter 120; however, public records of expulsion hearings shall not contain any personally identifiable information.
9. Appropriate parties in connection with an emergency, if knowledge of the information in the student's educational records is necessary to protect the health or safety of the student or other individuals.
10. The Auditor General and the Office of Program Policy Analysis and Government Accountability in connection with their official functions; however, except when the collection of personally identifiable information is specifically authorized by law, any data collected by the Auditor General and the Office of Program Policy Analysis and Government Accountability is confidential and exempt from F.S. 119.07 (1) and shall be protected in a way that does not permit the personal identification of students and their parents by other than the Auditor General, the Office of Program Policy Analysis and Government Accountability, and their staff, and the personally identifiable data shall be destroyed when no longer needed for the Auditor General's and the Office of Program Policy Analysis and Government Accountability's official use.
11. A court of competent jurisdiction in compliance with an order of that court or the attorney of record in accordance with a lawfully issued subpoena, upon the condition that the student and the student's parent are notified of the order or subpoena in advance of compliance therewith by the educational institution or agency.

Student records may be disclosed record pursuant to a lawfully issued subpoena, upon the condition that the student, or his/her parent if the student is either a minor and not attending a postsecondary educational institution or a dependent of such parent as defined in 26 U.S.C. 152 (section 152 of the Internal Revenue Code of 1954), is notified of the order or subpoena in advance of compliance therewith by the educational institution or agency.

12. Credit bureaus, in connection with an agreement for financial aid that the student has executed, if the information is disclosed only to the extent necessary to enforce the terms or conditions of the financial aid agreement. Credit bureaus shall not release any information obtained under this paragraph to any person.
13. Parties to an interagency agreement among the Department of Juvenile Justice, school and law enforcement authorities, and other signatory agencies for the purpose of reducing juvenile crime and especially motor vehicle theft by promoting cooperation and collaboration, and the sharing of appropriate information in a joint effort to improve school safety, to reduce truancy and in-school and out-of-school suspensions, and to support alternatives to in-school and out-of-school suspensions and expulsions that provide structured and well-supervised educational programs supplemented by a coordinated overlay of other appropriate services designed to correct behaviors that lead to truancy, suspensions, and expulsions, and that support students in successfully completing their education. Information provided in furtherance of such interagency agreements is intended solely for use in determining the appropriate programs and services for each juvenile or the juvenile's family, or for coordinating the delivery of such programs and services, and as such is inadmissible in any court proceedings prior to a dispositional hearing unless written consent is provided by a parent or other responsible adult on behalf of the juvenile.
14. Consistent with the Family Educational Rights and Privacy Act, the Department of Children and Families or a community-based care lead agency acting on behalf of the Department of Children and Families, as appropriate.
15. Parents of a dependent student as defined by the Internal Revenue Service Tax Code of 1986 and in this policy.
16. "Directory information" as specified in this policy.
17. If the District initiates legal action (a lawsuit) against a parent, or if the parent initiates legal action against the District. In such circumstances, the District may disclose to the court, without a court order or subpoena, the education records of the student that are relevant for the District to proceed with legal action as the plaintiff or to defend itself.
18. If the release is to the Attorney General of the United States or to his/her designee in response to an ex parte order in connection with the investigation or prosecution of terrorism crimes specific in Sections 2331 and 2332 of Title 18, U.S. Code.

Under this exception, school officials are not required to record (i.e., on an access log) the disclosure of information from a student's education record when the school makes pursuant to an ex parte order.

Further, an educational institution that, in good faith, produces information from education records in compliance with an ex parte order shall not be liable to any person for that disclosure.

19. If the release is otherwise permitted under Federal law.

#### C. Record of Disclosures

Record of any requests or disclosures of personally identifiable student information shall be maintained except for disclosures to the parent, guardian, or eligible student; disclosure of directory information; or to any other school officials with a legitimate educational interest. The record of requests for disclosure shall include the following: the parties who have requested or obtained personally identifiable student information, the legitimate interests of the persons requesting or obtaining the information, and date parental/eligible student consent was obtained.

With regard to such disclosures, a "school official" is determined to be any employee of The School Board of \_\_\_\_\_ County, Florida, with direct responsibility for providing services to students. A "legitimate educational interest" is determined to mean responsibility for providing direct educational services to students which will include teaching, counseling, psychological services, or other services to students which require access to personally identifiable information and/or those specified in the law.

#### D. Disclosures - Health or Safety Emergencies

Disclosure of personally identifiable student information may be made by school officials in the event of a health or safety emergency. Such emergency situations shall be declared in writing to the Superintendent by a recognized legal official with authority to declare such emergency. The declaration of a health or safety emergency shall include the need for specific personally identifiable student information, the time requirements for the information, and the parties to whom the information is disclosed who are responsible for utilizing the information to deal with the emergency.

### **DIRECTORY INFORMATION**

The District shall make available, upon request, certain information known as "directory information" without prior permission of the parents or the eligible student. The District shall charge fees for copies of designated directory information as provided in State law. Directory information means information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. The Board designates as student "directory information": a student's name; photograph; address; telephone number, if it is a listed number; e-mail address; date and place of birth; participation in officially-recognized activities and sports; height and weight, if a member of an athletic team; dates of attendance; grade level; enrollment status; date of graduation or program completion; awards received; and most recent educational agency or institution attended. Designation of directory information shall occur at a regularly scheduled Board meeting. At the meeting, the Board shall consider whether designation of such information would put students at risk of becoming targets of marketing campaigns, the media, or criminal acts.

An annual written notice shall be given to inform parents, guardians, and eligible students of their rights of access, waiver of access, challenge and hearing, privacy, categories of personally identifiable student information designated as directory information data, and the location and availability of the District's policy on education records of students. Alternate methods of notice shall be made for parents, guardians, or eligible students unable to comprehend a written notice in English. Parents or eligible students may, by providing a written statement to the principal within two (2) weeks of the first day of the school year or entry into the school system request that all specific portions of directory information for that specific student not be released.

Directory information shall not be provided to any organization for profit-making purposes, unless the request is approved, in a nondiscriminatory manner, by the Superintendent.

In accordance with Federal law, the District shall release the names and addresses of students in grades ten through twelve (10-12) to a recruiting officer for any branch of the United States Armed Forces or an institution of higher education who requests such information. Such data shall not be released if the eligible student or student's parents submit a written request not to release such information. The recruiting officer is to sign a form indicating that "any information received by the recruiting officer shall be used solely for the purpose of informing students about military service and shall not be released to any person other than individuals within the recruiting services of the Armed Forces". The Superintendent is authorized to charge mailing fees for providing this information to a recruiting officer. A secondary school student or parent of the student may request that the student's name, address, and telephone listing not be released without parental consent.

Whenever parental consent is required for the inspection and/or release of a student's health or educational records or for the release of "directory information", either parent may provide such consent unless agreed to otherwise in writing by both parents or specifically stated by court order. If the student is under the guardianship of an institution, the Superintendent shall appoint a person who has no conflicting interest to provide such written consent.

The District may disclose "directory information" on former students without student or parental consent.

## Transfer of Student Records

When a student, previously enrolled in the District transfers out of the District to another school, public or private, within this State or out of State, the principal, upon written request of the principal of the receiving school, the parent, guardian, or eligible student, shall immediately transfer a copy of the student's cumulative record containing Category A and B information to the requesting school. Pursuant to Federal law, disciplinary records with respect to suspension and expulsion shall be considered "other records of educational importance" and, as a Category B record, shall be transferred to the requesting school. The Board authorizes the administration to forward all Category A and B student records, including disciplinary records with respect to any current suspension and expulsion, upon request to a school or school district in which a student of this District is enrolled, seeks or intends to enroll, or is instructed to enroll, on a full-time or part-time basis, upon condition that the student's parents be notified of the transfer, receive a copy of the record if desired, and have an opportunity for a hearing to challenge the content of the record. The school shall retain a copy of the Category A information in its files. A copy of the Category B (Exceptional Student Education Audit File) records will also be retained. Category B health and testing information shall be retained if it is related to a weighted or categorical program placement which is subject to audit. The files which are retained will be held by the principal who is custodian of the records for the period of time specified in the Student Records Manual. Category A student records and Category B (Exceptional Student Education Audit File) beyond the specified time after the student leaves the District will be forwarded to Records Management. When a request comes to the school for student records after the files have been sent to Records Management, the written request should be forwarded to Records Management. Based upon reasonable requests, viewers of educational records will receive explanation and interpretation of the records. Records Management will make copies of the student's files at the current the District's copy rate, which shall not exceed the maximum rate for copies of public records as set forth in F.S. Chapter 119.

While all reasonable efforts shall be made to collect for damaged or lost library books or textbooks, under no conditions shall the transfer of a student's cumulative record be delayed or denied for failure to pay any fine or fee assessed by the school. Progress reports to parents (report cards) may not be withheld for failure to pay any fine, fee, or an assessment for lost or damaged books.

The Superintendent shall prepare administrative procedures to ensure that students and parents are adequately informed each year regarding their rights to:

- A. inspect and review the student's educational records;
- B. request amendments if the parent believes the record is inaccurate, misleading, or otherwise in violation of the student's privacy rights;
- C. consent to disclosures of personally-identifiable information contained in the student's educational records, except to those disclosures allowed by the law;
- D. challenge District noncompliance with a parent's request to amend the records through a hearing;
- E. file a complaint with the Department of Education;
- F. obtain a copy of the District's policy and administrative procedures on student records.

The Superintendent shall also develop, and update as needed, procedures for:

- A. the proper storage and retention of records including a list of the type and location of record;
- B. informing District employees of the Federal and State laws concerning student records.

The District is authorized to use the microfilm process or electromagnetic processes of reproduction for the recording, filing, maintaining, and preserving of records.

No liability shall attach to any member, officer, or employee of this District specifically as a consequence of permitting access or furnishing student records in accordance with this policy and procedures.

Any entity receiving personally identifiable information pursuant to a study, audit, evaluation or enforcement/compliance activity must comply with all FERPA regulations. Further, such an entity must enter into a written contract with the Board delineating its responsibilities in safeguarding the disclosed information. Specifically, the entity must demonstrate the existence of a sound data security plan or data stewardship program, and must also provide assurances that the personally identifiable information will not be re-disclosed without prior authorization from the Board. Further, the entity conducting the study, audit, evaluation or enforcement/compliance activity is required to destroy the disclosed information once it is no longer needed or when the timeframe for the activity has ended, as specified in its written agreement with the Board. See Form 8330 F14 and Form 8330 F16 for additional contract requirements.

## Request for Student Social Security Numbers at Enrollment

When a student enrolls in a District school, the District shall request that the student provide his/her social security number and shall indicate whether the student identification number assigned to the student is his/her social security number. A student satisfies this requirement by presenting his/her social security card or a copy of the card to a school enrollment official. However, a student is not required to provide his/her social security number as a condition for enrollment or graduation.

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|-------|---|
| Legal | F.S. Chapter 119  |
|       | F.S. 1001.41  |
|       | F.S. 1001.52  |
|       | F.S. 1002.22  |
|       | F.S. 1002.221   |
|       | F.S. 1002.222   |
|       | F.S. 1003.25  |
|       | F.A.C. 6A-1.0955  |
|       | 20 U.S.C. 1232f (FERPA)                                   |
|       | 20 U.S.C. 1232g (FERPA)                                   |
|       | 20 U.S.C. 1232h (FERPA)                                   |
|       | 20 U.S.C. 1232i (FERPA)                                   |
|       | 20 U.S.C. 7908  |
|       | 26 U.S.C. 152   |
|       | 20 U.S.C. 1400 et seq., Individuals with Disabilities Act |
|       | Privacy Rights of Parents and Students - P.L. 90-247      |
|       | No Child Left Behind Act of 2001 - P.L. 107-110           |

Cross References      ap8330 - STUDENT RECORDS

Last Modified by Ken St James on October 8, 2017

# **Redline Draft**

## **8330 - STUDENT RECORDS**

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The Board is responsible for the records of all students who attend or have attended schools in this District. Only records mandated by the State or Federal government and necessary and relevant to the function of the District or specifically permitted by this Board shall be compiled by District employees.

Each school shall maintain a permanent cumulative record for each student enrolled in the school which shall contain the data as prescribed by Administrative Rule F.A.C. 6A-1.0955 and this policy. Each student's cumulative record shall include the following types of data:

#### A. Category A Records, Permanent Information

1. Student's full legal name.
2. Authenticated birth date, place of birth, race, ethnicity and sex.
3. Last known address of the student.
4. Name(s) of the student's parent(s) or guardian(s).
5. Name and location of last school attended.
6. Number of days present and absent, date enrolled, date withdrawn.
7. Courses taken and record of achievement, such as grades, credits, or certification of competence.
8. Date of graduation or date of program completion.
9. Records of requests for access to and disclosure of personally identifiable information from the student's educational records.

#### B. Category B Records, Temporary Information

1. Health information, family background data, standardized test scores, state-mandated achievement test scores, educational and vocational plans, honors and activities, work experience reports, and teacher/counselor comments.
2. Reports of student services or exceptional student staffing committees including all information required by F.S. 1001.42.
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12. Student Limited English Proficiency (LEP) Plans.
13. Such other records of educational importance as the school shall deem necessary.
14. Records designated for retention by the Florida Department of State in General Records Schedule GS7 for *Public Schools Pre-K – 12, Adult and Vocational/Technical*.

Category A and B records shall be maintained in compliance with the approved District records retention schedule.

Individual exceptional student records shall be kept separate from regular cumulative records. These records shall be sent to each succeeding school the student attends in the District and shall be maintained in accordance with the approved District records retention plan.

Periodic review for elimination of outdated information in student records by the custodian or designees shall be made in accordance with F.S. 1001.52, and the approved District records retention plan. The custodian of the student records shall be responsible for maintaining the accuracy of information by purging student records in accordance with the General Records Schedule for Public Schools (GS-7). Explanations placed in the education record and the record of access shall be maintained for as long as the education record to which it pertains is maintained. This procedure must be implemented before records are released to any vocational-technical centers, community colleges, or institutions of higher learning in which the student seeks or intends to enroll.

| <b>Type Record</b>   | <b>Location</b>         | <b>Custodian</b>                  | <b>Address</b>                                   |
|--|-------------------------|-----------------------------------|--|
| Active and inactive student records as specified in the current Student Records Manual for the District              | Last school attended    | Principal of last school attended | As shown in local directory                      |
| Inactive student cumulative records (Category A) as specified in the current Student Records Manual for the District | Central District office | Superintendent or designee        | Records Management Educational Services Facility |
| Individual exceptional student education records as specified in the current Student                                 | Last school attended    | Principal of last school attended | As shown in local directory                      |

Records Manual for the District

Individual student psychological records as specified in the current Student Records Manual for the District

Last school attended

Principal of last school attended

As shown in local directory

### Limitations on Collection and Retention of Certain Information

The District shall not collect, obtain, or retain information on the political affiliation, voting history, religious affiliation, or biometric information of a student or a parent or sibling of a student. For purposes of this paragraph, the term "biometric information" means information collected from the electronic measurement or evaluation of any physical or behavioral characteristics that are attributable to a single person, including fingerprint characteristics, hand characteristics, eye characteristics, vocal characteristics, and any other physical characteristics used for the purpose of electronically identifying that person with a high degree of certainty. Examples of biometric information include, but are not limited to, a fingerprint or hand scan, a retina or iris scan, a voice print, or a facial geometry scan.

The District shall not maintain any report or record relative to a student that includes a copy of a student's fingerprints.

The Superintendent or designee will be responsible for the privacy and security of records that are not under the supervision of the school principal.

#### Fingerprints

~~No report or record relative to a student which includes a copy of the student's fingerprints will be maintained by the District.~~

~~The Superintendent or designee will be responsible for the privacy and security of records that are not under the supervision of the school principal.~~

### Access to Student Records

The rights of students and their parents with respect to education records created, maintained, or used by the District must be protected in accordance with FERPA, State law, and the implementing regulations and rules issued pursuant thereto. Students and their parents have the right to access their education records, including the right to inspect and review those records, have the right to waive their access to their education records in certain circumstances, have the right to challenge the content of education records, have the right of privacy with respect to such records and reports, and receive notice of their rights with respect to education records.

In addition to students and their parents and eligible students, student records shall be available only to designated school officials and personnel, to such other persons as the parent or eligible student authorizes in writing, a court of competent jurisdiction or to other individuals or organizations as permitted by law. The term "parents" includes legal guardians or other persons standing in loco parentis (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the welfare of the child). The term "eligible student" refers to students who are eighteen (18) years of age or older, or who are enrolled in a postsecondary institution, regardless of age.

Schools may, without consent of parents, guardians, or eligible students, provide access to school officials to perform an administrative, supervisory, or instructional task, or to perform a service or benefit for the student or the student's family, and psychologists within the District providing they have a

legitimate educational interest. Support employees may be designated by the principal for the purpose of doing clerical work and maintaining student records. However, such persons shall receive in-service training concerning the confidentiality of student records and work under the supervision and control of an administrative staff member.

Whenever a student has attained eighteen (18) years of age, the permission and consent required of and rights accorded to the parents of the student as to student records maintained by the District, shall thereafter be required of and accorded to the eligible student only, unless the eligible student is a dependent of his/her parents as defined in Title 26 U.S.C. Section 152 of the Internal Revenue Code of 1954. The District may, in this instance, disclose personally identifiable information from the education records to the parents without the prior consent of the eligible student.

Whenever a student has enrolled in a postsecondary institution, regardless of age, the permission and consent required of and rights accorded to the parents of the student as to student records maintained by the postsecondary institution shall thereafter be required of and accorded to the eligible student only. However, if the student is not eighteen (18) years of age, then the permission and consent required of and rights as to the student records maintained by the District shall be retained by the parents.

The custodian of the student record shall permit the eligible student or the parents or guardians of the student who is or has been in attendance in the District to inspect and review the education records of the eligible student or student. Provisions for such inspection and review shall be made within a reasonable period of time of the request, but in no case shall be more than thirty (30) days after the request has been made.

The District presumes that the eligible student or either parent of the student has the right to inspect, review, and receive copies of the education records of the student or eligible student unless the Board, its staff, or the individual school has been provided a legally binding instrument or court order governing such matters as divorce, separation, or custody which provides to the contrary.

In instances where records are opened to parents, guardians, or eligible students, schools shall make available a member of the professional staff to interpret the record and shall provide copies, at the current District copy rate, upon request.

The copy rate will include actual reproduction costs and will not include the labor costs for retrieval. [The district's current rate is \\$0.15 per copied page. Labor costs begin after 15 minutes of work.](#)

School officials shall provide requesting parents, guardians, or eligible students an opportunity for a hearing to challenge the content of their child's or the eligible student's school records, to insure that the records are not inaccurate, misleading, or otherwise in violation of the privacy or other rights of students, and to provide an opportunity for the correction or deletion of any such inaccurate, misleading, or otherwise inappropriate data contained therein.

Parents, guardians, and eligible students may waive their right of access to confidential letters or statements of recommendations or evaluation. Such waiver shall be made in writing to the custodian of the records and shall be signed by the parent, guardian, or eligible student. Such waiver shall apply to recommendations or evaluation only if:

- A. the parent, guardian, or eligible student is, upon request, notified of the names of all persons submitting confidential letters or statements; and
- B. such recommendations or evaluations are used solely for the purpose for which they were specifically intended.

The waiver of right of access may be revoked in writing with respect to actions occurring after the revocation.

## Court Request of Records

- A. Student records may be disclosed to a court of competent jurisdiction provided that reasonable notification is given in advance to the parents and student. If the principal or his/her designee is unable to notify prior to time for compliance set forth in the court order, s/he shall bring to the court's attention the provision of the Family Educational Rights and Privacy Act of 1974 and comply with the court's instruction.
- B. Student records may be disclosed pursuant to a lawfully issued subpoena, upon the condition that the student, or his/her parent if the student is either a minor and not attending an institution of postsecondary education or a dependent of such parent as defined in 26 U.S.C. 152 (s. 152 of the Internal Revenue Code of 1954), is notified of the order or subpoena in advance of compliance therewith by the educational institution or agency.

The Superintendent may, in writing, authorize access to student records to representatives of the Federal, State, or local educational authorities.

Transcripts of a student's records may be released without written consent from the student's parents, guardians, or eligible student, to any vocational-technical center, community college, or any postsecondary institutions of higher learning in which the student seeks or intends to enroll. A copy of the records may be released to the student's parents, guardians, or eligible student upon request. This policy is also applicable in instances where such a request is in connection with a student's application for, or receipt of, financial aid.

## Hearing Procedure to Correct Student Records

Whenever a parent, guardian, or eligible student believes the content of the student record is inaccurate, misleading, or in violation of their privacy, they may request in writing an informal meeting with the custodian of the record for the purpose of requesting the correction, deletion, or expunction of any inaccurate, misleading, or otherwise inappropriate data or material contained in the student record.

If the parties at the informal meeting agree to make deletions, to expunge material, or to add a statement of explanation or rebuttal to the file, such agreement shall be reduced to writing and signed by the parties, and the appropriate school officials shall take the necessary actions to implement the agreement. If [an](#) agreement is not reached, denial of the request and notification of the right to a formal hearing shall be made in writing to the parent, guardian, or eligible student with a copy to the Superintendent or designee.

Upon the request of a parent, guardian, or eligible student, a formal hearing shall be held. Such hearing shall be requested, in writing, within ten (10) days of the written notice of denial at the informal meeting, to the Superintendent or designee, who shall appoint a hearing officer who shall be any official of the school system with no direct interest in the outcome of the hearing. The hearing officer shall convene and conduct the hearing and shall render a decision in writing to all concerned parties within ten (10) days of the conclusion of the hearing. Such hearing shall be held within a reasonable period of time but in no case shall be held more than thirty (30) days from the date of the written request.

The parents, guardian, eligible student, and officials of the school shall be afforded a full and fair opportunity to present evidence relevant to the issues raised. The hearing shall be recorded and available to all parties. However, the record of such hearings are exempt from disclosure under F.S. Chapter 119.

If the decision of the hearing officer is that the records are not inaccurate, misleading, or otherwise in violation of privacy rights, the parent, guardian, or eligible student shall be allowed to comment in writing on the information in the education record and set forth any reasons for disagreeing with the decision. This written response shall be filed in the education records of the student.

## Disclosure of Student Record Information

#### A. Prior Written Consent

1. Prior written consent of the parent, guardian, or eligible student shall be obtained prior to disclosing personally identifiable student information other than directory information. The written consent shall include: signature of the parent, guardian, or eligible student; date; specification of records or information to be disclosed; purpose of the disclosure; and the party or class of parties to whom a disclosure is to be made.
2. Disclosures of personally identifiable student information will be made only on the condition that the party or parties to whom the information is disclosed shall not disclose the information to any other party without prior written consent of the parent, guardian, or eligible student, as appropriate. Personally identifiable student information which is disclosed to an institution, agency, or organization may be used by its officers, employees, and agents, but only for the purpose for which the disclosure was made. The District presumes the parent, guardian, or eligible student has the authority to grant permission for disclosure of personally identifiable student information unless the District has been provided with evidence that there is a legally binding instrument or State law or court order governing such matters as divorce, separation, or custody which provides to the contrary.

#### B. Without Prior Written Consent

Personally identifiable information or records of a student, including information identified as "directory information" as specified in this policy may be released to the following persons or organizations without the prior written consent of the student or the student's parent or guardian:

1. Officials of schools, school systems, career centers, or public postsecondary educational institutions in which the student seeks or intends to enroll; and a copy of such records or reports shall be furnished to the parent or student upon request.
2. Other school officials, including teachers within the educational institution or agency, who have a legitimate educational interest in the information contained in the records.
3. The United States Secretary of Education, the Director of the National Institute of Education, the Assistant Secretary for Education, the Comptroller General of the United States, or State or local educational authorities who are authorized to receive such information subject to the conditions set forth in applicable Federal statutes and regulations of the United States Department of Education, or in applicable State statutes and rules of the State Board of Education.

The disclosed records must be used to audit or evaluate a federal or state supported education program, or to enforce or comply with federal requirements related to those education programs. A written agreement between the parties is required under this exception. (See Form 8330 F16)

This written agreement must include:

- a. designation of the receiving individual or entity as an authorized representative;
- b. specification of the information to be disclosed;
- c. specification that the purpose of the disclosure is to carry out an audit or evaluation of a government-supported educational program or to enforce or comply with the program's legal requirements;

- d. a summary of the activity that includes a description of methodology and an explanation of why personally identifiable information is necessary to accomplish the activity;
- e. a statement requiring the organization to destroy all personally identifiable information when it is no longer needed to carry out the audit or evaluation, along with a specific time period in which the information must be destroyed; and
- f. a statement of policies and procedures that will protect personally identifiable information from further disclosure or unauthorized use.

Under the audit exception, the District will use "reasonable methods" to verify that the authorized representative complies with FERPA regulations. Specifically, the District will verify, to the greatest extent practical, that the personally identifiable information is used only for the audit, evaluation or enforcement of a government-supported educational program. The District will also ascertain the legitimacy of the audit or evaluation and will only disclose the specific records that the authorized representative needs. Further, the District will require the authorized representative to use the records only for the specified purpose and not to disclose the information any further, such as for another audit or evaluation. Finally, the District will verify that the information is destroyed when no longer needed for the audit, evaluation or compliance activity.

- 4. Appropriate parties in connection with a student's application for or receipt of financial aid, if necessary to determine the eligibility for the aid; determine the amount of the aid; determine the conditions for the aid; and/or enforce the terms and conditions of the aid.
- 5. Individuals or organizations conducting studies for or on behalf of an institution or a board of education for the purpose of developing, validating, or administering predictive tests, administering student aid programs, or improving instruction, if the studies are conducted in a manner that does not permit the personal identification of students and their parents by persons other than representatives of such organizations and if the information will be destroyed when no longer needed for the purpose of conducting such studies.

In order to release information under this provision, the District will enter into a written agreement with the recipient organization that specifies the purpose of the study. (See Form 8330 F14.)

This written agreement must include: (1) specification of the purpose, scope, duration of the study, and the information to be disclosed; (2) a statement requiring the organization to use the personally identifiable information only to meet the purpose of the study; (3) a statement requiring the organization to prohibit personal identification of parents and students by anyone other than a representative of the organization with legitimate interests; and (4) a requirement that the organization destroy all personally identifiable information when it is no longer needed for the study, along with a specific time period in which the information must be destroyed.

While the disclosure of personally identifiable information without consent is allowed under this exception, it is recommended that whenever possible the administration either release de-identified information or remove the students' names and social security identification numbers to reduce the risk of unauthorized disclosure of personally identifiable information.

- 6. Accrediting organizations, in order to carry out their accrediting functions.
- 7. School Readiness Programs as provided in State law in order to carry out their assigned duties.

8. For use as evidence in student expulsion hearings conducted by a district school board under F.S. Chapter 120; however, public records of expulsion hearings shall not contain any personally identifiable information.
9. Appropriate parties in connection with an emergency, if knowledge of the information in the student's educational records is necessary to protect the health or safety of the student or other individuals.
10. The Auditor General and the Office of Program Policy Analysis and Government Accountability in connection with their official functions; however, except when the collection of personally identifiable information is specifically authorized by law, any data collected by the Auditor General and the Office of Program Policy Analysis and Government Accountability is confidential and exempt from F.S. 119.07 (1) and shall be protected in a way that does not permit the personal identification of students and their parents by other than the Auditor General, the Office of Program Policy Analysis and Government Accountability, and their staff, and the personally identifiable data shall be destroyed when no longer needed for the Auditor General's and the Office of Program Policy Analysis and Government Accountability's official use.
11. A court of competent jurisdiction in compliance with an order of that court or the attorney of record in accordance with a lawfully issued subpoena, upon the condition that the student and the student's parent are notified of the order or subpoena in advance of compliance therewith by the educational institution or agency.

Student records may be disclosed pursuant to a lawfully issued subpoena, upon the condition that the student, or his/her parent if the student is either a minor and not attending a postsecondary educational institution or a dependent of such parent as defined in 26 U.S.C. 152 (section 152 of the Internal Revenue Code of 1954), is notified of the order or subpoena in advance of compliance therewith by the educational institution or agency.
12. Credit bureaus, in connection with an agreement for financial aid that the student has executed, if the information is disclosed only to the extent necessary to enforce the terms or conditions of the financial aid agreement. Credit bureaus shall not release any information obtained under this paragraph to any person.
13. Parties to an interagency agreement among the Department of Juvenile Justice, school and law enforcement authorities, and other signatory agencies for the purpose of reducing juvenile crime and especially motor vehicle theft by promoting cooperation and collaboration, and the sharing of appropriate information in a joint effort to improve school safety, to reduce truancy and in-school and out-of-school suspensions, and to support alternatives to in-school and out-of-school suspensions and expulsions that provide structured and well-supervised educational programs supplemented by a coordinated overlay of other appropriate services designed to correct behaviors that lead to truancy, suspensions, and expulsions, and that support students in successfully completing their education. Information provided in furtherance of such interagency agreements is intended solely for use in determining the appropriate programs and services for each juvenile or the juvenile's family, or for coordinating the delivery of such programs and services, and as such is inadmissible in any court proceedings prior to a dispositional hearing unless written consent is provided by a parent or other responsible adult on behalf of the juvenile.
14. Consistent with the Family Educational Rights and Privacy Act, the Department of Children and Families or a community-based care lead agency acting on behalf of the Department of Children and Families, as appropriate.



15. Parents of a dependent student as defined by the Internal Revenue Service Tax Code of 1986 and in this policy.

16. If the District initiates legal action (a lawsuit) against a parent, or if the parent initiates legal action against the District. In such circumstances, the District may disclose to the court, without a court order or subpoena, the education records of the student that are relevant for the District to proceed with legal action as the plaintiff or to defend itself.

17. If the release is to the Attorney General of the United States or to his/her designee in response to an ex parte order in connection with the investigation or prosecution of terrorism crimes specific in Sections 2331 and 2332 of Title 18, U.S. Code.

Under this exception, school officials are not required to record (i.e., on an access log) the disclosure of information from a student's education record when the school makes pursuant to an ex parte order.

Further, an educational institution that, in good faith, produces information from education records in compliance with an ex parte order shall not be liable to any person for that disclosure.

18. If the release is in conjunction with reporting a crime committed by a child to appropriate authorities, and, with respect to reporting a crime committed by a student with a disability, copies of the student's special education and disciplinary records may be transmitted to the authorities for their consideration.

19. If the release is otherwise permitted under Federal law.

#### C. Record of Disclosures

Record of any requests or disclosures of personally identifiable student information shall be maintained except for disclosures to the parent, guardian, or eligible student; disclosure of directory information; or to any other school officials with a legitimate educational interest. The record of requests for disclosure shall include the following: the parties who have requested or obtained personally identifiable student information, the legitimate interests of the persons requesting or obtaining the information, and date parental/eligible student consent was obtained.

With regard to such disclosures, a "school official" is determined to be any employee of the School Board of Brevard County, Florida, with direct responsibility for providing services to students. A "legitimate educational interest" is determined to mean responsibility for providing direct educational services to students which will include teaching, counseling, psychological services, or other services to students which require access to personally identifiable information and/or those specified in the law.

#### D. Disclosures - Health or Safety Emergencies

Disclosure of personally identifiable student information may be made by school officials in the event of a health or safety emergency. Such emergency situations shall be declared in writing to the Superintendent by a recognized legal official with authority to declare such emergency. The declaration of a health or safety emergency shall include the need for specific personally identifiable student information, the time requirements for the information, and the parties to whom the information is disclosed who are responsible for utilizing the information to deal with the emergency.



## Directory information

The District shall make available, upon request, certain information known as "directory information" without prior permission of the parents or the eligible student. Directory information means information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. A student's parent(s) or an adult student, however, may notify the Board that directory information concerning the student shall not be released ("opt out"). Such notification shall be in writing and filed annually with the principal of the school and with the District office. The Board designates as student "directory information":

- A. student's name;
- B. photograph;
- C. address;
- ~~D. telephone number, if it is a listed number;~~
- ~~D. date and place of birth;~~
- E. participation in officially-recognized activities and sports;
- F. height and weight, if a member of an athletic team;
- G. dates of attendance;
- H. grade level; enrollment status;
- I. date of graduation or program completion;
- J. awards received; and
- K. most recent educational agency or institution attended.

An annual written notice shall be given to inform parents, guardians, and eligible students of their rights of access, waiver of access, challenge and hearing, privacy, categories of personally identifiable student information designated as directory information data, and the location and availability of the District's policy on education records of students. Alternate methods of notice shall be made for parents, guardians, or eligible students unable to comprehend a written notice in English. Parents or eligible students may, by providing a written statement to the principal within two (2) weeks of the first day of the school year or entry into the school system request that all specific portions of directory information for that specific student not be released.

Directory information shall not be provided to any organization for profit-making purposes, unless the request is approved, in a nondiscriminatory manner, by the Superintendent.

In accordance with Federal law, the District shall release the names and addresses of students in grades ten through twelve (10-12) to a recruiting officer for any branch of the United States Armed Forces or an institution of higher education who requests such information. Such data shall not be released if the eligible student or student's parents submit a written request not to release such information. The recruiting officer is to sign a form indicating that "any information received by the recruiting officer shall be used solely for the purpose of informing students about military service and shall not be released to any person other than individuals within the recruiting services of the Armed Forces". The Superintendent is authorized to charge mailing fees for providing this information to a recruiting officer. A secondary school student or parent of the student may request that the student's name, address, and telephone listing not be released without parental consent.

Whenever parental consent is required for the inspection and/or release of a student's health or educational records or for the release of "directory information", either parent may provide such consent unless agreed to otherwise in writing by both parents or specifically stated by court order. If the student is under the guardianship of an institution, the Superintendent shall appoint a person who has no conflicting interest to provide such written consent.

The District may disclose "directory information" on former students without student or parental consent.

## **Disclosure of Student Record Information**

### **A. Prior Written Consent**

- ~~1. Prior written consent of the parent, guardian, or eligible student shall be obtained prior to disclosing personally identifiable student information other than directory information. The written consent shall include: signature of the parent, guardian, or eligible student; date; specification of records or information to be disclosed; purpose of the disclosure; and the party or class of parties to whom a disclosure is to be made.~~
- ~~2. Disclosures of personally identifiable student information will be made only on the condition that the party or parties to whom the information is disclosed shall not disclose the information to any other party without prior written consent of the parent, guardian, or eligible student, as appropriate. Personally identifiable student information which is disclosed to an institution, agency, or organization may be used by its officers, employees, and agents, but only for the purpose for which the disclosure was made. The District presumes the parent, guardian, or eligible student has the authority to grant permission for disclosure of personally identifiable student information unless the District has been provided with evidence that there is a legally binding instrument or State law or court order governing such matters as divorce, separation, or custody which provides to the contrary.~~

### **B. Without Prior Written Consent**

~~Personally identifiable information or records of a student, including information identified as "directory information" as specified in this policy may be released to the following persons or organizations without the prior written consent of the student or the student's parent or guardian:~~

- ~~1. Officials of schools, school systems, career centers, or public postsecondary educational institutions in which the student seeks or intends to enroll; and a copy of such records or reports shall be furnished to the parent or student upon request.~~
- ~~2. Other school officials, including teachers within the educational institution or agency, who have a legitimate educational interest in the information contained in the records.~~
- ~~3. The United States Secretary of Education, the Director of the National Institute of Education, the Assistant Secretary for Education, the Comptroller General of the United States, or State or local educational authorities who are authorized to receive such information subject to the conditions set forth in applicable Federal statutes and regulations of the United States Department of Education, or in applicable State statutes and rules of the State Board of Education.~~

~~The disclosed records must be used to audit or evaluate a federal or state supported education program, or to enforce or comply with federal requirements related to those education programs. A written agreement between the parties is required under this exception. (See Form 8330 F16)~~

—  
This written agreement must include:

- a.—designation of the receiving individual or entity as an authorized representative;
- b.—specification of the information to be disclosed;
- c.—specification that the purpose of the disclosure is to carry out an audit or evaluation of a government-supported educational program or to enforce or comply with the program's legal requirements;
- d.—a summary of the activity that includes a description of methodology and an explanation of why personally identifiable information is necessary to accomplish the activity;
- e.—a statement requiring the organization to destroy all personally identifiable information when it is no longer needed to carry out the audit or evaluation, along with a specific time period in which the information must be destroyed; and
- f.—a statement of policies and procedures that will protect personally identifiable information from further disclosure or unauthorized use.

~~Under the audit exception, the District will use "reasonable methods" to verify that the authorized representative complies with FERPA regulations. Specifically, the District will verify, to the greatest extent practical, that the personally identifiable information is used only for the audit, evaluation or enforcement of a government-supported educational program. The District will also ascertain the legitimacy of the audit or evaluation and will only disclose the specific records that the authorized representative needs. Further, the District will require the authorized representative to use the records only for the specified purpose and not to disclose the information any further, such as for another audit or evaluation. Finally, the District will verify that the information is destroyed when no longer needed for the audit, evaluation or compliance activity.~~

- ~~4.—Appropriate parties in connection with a student's application for or receipt of financial aid, if necessary to determine the eligibility for the aid; determine the amount of the aid; determine the conditions for the aid; and/or enforce the terms and conditions of the aid.~~
- ~~5.—Individuals or organizations conducting studies for or on behalf of an institution or a board of education for the purpose of developing, validating, or administering predictive tests, administering student aid programs, or improving instruction, if the studies are conducted in a manner that does not permit the personal identification of students and their parents by persons other than representatives of such organizations and if the information will be destroyed when no longer needed for the purpose of conducting such studies.~~

~~In order to release information under this provision, the District will enter into a written agreement with the recipient organization that specifies the purpose of the study. (See Form 8330 F14.)~~

~~This written agreement must include: (1) specification of the purpose, scope, duration of the study, and the information to be disclosed; (2) a statement requiring the organization to use the personally identifiable information only to meet the purpose of the study; (3) a statement requiring the organization to prohibit personal identification of parents and students by anyone other than a representative of the organization with legitimate interests; and (4) a requirement that the organization destroy all personally identifiable information when it is no longer needed for the study, along with a specific time period in which the information must be destroyed.~~

~~While the disclosure of personally identifiable information without consent is allowed under this exception, it is recommended that whenever possible the administration either release de-identified information or remove the students' names and social security identification numbers to reduce the risk of unauthorized disclosure of personally identifiable information.~~

- ~~6. Accrediting organizations, in order to carry out their accrediting functions.~~
- ~~7. School Readiness Programs as provided in State law in order to carry out their assigned duties.~~
- ~~8. For use as evidence in student expulsion hearings conducted by a district school board under F.S. Chapter 120; however, public records of expulsion hearings shall not contain any personally identifiable information.~~
- ~~9. Appropriate parties in connection with an emergency, if knowledge of the information in the student's educational records is necessary to protect the health or safety of the student or other individuals.~~
- ~~10. The Auditor General and the Office of Program Policy Analysis and Government Accountability in connection with their official functions; however, except when the collection of personally identifiable information is specifically authorized by law, any data collected by the Auditor General and the Office of Program Policy Analysis and Government Accountability is confidential and exempt from F.S. 119.07 (1) and shall be protected in a way that does not permit the personal identification of students and their parents by other than the Auditor General, the Office of Program Policy Analysis and Government Accountability, and their staff, and the personally identifiable data shall be destroyed when no longer needed for the Auditor General's and the Office of Program Policy Analysis and Government Accountability's official use.~~
- ~~11. A court of competent jurisdiction in compliance with an order of that court or the attorney of record in accordance with a lawfully issued subpoena, upon the condition that the student and the student's parent are notified of the order or subpoena in advance of compliance therewith by the educational institution or agency.~~

~~Student records may be disclosed pursuant to a lawfully issued subpoena, upon the condition that the student, or his/her parent if the student is either a minor and not attending a postsecondary educational institution or a dependent of such parent as defined in 26 U.S.C. 152 (section 152 of the Internal Revenue Code of 1954), is notified of the order or subpoena in advance of compliance therewith by the educational institution or agency.~~

- ~~12. Credit bureaus, in connection with an agreement for financial aid that the student has executed, if the information is disclosed only to the extent necessary to enforce the terms or conditions of the financial aid agreement. Credit bureaus shall not release any information obtained under this paragraph to any person.~~
- ~~13. Parties to an interagency agreement among the Department of Juvenile Justice, school and law enforcement authorities, and other signatory agencies for the purpose of reducing juvenile crime and especially motor vehicle theft by promoting cooperation and collaboration, and the sharing of appropriate information in a joint effort to improve school safety, to reduce truancy and in-school and out-of-school suspensions, and to support alternatives to in-school and out-of-school suspensions and expulsions that provide structured and well-supervised educational programs supplemented by a coordinated overlay of other appropriate services designed to correct behaviors that lead to truancy, suspensions, and expulsions, and that support students in successfully completing their education. Information provided in furtherance of such interagency agreements is intended solely for use in determining the~~

~~appropriate programs and services for each juvenile or the juvenile's family, or for coordinating the delivery of such programs and services, and as such is inadmissible in any court proceedings prior to a dispositional hearing unless written consent is provided by a parent or other responsible adult on behalf of the juvenile.~~

- ~~14. Consistent with the Family Educational Rights and Privacy Act, the Department of Children and Families or a community-based care lead agency acting on behalf of the Department of Children and Families, as appropriate.~~
- ~~15. Parents of a dependent student as defined by the Internal Revenue Service Tax Code of 1986 and in this policy.~~
- ~~16. If the District initiates legal action (a lawsuit) against a parent, or if the parent initiates legal action against the District. In such circumstances, the District may disclose to the court, without a court order or subpoena, the education records of the student that are relevant for the District to proceed with legal action as the plaintiff or to defend itself.~~
- ~~17. If the release is to the Attorney General of the United States or to his/her designee in response to an ex parte order in connection with the investigation or prosecution of terrorism crimes specific in Sections 2331 and 2332 of Title 18, U.S. Code.~~

~~Under this exception, school officials are not required to record (i.e., on an access log) the disclosure of information from a student's education record when the school makes pursuant to an ex parte order.~~

~~Further, an educational institution that, in good faith, produces information from education records in compliance with an ex parte order shall not be liable to any person for that disclosure.~~

- ~~18. If the release is in conjunction with reporting a crime committed by a child to appropriate authorities, and, with respect to reporting a crime committed by a student with a disability, copies of the student's special education and disciplinary records may be transmitted to the authorities for their consideration.~~
- ~~19. If the release is otherwise permitted under Federal law.~~

#### C. Record of Disclosures

~~Record of any requests or disclosures of personally identifiable student information shall be maintained except for disclosures to the parent, guardian, or eligible student; disclosure of directory information; or to any other school officials with a legitimate educational interest. The record of requests for disclosure shall include the following: the parties who have requested or obtained personally identifiable student information, the legitimate interests of the persons requesting or obtaining the information, and date parental/eligible student consent was obtained.~~

~~With regard to such disclosures, a "school official" is determined to be any employee of the School Board of Brevard County, Florida, with direct responsibility for providing services to students. A "legitimate educational interest" is determined to mean responsibility for providing direct educational services to students which will include teaching, counseling, psychological services, or other services to students which require access to personally identifiable information and/or those specified in the law.~~

#### D. Disclosures – Health or Safety Emergencies

~~Disclosure of personally identifiable student information may be made by school officials in the event of a health or safety emergency. Such emergency situations shall be declared in writing to the Superintendent by a recognized legal official with authority to declare such emergency. The declaration of a health or safety emergency shall include the need for specific personally identifiable student information, the time requirements for the information, and the parties to whom the information is disclosed who are responsible for utilizing the information to deal with the emergency.~~

## **Transfer of Student Records**

When a student, previously enrolled in a Brevard County school transfers out of the Brevard County School District to another school, public or private, within this state or out of state, the principal, or designee, upon written request of the principal, or designee, of the receiving school, the parent, guardian, or eligible student, shall, immediately within three (3) school days, transfer a copy of the student's cumulative record containing Category A and B information to the requesting school. Pursuant to Federal law, disciplinary records with respect to suspension and expulsion shall be considered "other records of educational importance" and, as a Category B record, shall be transferred to the requesting school. The Board authorizes the administration to forward all Category A and B student records, including disciplinary records with respect to any current suspension and expulsion, upon request to a school or school district in which a student of this District is enrolled, seeks or intends to enroll, or is instructed to enroll, on a full-time or part-time basis, upon condition that the student's parents be notified of the transfer, receive a copy of the record if desired, and have an opportunity for a hearing to challenge the content of the record. The school shall retain a copy of the Category A information in its files. A copy of the Category B (Exceptional Student Education Audit File) records will also be retained. Category B health and testing information shall be retained if it is related to a weighted or categorical program placement which is subject to audit. The files which are retained will be held by the principal who is custodian of the records for the period of time specified in the Student Records Manual. Category A student records and Category B (Exceptional Student Education Audit File) beyond the specified time after the student leaves the District will be forwarded to Records Management. When a request comes to the school for student records after the files have been sent to Records Management, the written request should be forwarded to Records Management. Based upon reasonable requests, viewers of educational records will receive explanation and interpretation of the records. Records Management will make copies of the student's files at the current District copy rate, which shall not exceed the maximum rate for copies of public records as set forth in F.S. Chapter 119.

If applicable, the records to be transferred shall also include:

- A. verified reports of serious or recurrent behavior patterns, including threat assessment evaluations and intervention services; and
- B. psychological evaluations, including therapeutic treatment plans and therapy or progress notes created or maintained by School District or charter school staff, as appropriate.

The records shall be transferred within three (3) school days of receipt of a written request from the principal of the receiving school, the parent, guardian, or eligible student.

While all reasonable efforts shall be made to collect for damaged or lost library books or textbooks, under no conditions shall the transfer of a student's cumulative record be delayed or denied for failure to pay any fine or fee assessed by the school. Progress reports to parents (report cards) may not be withheld for failure to pay any fine, fee, or an assessment for lost or damaged books.

The Superintendent shall prepare administrative procedures to ensure that students and parents are adequately informed each year regarding their rights to:

- A. inspect and review the student's educational records;

- B. request amendments if the parent believes the record is inaccurate, misleading, or otherwise in violation of the student's privacy rights;
- C. consent to disclosures of personally-identifiable information contained in the student's educational records, except to those disclosures allowed by the law;
- D. challenge District noncompliance with a parent's request to amend the records through a hearing;
- E. file a complaint with the Department of Education;
- F. obtain a copy of the District's policy and administrative procedures on student records.

The Superintendent shall also develop, and update as needed, procedures for:

- A. the proper storage and retention of records including a list of the type and location of record;
- B. informing District employees of the Federal and State laws concerning student records.

The District is authorized to use the microfilm process or electromagnetic processes of reproduction for the recording, filing, maintaining, and preserving of records.

No liability shall attach to any member, officer, or employee of this District specifically as a consequence of permitting access or furnishing student records in accordance with this policy and procedures.

Any entity receiving personally identifiable information pursuant to a study, audit, evaluation or enforcement/compliance activity must comply with all FERPA regulations. Further, such an entity must enter into a written contract with the Board of Education delineating its responsibilities in safeguarding the disclosed information. Specifically, the entity must demonstrate the existence of a sound data security plan or data stewardship program, and must also provide assurances that the personally identifiable information will not be re-disclosed without prior authorization from the Board. Further, the entity conducting the study, audit, evaluation or enforcement/compliance activity is required to destroy the disclosed information once it is no longer needed or when the timeframe for the activity has ended, as specified in its written agreement with the Board of Education. See [Form 8330 F14](#) and [Form 8330 F16](#) for additional contract requirements.

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Revised 4/27/10

Revised 9/11/12

Revised

Legal

F.S. 1001.41, 1001.52, 1002.22, 1002.221, 1003.25

F.A.C. 6A-1.0955

20 U.S.C. Section 1232f through 1232i (FERPA)

20 U.S.C. 7908

26 U.S.C. 152

20 U.S.C. 1400 et seq., Individuals with Disabilities Act

Privacy Rights of Parents and Students - P.L. 90-247

No Child Left Behind Act of 2001 – P.L. 107-110

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Version**



## **8330 - STUDENT RECORDS**

In order to provide appropriate educational services and programming, the Board must collect, retain, and use information about individual students. Simultaneously, the Board recognizes the need to safeguard students' privacy and restrict access to students' personally identifiable information.

### **Maintenance of Student Records**

The Board is responsible for the records of all students who attend or have attended schools in this District. Only records mandated by the State or Federal government and necessary and relevant to the function of the District or specifically permitted by this Board shall be compiled by District employees.

Each school shall maintain a permanent cumulative record for each student enrolled in the school which shall contain the data as prescribed by Administrative Rule F.A.C. 6A-1.0955 and this policy. Each student's cumulative record shall include the following types of data:

#### **A. Category A Records, Permanent Information**

1. Student's full legal name.
2. Authenticated birth date, place of birth, race, ethnicity, and sex.
3. Last known address of the student.
4. Name(s) of the student's parent(s) or guardian(s).
5. Name and location of last school attended.
6. Number of days present and absent, date enrolled, date withdrawn.
7. Courses taken and record of achievement, such as grades, credits, or certification of competence.
8. Date of graduation or date of program completion.
9. Records of requests for access to and disclosure of personally identifiable information from the student's educational records.

#### **B. Category B Records, Temporary Information**

1. Health information, family background data, standardized test scores, state-mandated achievement test scores, educational and vocational plans, honors and activities, work experience reports, and teacher/counselor comments.
2. Reports of student services or exceptional student staffing committees including all information required by F.S. 1001.42.
3. Correspondence from community agencies or private professionals.
4. Driver education certificate.
5. A list of schools attended.

6. Written agreements of corrections, deletions, or expunctions as a result of meetings or hearings to amend educational records.
7. Written requests to waive access to confidential records.
8. Written requests to restrict the release of directory information.
9. Court orders of relevance.
10. Records of major student discipline actions, suspension, and/or expulsion records.
11. Home language survey.
12. Student Limited English Proficiency (LEP) Plans.
13. Such other records of educational importance as the school shall deem necessary.
14. Records designated for retention by the Florida Department of State in General Records Schedule GS7 for *Public Schools Pre-K – 12, Adult and Vocational/Technical*.

Category A and B records shall be maintained in compliance with the approved District records retention schedule.

Individual exceptional student records shall be kept separate from regular cumulative records. These records shall be sent to each succeeding school the student attends in the District and shall be maintained in accordance with the approved District records retention plan.

Periodic review for elimination of outdated information in student records by the custodian or designees shall be made in accordance with F.S. 1001.52, and the approved District records retention plan. The custodian of the student records shall be responsible for maintaining the accuracy of information by purging student records in accordance with the General Records Schedule for Public Schools (GS-7). Explanations placed in the education record and the record of access shall be maintained for as long as the education record to which it pertains is maintained. This procedure must be implemented before records are released to any vocational-technical centers, community colleges, or institutions of higher learning in which the student seeks or intends to enroll.

| <b>Type Record</b>   | <b>Location</b>         | <b>Custodian</b>                  | <b>Address</b>                                   |
|--|-------------------------|-----------------------------------|--|
| Active and inactive student records as specified in the current Student Records Manual for the District              | Last school attended    | Principal of last school attended | As shown in local directory                      |
| Inactive student cumulative records (Category A) as specified in the current Student Records Manual for the District | Central District office | Superintendent or designee        | Records Management Educational Services Facility |
| Individual exceptional student education records as specified in the current Student                                 | Last school attended    | Principal of last school attended | As shown in local directory                      |

Records Manual for the District

|  |                      |                                   |                             |
|--|----------------------|-----------------------------------|-----------------------------|
| Individual student psychological records as specified in the current Student Records Manual for the District | Last school attended | Principal of last school attended | As shown in local directory |
|--|----------------------|-----------------------------------|-----------------------------|

**Limitations on Collection and Retention of Certain Information**

The District shall not collect, obtain, or retain information on the political affiliation, voting history, religious affiliation, or biometric information of a student or a parent or sibling of a student. For purposes of this paragraph, the term "biometric information" means information collected from the electronic measurement or evaluation of any physical or behavioral characteristics that are attributable to a single person, including fingerprint characteristics, hand characteristics, eye characteristics, vocal characteristics, and any other physical characteristics used for the purpose of electronically identifying that person with a high degree of certainty. Examples of biometric information include, but are not limited to, a fingerprint or hand scan, a retina or iris scan, a voice print, or a facial geometry scan.

The District shall not maintain any report or record relative to a student that includes a copy of a student's fingerprints.

The Superintendent or designee will be responsible for the privacy and security of records that are not under the supervision of the school principal.

Access to Student Records

The rights of students and their parents with respect to education records created, maintained, or used by the District must be protected in accordance with FERPA, State law, and the implementing regulations and rules issued pursuant thereto. Students and their parents have the right to access their education records, including the right to inspect and review those records, have the right to waive their access to their education records in certain circumstances, have the right to challenge the content of education records, have the right of privacy with respect to such records and reports, and receive notice of their rights with respect to education records.

In addition to students and their parents and eligible students, student records shall be available only to designated school officials and personnel, to such other persons as the parent or eligible student authorizes in writing, a court of competent jurisdiction or to other individuals or organizations as permitted by law. The term "parents" includes legal guardians or other persons standing in loco parentis (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the welfare of the child). The term "eligible student" refers to students who are eighteen (18) years of age or older, or who are enrolled in a postsecondary institution, regardless of age.

Schools may, without consent of parents, guardians, or eligible students, provide access to school officials to perform an administrative, supervisory, or instructional task, or to perform a service or benefit for the student or the student's family, and psychologists within the District providing they have a legitimate educational interest. Support employees may be designated by the principal for the purpose of doing clerical work and maintaining student records. However, such persons shall receive in-service training concerning the confidentiality of student records and work under the supervision and control of an administrative staff member.

Whenever a student has attained eighteen (18) years of age, the permission and consent required of and rights accorded to the parents of the student as to student records maintained by the District, shall

thereafter be required of and accorded to the eligible student only, unless the eligible student is a dependent of his/her parents as defined in Title 26 U.S.C. Section 152 of the Internal Revenue Code of 1954. The District may, in this instance, disclose personally identifiable information from the education records to the parents without the prior consent of the eligible student.

Whenever a student has enrolled in a postsecondary institution, regardless of age, the permission and consent required of and rights accorded to the parents of the student as to student records maintained by the postsecondary institution shall thereafter be required of and accorded to the eligible student only. However, if the student is not eighteen (18) years of age, then the permission and consent required of and rights as to the student records maintained by the District shall be retained by the parents.

The custodian of the student record shall permit the eligible student or the parents or guardians of the student who is or has been in attendance in the District to inspect and review the education records of the eligible student or student. Provisions for such inspection and review shall be made within a reasonable period of time of the request, but in no case shall be more than thirty (30) days after the request has been made.

The District presumes that the eligible student or either parent of the student has the right to inspect, review, and receive copies of the education records of the student or eligible student unless the Board, its staff, or the individual school has been provided a legally binding instrument or court order governing such matters as divorce, separation, or custody which provides to the contrary.

In instances where records are opened to parents, guardians, or eligible students, schools shall make available a member of the professional staff to interpret the record and shall provide copies, at the current District copy rate, upon request.

The copy rate will include actual reproduction costs and will not include the labor costs for retrieval. The district's current rate is \$0.15 per copied page. Labor costs begin after 15 minutes of work.

School officials shall provide requesting parents, guardians, or eligible students an opportunity for a hearing to challenge the content of their child's or the eligible student's school records, to insure that the records are not inaccurate, misleading, or otherwise in violation of the privacy or other rights of students, and to provide an opportunity for the correction or deletion of any such inaccurate, misleading, or otherwise inappropriate data contained therein.

Parents, guardians, and eligible students may waive their right of access to confidential letters or statements of recommendations or evaluation. Such waiver shall be made in writing to the custodian of the records and shall be signed by the parent, guardian, or eligible student. Such waiver shall apply to recommendations or evaluation only if:

- A. the parent, guardian, or eligible student is, upon request, notified of the names of all persons submitting confidential letters or statements; and
- B. such recommendations or evaluations are used solely for the purpose for which they were specifically intended.

The waiver of right of access may be revoked in writing with respect to actions occurring after the revocation.

#### Court Request of Records

- A. Student records may be disclosed to a court of competent jurisdiction provided that reasonable notification is given in advance to the parents and student. If the principal or his/her designee is unable to notify prior to time for compliance set forth in the court order,

s/he shall bring to the court's attention the provision of the Family Educational Rights and Privacy Act of 1974 and comply with the court's instruction.

- B. Student records may be disclosed pursuant to a lawfully issued subpoena, upon the condition that the student, or his/her parent if the student is either a minor and not attending an institution of postsecondary education or a dependent of such parent as defined in 26 U.S.C. 152 (s. 152 of the Internal Revenue Code of 1954), is notified of the order or subpoena in advance of compliance therewith by the educational institution or agency.

The Superintendent may, in writing, authorize access to student records to representatives of the Federal, State, or local educational authorities.

Transcripts of a student's records may be released without written consent from the student's parents, guardians, or eligible student, to any vocational-technical center, community college, or any postsecondary institutions of higher learning in which the student seeks or intends to enroll. A copy of the records may be released to the student's parents, guardians, or eligible student upon request. This policy is also applicable in instances where such a request is in connection with a student's application for, or receipt of, financial aid.

#### Hearing Procedure to Correct Student Records

Whenever a parent, guardian, or eligible student believes the content of the student record is inaccurate, misleading, or in violation of their privacy, they may request in writing an informal meeting with the custodian of the record for the purpose of requesting the correction, deletion, or expunction of any inaccurate, misleading, or otherwise inappropriate data or material contained in the student record.

If the parties at the informal meeting agree to make deletions, to expunge material, or to add a statement of explanation or rebuttal to the file, such agreement shall be reduced to writing and signed by the parties, and the appropriate school officials shall take the necessary actions to implement the agreement. If an agreement is not reached, denial of the request and notification of the right to a formal hearing shall be made in writing to the parent, guardian, or eligible student with a copy to the Superintendent or designee.

Upon the request of a parent, guardian, or eligible student, a formal hearing shall be held. Such hearing shall be requested, in writing, within ten (10) days of the written notice of denial at the informal meeting, to the Superintendent or designee, who shall appoint a hearing officer who shall be any official of the school system with no direct interest in the outcome of the hearing. The hearing officer shall convene and conduct the hearing and shall render a decision in writing to all concerned parties within ten (10) days of the conclusion of the hearing. Such hearing shall be held within a reasonable period of time but in no case shall be held more than thirty (30) days from the date of the written request.

The parents, guardian, eligible student, and officials of the school shall be afforded a full and fair opportunity to present evidence relevant to the issues raised. The hearing shall be recorded and available to all parties. However, the record of such hearings are exempt from disclosure under F.S. Chapter 119.

If the decision of the hearing officer is that the records are not inaccurate, misleading, or otherwise in violation of privacy rights, the parent, guardian, or eligible student shall be allowed to comment in writing on the information in the education record and set forth any reasons for disagreeing with the decision. This written response shall be filed in the education records of the student.

#### **Disclosure of Student Record Information**

##### A. Prior Written Consent

1. Prior written consent of the parent, guardian, or eligible student shall be obtained prior to disclosing personally identifiable student information other than directory information. The

written consent shall include: signature of the parent, guardian, or eligible student; date; specification of records or information to be disclosed; purpose of the disclosure; and the party or class of parties to whom a disclosure is to be made.

2. Disclosures of personally identifiable student information will be made only on the condition that the party or parties to whom the information is disclosed shall not disclose the information to any other party without prior written consent of the parent, guardian, or eligible student, as appropriate. Personally identifiable student information which is disclosed to an institution, agency, or organization may be used by its officers, employees, and agents, but only for the purpose for which the disclosure was made. The District presumes the parent, guardian, or eligible student has the authority to grant permission for disclosure of personally identifiable student information unless the District has been provided with evidence that there is a legally binding instrument or State law or court order governing such matters as divorce, separation, or custody which provides to the contrary.

#### B. Without Prior Written Consent

Personally identifiable information or records of a student, including information identified as "directory information" as specified in this policy may be released to the following persons or organizations without the prior written consent of the student or the student's parent or guardian:

1. Officials of schools, school systems, career centers, or public postsecondary educational institutions in which the student seeks or intends to enroll; and a copy of such records or reports shall be furnished to the parent or student upon request.
2. Other school officials, including teachers within the educational institution or agency, who have a legitimate educational interest in the information contained in the records.
3. The United States Secretary of Education, the Director of the National Institute of Education, the Assistant Secretary for Education, the Comptroller General of the United States, or State or local educational authorities who are authorized to receive such information subject to the conditions set forth in applicable Federal statutes and regulations of the United States Department of Education, or in applicable State statutes and rules of the State Board of Education.

The disclosed records must be used to audit or evaluate a federal or state supported education program, or to enforce or comply with federal requirements related to those education programs. A written agreement between the parties is required under this exception. (See Form 8330 F16)

This written agreement must include:

- a. designation of the receiving individual or entity as an authorized representative;
- b. specification of the information to be disclosed;
- c. specification that the purpose of the disclosure is to carry out an audit or evaluation of a government-supported educational program or to enforce or comply with the program's legal requirements;
- d. a summary of the activity that includes a description of methodology and an explanation of why personally identifiable information is necessary to accomplish the activity;

- e. a statement requiring the organization to destroy all personally identifiable information when it is no longer needed to carry out the audit or evaluation, along with a specific time period in which the information must be destroyed; and
- f. a statement of policies and procedures that will protect personally identifiable information from further disclosure or unauthorized use.

Under the audit exception, the District will use "reasonable methods" to verify that the authorized representative complies with FERPA regulations. Specifically, the District will verify, to the greatest extent practical, that the personally identifiable information is used only for the audit, evaluation or enforcement of a government-supported educational program. The District will also ascertain the legitimacy of the audit or evaluation and will only disclose the specific records that the authorized representative needs. Further, the District will require the authorized representative to use the records only for the specified purpose and not to disclose the information any further, such as for another audit or evaluation. Finally, the District will verify that the information is destroyed when no longer needed for the audit, evaluation or compliance activity.

- 4. Appropriate parties in connection with a student's application for or receipt of financial aid, if necessary to determine the eligibility for the aid; determine the amount of the aid; determine the conditions for the aid; and/or enforce the terms and conditions of the aid.
- 5. Individuals or organizations conducting studies for or on behalf of an institution or a board of education for the purpose of developing, validating, or administering predictive tests, administering student aid programs, or improving instruction, if the studies are conducted in a manner that does not permit the personal identification of students and their parents by persons other than representatives of such organizations and if the information will be destroyed when no longer needed for the purpose of conducting such studies.

In order to release information under this provision, the District will enter into a written agreement with the recipient organization that specifies the purpose of the study. (See [Form 8330 F14.](#))

This written agreement must include: (1) specification of the purpose, scope, duration of the study, and the information to be disclosed; (2) a statement requiring the organization to use the personally identifiable information only to meet the purpose of the study; (3) a statement requiring the organization to prohibit personal identification of parents and students by anyone other than a representative of the organization with legitimate interests; and (4) a requirement that the organization destroy all personally identifiable information when it is no longer needed for the study, along with a specific time period in which the information must be destroyed.

While the disclosure of personally identifiable information without consent is allowed under this exception, it is recommended that whenever possible the administration either release de-identified information or remove the students' names and social security identification numbers to reduce the risk of unauthorized disclosure of personally identifiable information.

- 6. Accrediting organizations, in order to carry out their accrediting functions.
- 7. School Readiness Programs as provided in State law in order to carry out their assigned duties.
- 8. For use as evidence in student expulsion hearings conducted by a district school board under F.S. Chapter 120; however, public records of expulsion hearings shall not contain any personally identifiable information.

9. Appropriate parties in connection with an emergency, if knowledge of the information in the student's educational records is necessary to protect the health or safety of the student or other individuals.
10. The Auditor General and the Office of Program Policy Analysis and Government Accountability in connection with their official functions; however, except when the collection of personally identifiable information is specifically authorized by law, any data collected by the Auditor General and the Office of Program Policy Analysis and Government Accountability is confidential and exempt from F.S. 119.07 (1) and shall be protected in a way that does not permit the personal identification of students and their parents by other than the Auditor General, the Office of Program Policy Analysis and Government Accountability, and their staff, and the personally identifiable data shall be destroyed when no longer needed for the Auditor General's and the Office of Program Policy Analysis and Government Accountability's official use.
11. A court of competent jurisdiction in compliance with an order of that court or the attorney of record in accordance with a lawfully issued subpoena, upon the condition that the student and the student's parent are notified of the order or subpoena in advance of compliance therewith by the educational institution or agency.

Student records may be disclosed pursuant to a lawfully issued subpoena, upon the condition that the student, or his/her parent if the student is either a minor and not attending a postsecondary educational institution or a dependent of such parent as defined in 26 U.S.C. 152 (section 152 of the Internal Revenue Code of 1954), is notified of the order or subpoena in advance of compliance therewith by the educational institution or agency.

12. Credit bureaus, in connection with an agreement for financial aid that the student has executed, if the information is disclosed only to the extent necessary to enforce the terms or conditions of the financial aid agreement. Credit bureaus shall not release any information obtained under this paragraph to any person.
13. Parties to an interagency agreement among the Department of Juvenile Justice, school and law enforcement authorities, and other signatory agencies for the purpose of reducing juvenile crime and especially motor vehicle theft by promoting cooperation and collaboration, and the sharing of appropriate information in a joint effort to improve school safety, to reduce truancy and in-school and out-of-school suspensions, and to support alternatives to in-school and out-of-school suspensions and expulsions that provide structured and well-supervised educational programs supplemented by a coordinated overlay of other appropriate services designed to correct behaviors that lead to truancy, suspensions, and expulsions, and that support students in successfully completing their education. Information provided in furtherance of such interagency agreements is intended solely for use in determining the appropriate programs and services for each juvenile or the juvenile's family, or for coordinating the delivery of such programs and services, and as such is inadmissible in any court proceedings prior to a dispositional hearing unless written consent is provided by a parent or other responsible adult on behalf of the juvenile.
14. Consistent with the Family Educational Rights and Privacy Act, the Department of Children and Families or a community-based care lead agency acting on behalf of the Department of Children and Families, as appropriate.
15. Parents of a dependent student as defined by the Internal Revenue Service Tax Code of 1986 and in this policy.
16. If the District initiates legal action (a lawsuit) against a parent, or if the parent initiates legal action against the District. In such circumstances, the District may disclose to the court,



without a court order or subpoena, the education records of the student that are relevant for the District to proceed with legal action as the plaintiff or to defend itself.

17. If the release is to the Attorney General of the United States or to his/her designee in response to an ex parte order in connection with the investigation or prosecution of terrorism crimes specific in Sections 2331 and 2332 of Title 18, U.S. Code.

Under this exception, school officials are not required to record (i.e., on an access log) the disclosure of information from a student's education record when the school makes pursuant to an ex parte order.

Further, an educational institution that, in good faith, produces information from education records in compliance with an ex parte order shall not be liable to any person for that disclosure.

18. If the release is in conjunction with reporting a crime committed by a child to appropriate authorities, and, with respect to reporting a crime committed by a student with a disability, copies of the student's special education and disciplinary records may be transmitted to the authorities for their consideration.

19. If the release is otherwise permitted under Federal law.

#### C. Record of Disclosures

Record of any requests or disclosures of personally identifiable student information shall be maintained except for disclosures to the parent, guardian, or eligible student; disclosure of directory information; or to any other school officials with a legitimate educational interest. The record of requests for disclosure shall include the following: the parties who have requested or obtained personally identifiable student information, the legitimate interests of the persons requesting or obtaining the information, and date parental/eligible student consent was obtained.

With regard to such disclosures, a "school official" is determined to be any employee of the School Board of Brevard County, Florida, with direct responsibility for providing services to students. A "legitimate educational interest" is determined to mean responsibility for providing direct educational services to students which will include teaching, counseling, psychological services, or other services to students which require access to personally identifiable information and/or those specified in the law.

#### D. Disclosures - Health or Safety Emergencies

Disclosure of personally identifiable student information may be made by school officials in the event of a health or safety emergency. Such emergency situations shall be declared in writing to the Superintendent by a recognized legal official with authority to declare such emergency. The declaration of a health or safety emergency shall include the need for specific personally identifiable student information, the time requirements for the information, and the parties to whom the information is disclosed who are responsible for utilizing the information to deal with the emergency.

### **Directory information**

The District shall make available, upon request, certain information known as "directory information" without prior permission of the parents or the eligible student. Directory information means information contained in an education record of a student that would not generally be considered harmful or an

invasion of privacy if disclosed. A student's parent(s) or an adult student, however, may notify the Board that directory information concerning the student shall not be released ("opt out"). Such notification shall be in writing and filed annually with the principal of the school and with the District office. The Board designates as student "directory information":

- A. student's name;
- B. photograph;
- C. address;
- D. telephone number, if it is a listed number;
- E. participation in officially-recognized activities and sports;
- F. height and weight, if a member of an athletic team;
- G. dates of attendance;
- H. grade level; enrollment status;
- I. date of graduation or program completion;
- J. awards received; and
- K. most recent educational agency or institution attended.

An annual written notice shall be given to inform parents, guardians, and eligible students of their rights of access, waiver of access, challenge and hearing, privacy, categories of personally identifiable student information designated as directory information data, and the location and availability of the District's policy on education records of students. Alternate methods of notice shall be made for parents, guardians, or eligible students unable to comprehend a written notice in English. Parents or eligible students may, by providing a written statement to the principal within two (2) weeks of the first day of the school year or entry into the school system request that all specific portions of directory information for that specific student not be released.

Directory information shall not be provided to any organization for profit-making purposes, unless the request is approved, in a nondiscriminatory manner, by the Superintendent.

In accordance with Federal law, the District shall release the names and addresses of students in grades ten through twelve (10-12) to a recruiting officer for any branch of the United States Armed Forces or an institution of higher education who requests such information. Such data shall not be released if the eligible student or student's parents submit a written request not to release such information. The recruiting officer is to sign a form indicating that "any information received by the recruiting officer shall be used solely for the purpose of informing students about military service and shall not be released to any person other than individuals within the recruiting services of the Armed Forces". The Superintendent is authorized to charge mailing fees for providing this information to a recruiting officer. A secondary school student or parent of the student may request that the student's name, address, and telephone listing not be released without parental consent.

Whenever parental consent is required for the inspection and/or release of a student's health or educational records or for the release of "directory information", either parent may provide such consent unless agreed to otherwise in writing by both parents or specifically stated by court order. If the student is under the guardianship of an institution, the Superintendent shall appoint a person who has no conflicting interest to provide such written consent.

The District may disclose "directory information" on former students without student or parental consent.

### **Transfer of Student Records**

When a student, previously enrolled in a Brevard County school transfers out of the Brevard County School District to another school, public or private, within this state or out of state, the principal, or designee, upon written request of the principal, or designee, of the receiving school, the parent, guardian, or eligible student, shall, within three (3) school days, transfer a copy of the student's cumulative record containing Category A and B information to the requesting school. Pursuant to Federal law, disciplinary records with respect to suspension and expulsion shall be considered "other records of educational importance" and, as a Category B record, shall be transferred to the requesting school. The Board authorizes the administration to forward all Category A and B student records, including disciplinary records with respect to any current suspension and expulsion, upon request to a school or school district in which a student of this District is enrolled, seeks or intends to enroll, or is instructed to enroll, on a full-time or part-time basis, upon condition that the student's parents be notified of the transfer, receive a copy of the record if desired, and have an opportunity for a hearing to challenge the content of the record. The school shall retain a copy of the Category A information in its files. A copy of the Category B (Exceptional Student Education Audit File) records will also be retained. Category B health and testing information shall be retained if it is related to a weighted or categorical program placement which is subject to audit. The files which are retained will be held by the principal who is custodian of the records for the period of time specified in the Student Records Manual. Category A student records and Category B (Exceptional Student Education Audit File) beyond the specified time after the student leaves the District will be forwarded to Records Management. When a request comes to the school for student records after the files have been sent to Records Management, the written request should be forwarded to Records Management. Based upon reasonable requests, viewers of educational records will receive explanation and interpretation of the records. Records Management will make copies of the student's files at the current District copy rate, which shall not exceed the maximum rate for copies of public records as set forth in F.S. Chapter 119.

If applicable, the records to be transferred shall also include:

- A. verified reports of serious or recurrent behavior patterns, including threat assessment evaluations and intervention services; and
- B. psychological evaluations, including therapeutic treatment plans and therapy or progress notes created or maintained by School District or charter school staff, as appropriate.

The records shall be transferred within three (3) school days of receipt of a written request from the principal of the receiving school, the parent, guardian, or eligible student.

While all reasonable efforts shall be made to collect for damaged or lost library books or textbooks, under no conditions shall the transfer of a student's cumulative record be delayed or denied for failure to pay any fine or fee assessed by the school. Progress reports to parents (report cards) may not be withheld for failure to pay any fine, fee, or an assessment for lost or damaged books.

The Superintendent shall prepare administrative procedures to ensure that students and parents are adequately informed each year regarding their rights to:

- A. inspect and review the student's educational records;
- B. request amendments if the parent believes the record is inaccurate, misleading, or otherwise in violation of the student's privacy rights;
- C. consent to disclosures of personally-identifiable information contained in the student's educational records, except to those disclosures allowed by the law;

- D. challenge District noncompliance with a parent's request to amend the records through a hearing;
- E. file a complaint with the Department of Education;
- F. obtain a copy of the District's policy and administrative procedures on student records.

The Superintendent shall also develop, and update as needed, procedures for:

- A. the proper storage and retention of records including a list of the type and location of record;
- B. informing District employees of the Federal and State laws concerning student records.

The District is authorized to use the microfilm process or electromagnetic processes of reproduction for the recording, filing, maintaining, and preserving of records.

No liability shall attach to any member, officer, or employee of this District specifically as a consequence of permitting access or furnishing student records in accordance with this policy and procedures.

Any entity receiving personally identifiable information pursuant to a study, audit, evaluation or enforcement/compliance activity must comply with all FERPA regulations. Further, such an entity must enter into a written contract with the Board of Education delineating its responsibilities in safeguarding the disclosed information. Specifically, the entity must demonstrate the existence of a sound data security plan or data stewardship program, and must also provide assurances that the personally identifiable information will not be re-disclosed without prior authorization from the Board. Further, the entity conducting the study, audit, evaluation or enforcement/compliance activity is required to destroy the disclosed information once it is no longer needed or when the timeframe for the activity has ended, as specified in its written agreement with the Board of Education. See Form 8330 F14 and Form 8330 F16 for additional contract requirements.

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Legal

F.S. 1001.41, 1001.52, 1002.22, 1002.221, 1003.25  
F.A.C. 6A-1.0955  
20 U.S.C. Section 1232f through 1232i (FERPA)  
20 U.S.C. 7908  
26 U.S.C. 152  
20 U.S.C. 1400 et seq., Individuals with Disabilities Act  
Privacy Rights of Parents and Students - P.L. 90-247  
No Child Left Behind Act of 2001 – P.L. 107-110