

**REVISED POLICY - VOL. 9, NO. 1**

STUDENT RECORDS

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

Student "personally identifiable information" includes, but is not limited to: the student's name; the name of the student's parent or other family members; the address of the student or student's family; a personal identifier, such as the student's social security number, student number, or biometric record; other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name; other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or information requested by a person who the **County District** reasonably believes knows the identity of the student to whom the education record relates.

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

In all cases, permitted, narrative information in student records shall be objectively-based on the personal observation or knowledge of the originator.

Student records shall be available only to students and their parents, eligible students, designated school officials, who have a legitimate educational interest in the information, 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 a student who is eighteen (18) years of age or older or a student of any age who is enrolled in a postsecondary institution.~~

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Both parents shall have equal access to student records unless stipulated otherwise by court order or law. In the case of eligible students, parents may be allowed access to the records without the student's consent, provided the student is considered a dependent under Section 152 of the Internal Revenue Code.

A school official is a person employed by the Board as an administrator, supervisor, teacher/instructor (including substitutes), or support staff member (including health or medical staff and law enforcement unit personnel); and a person serving on the Board. The Board further designates the following individuals and entities as "school officials" for the ~~purposes~~ **purpose** of FERPA:

- A. persons or companies with whom the Board has contracted to perform a specific task (such as an attorney, auditor, insurance representative, or medical consultant), and
- B. contractors, consultants, volunteers or other parties to whom the Board has outsourced a service or function otherwise performed by the Board employees (e.g. a therapist, authorized information technology (IT) staff, and approved online educational service providers).

The above-identified outside parties must 1) perform institutional services or functions for which the Board would otherwise use its employees, 2) be under the direct control of the Board with respect to the use and maintenance of education records, and 3) be subject to the requirements of 34 C.F.R. 99.33(a) governing the use and re-disclosure of PII from education records.

Finally, a parent or student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his/her tasks (including volunteers) is also considered a "school official" for purposes of FERPA provided s/he meets the above-referenced criteria applicable to other outside parties.

"Legitimate educational interest" ~~shall be~~ is defined as a "direct or delegated responsibility for helping the student achieve one (1) or more of the educational goals of the ~~County~~ District" or if the record is necessary in order for the school official to perform an administrative, supervisory, or instructional task or to perform a service or benefit for the student or the student's family. **The Board directs that reasonable and appropriate methods (including but not limited to physical and/or technological access controls) are utilized to control access to student records and to make certain that school officials obtain access to only those education records in which they have legitimate educational interest.**

The Board authorizes the administration to:

- A. forward student records, including disciplinary records with respect to suspensions and expulsions upon request to a public or private school or ~~school-county~~ district in which a student of this ~~County~~ District is enrolled seeks or intends to enroll, or is instructed to enroll, on a full-time or part-time basis, upon condition that:
  1. a reasonable attempt is made to notify the student's parent or eligible student of the transfer (unless the disclosure is initiated by the parent or eligible student; or the Board's annual notification - Form 8330 F9 - includes a notice that the Board will forward education records to other agencies or institutions that have requested the records and in which the student seeks or intends to enroll or is already enrolled so long as the disclosure is for purposes related to the student's enrollment or transfer);
  2. the parent or eligible student, upon request, receives a copy of the record; and
  3. the parent or eligible student, upon request, has an opportunity for a hearing to challenge the content of the record;
- B. provide "personally-identifiable" information to appropriate parties, including parents of an eligible student, whose knowledge of the information is necessary to protect the health or safety of the student or other individuals, if there is an articulable and significant threat to the health or safety of a student or other individuals, considering the totality of the circumstances;

- C. report a crime committed by a child to appropriate authorities, and, with respect to reporting a crime committed by a student with a disability, to transmit copies of the student's special education and disciplinary records to the authorities for their consideration;
- D. release de-identified records and information in accordance with Federal regulations;
- E. disclose personally identifiable information from education records, without consent, to organizations conducting studies "for, or on behalf of" the ~~County~~**District** for purposes of developing, validating or administering predictive tests, administering student aid programs, or improving instruction;

Information disclosed under this exception must be protected so that students and parents cannot be personally identified by anyone other than representative of the organization conducting the study, and must be destroyed when no longer needed for the study. In order to release information under this provision, the ~~County~~**District** will enter into a written agreement with the recipient organization that specifies the purpose of the study. (See Form 8330 F14) Further, the following personally identifiable information will not be disclosed to any entity: a student's or his/her family member's social security number(s); religion, political party affiliation; voting history; or biometric information.

**~~County's~~ Districts without AGs should include the following paragraph** This ~~writing~~**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 (other than social security numbers, religion, political party affiliation, voting record, or biometric information) is allowed under this exception, it is recommended that de-identified information be used whenever possible. This reduces the risk of unauthorized disclosure.

- F. disclose personally identifiable information from education records without consent, to authorized representatives of the Comptroller General, the Attorney General, and the Secretary of Education, as well as State and local educational authorities;

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)

**[Option A – the following sentence should be selected by County's Districts with AGs]** The District will verify that the authorized representative complies with FERPA regulations.

~~**[Option B – the following two (2) paragraph should be selected by County's Districts without AGs]** This written agreement must include: 1) designation of the receiving 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 for the study, 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 **County District** will use "reasonable methods" to verify that the authorized representative complies with FERPA regulations. Specifically, the **County 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 **County 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 **County 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 **County District** will verify that the information is destroyed when no longer needed for the audit, evaluation or compliance activity.

- G. request each person or party requesting access to a student's record to abide by Federal regulations and State laws concerning the disclosure of information.

In addition to the responsibilities above noted, each principal of a school at which a student is enrolled which student has had imposed a suspension or expulsion pursuant to 18A-5-1a, Code of West Virginia, shall record such suspension or expulsion in the West Virginia Education Information System by creating an electronic record within twenty-four (24) hours of the imposition of the same. Each record of such suspension or expulsion shall include the student's name and identification number, the reason for the suspension or expulsion, and the beginning and ending dates of the suspension or expulsion.

The Board will comply with a legitimate request for access to a student's records within a reasonable period of time but not more than forty-five (45) days after receiving the request or within such shorter period as may be applicable to students with disabilities. Upon the request of the viewer, a record shall be reproduced, unless said record is copyrighted, or otherwise restricted, and the viewer may be charged a fee equivalent to the cost of handling and reproduction. Based upon reasonable requests, viewers of education records will receive explanation and interpretation of the records.

The Board shall maintain a record of ~~those persons to whom each request for access and each disclosure of personally identifiable~~ information about a student has been disclosed. Such disclosure records will indicate the student, person viewing the record, **their legitimate interest in the information**, information disclosed, date of disclosure, and date parental/eligible student consent was obtained (if required).

Only "directory information" regarding a student shall be released to any person or party, other than the student or his/her parent, without the written consent of the parent; or, if the student is an eligible student, **without** the written consent of the student, except those persons or parties stipulated by the Board's policy and administrative guidelines and/or those specified in the law.

#### **DIRECTORY INFORMATION**

Each year the Superintendent shall provide public notice to students and their parents of the ~~County~~**District's** intent to make available, upon request, certain information known as "directory information." The Board ~~may designate~~ **designates** as student "directory information": a student's name; address; telephone ~~number~~**listing**; **photograph**; date and place of birth; major field of study; participation in officially-recognized activities and sports; height and weight ~~of members of athletic teams~~**if a member of an athletic team**; dates of attendance; ~~indication of "graduate" or "non-graduate"; degrees~~ **date of graduation** and awards received.; ~~most recent previous school attended and photograph, or~~

- (+) ~~scholarships;~~
- (+) ~~telephone numbers only for inclusion in school or PTO directories;~~
- (+) ~~photographs/videos;~~
- (+) ~~e-mail address;~~
- (+) ~~exemplary student work.~~

[The following option should be selected if the Board assigns school e-mail accounts to students per Policy 7540.03. \*This option is provided to address potential confidentiality issues presented by Policy 7540.03 and is supported by Federal FERPA regulations 34 C.F.R. 99.37(d).]

[ ] The Board designates school-assigned e-mail accounts as “directory information” for the limited purpose of facilitating students’ registration for access to various online educational services, including mobile applications/apps that will be utilized by the student for educational purposes ( ) and for inclusion in internal e-mail address books.

School-assigned e-mail accounts shall not be released as directory information beyond this/these limited purpose(s) and to any person or entity but the specific online educational service provider ( ) and internal users of the District’s Education Technology.

Directory information shall not be provided to any organization for profit-making purposes.

Parents and eligible students may refuse to allow the Board to disclose any or all of such "directory information" upon written notification to the Board within 30 days after receipt of the Superintendent's annual public notice.

In accordance with Federal and State law, the Board shall release the names, addresses, and telephone listings of secondary students to a recruiting officer for any branch of the United States Armed Forces or an institution of higher education who requests such information. ~~An eligible~~ A secondary school student, as defined in West Virginia State Board of Education policy 4350, or parent of the student may request **in writing** that the student's name, address, and telephone listing not be released without prior ~~written consent by the parent or eligible student~~ **consent of the parent(s)/eligible student**. 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".~~ **Forces.**" The Superintendent is authorized to charge mailing fees for providing this information to a recruiting officer.



Whenever consent of the parent(s)/eligible student is required for the inspection and/or release of a student's health or education 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. ~~Any person or institution standing in loco parentis for the student may provide such written consent, at their discretion. An eligible student may provide such written consent at his/her discretion.~~ **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 Board may disclose "directory information" on former students without student or parental consent, unless the parent or eligible student previously submitted a request that such information not be disclosed without their prior written consent.

The Board shall not permit the collection, disclosure, or use of personal information collected from students for the purpose of marketing or for selling that information (or otherwise providing that information to others for that purpose).

#### **INSPECTION OF INFORMATION COLLECTION INSTRUMENT**

The parent of a student or an eligible student has the right to inspect upon request any instrument used in the collection of personal information before the instrument is administered or distributed to a student. Personal information for this section is defined as individually identifiable information including a student or parent's first and last name, a home or other physical address (including street name and the name of the city or town), a telephone number, or a Social Security identification number. In order to review the instrument, the parent or eligible student must submit a written request to the building principal at least **5** ~~work-business~~ days before the scheduled date of the activity. The instrument will be provided to the parent or eligible student within **5** business days of the principal receiving the request.

The Superintendent shall directly notify the parent(s) of a student and eligible students, at least annually at the beginning of the school year, of the specific or approximate dates during the school year when such activities are scheduled or expected to be scheduled.

This section does not apply to the collection, disclosure, or use of personal information collected from students for the exclusive purpose of developing, evaluating, or providing educational products or services for, or to, students or educational institutions, such as the following:

- A. college or other postsecondary education recruitment, or military recruitment
- B. book clubs, magazine, and programs providing access to low-cost literary products
- C. curriculum and instructional materials used by elementary and secondary schools
- D. tests and assessments used by elementary and secondary schools to provide cognitive, evaluative, diagnostic, clinical, aptitude, or achievement information about students (or to generate other statistically useful data for the purpose of securing such tests and assessments) and the subsequent analysis and public release of the aggregate data from such tests and assessments
- E. the sale by students of products or services to raise funds for school-related or education-related activities
- F. student recognition programs

The Superintendent ~~shall~~ **is directed to** prepare administrative guidelines ~~to ensure~~ **so** that students and parents are adequately informed each year regarding their rights to:

- A. inspect and review the student's education records;
- B. request amendments if the parent believes the record is inaccurate, misleading, or ~~violate~~ **violates** the student's privacy rights;
- C. consent to disclosures of personally-identifiable information contained in the student's education records, except to those disclosures allowed by the law;
- D. challenge Board noncompliance with a parent's request to amend the records through a hearing;

- E. file a complaint with the United States Department of Education;
- F. obtain a copy of the Board's policy and administrative guidelines on student records.

The Superintendent shall also develop procedural guidelines for:

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

The Board authorizes the use of 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 Board as a consequence of permitting access or furnishing student records in accordance with this policy and regulations.

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.

18A-5-1a (1) and 2, Code of West Virginia  
34 C.F.R. Part 99  
20 U.S.C., Section 1232f through 1232i (FERPA)  
26 U.S.C. 152  
20 U.S.C. 1400 et seq., Individuals with Disabilities Education Improvement Act  
20 U.S.C. 7165(b)  
20 U.S.C. 7908