

Marion County Board of Education

Monitoring:

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in May**

STUDENT RECORDS POLICY

6.600

04/21/15

Rescinds:

Issued:

6.600

04/24/01

Purpose

The purpose of this policy is to effectuate the provisions of the Family Educational Rights and Privacy Act (FERPA) at 20 U.S.C. §1232g and 34 C.F.R. §99.1, et seq., T.C.A. §§10-7-504 and 49-1-701, et seq., to afford parents, guardians, and students who are eighteen (18) years of age or older certain rights with respect to the student's education records maintained by the Marion County Department of Education hereinafter referred to as (LEA) and the Tennessee Department of Education (TDOE).

Here is a link to the FERPA regulations cited in this document: <http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&sid=11975031b82001bed902b3e73f33e604&rqn=div5&view=text&node=34:1.1.1.1.33&idno=34>

The Tennessee Code may be accessed at: <http://www.lexisnexis.com/hottopics/tncode/>

DEFINITIONS

Education Records

The term education records means records, files, documents and other materials which:

1. Contain information directly related to a student, including: state and national assessment results, including information on untested public school students; course taking and completion, credits earned and other transcript information; course grades and grade point average; date of birth, grade level and expected graduation date or graduation cohort; degree, diploma, credential attainment and other school exit information such as receipt of the GED® and drop-out data; attendance and mobility; data required to calculate the federal four-year adjusted cohort graduation rate, including sufficient exit and drop-out information; discipline reports limited to objective information sufficient to produce the federal Title IV annual incident report; remediation; special education data; demographic data and program participation information; and
2. Are maintained by LEA or a person acting for LEA.

Personally Identifiable Information (PII)

Personally identifiable information (PII) includes, but is not limited to:

1. Student's name;
2. Name of student's parent or other family member;
3. Address of student or student's family;

4. A personal identifier, such as student's social security number, student number, or biometric record;
5. Other indirect identifiers, such as student's date of birth, place of birth, and mother's maiden name;
6. 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
7. Information requested by a person who the LEA reasonably believes knows the identity of the student to whom the education record relates.

Directory Information

The term directory information relating to a student includes, but is not limited to:

1. Name;
2. Physical and electronic mail address;
3. Telephone listing;
4. Date and place of birth;
5. Major field of study;
6. Participation in officially recognized activities and sports;
7. Weight and height of members of athletic teams;
8. Dates of attendance;
9. Degrees and awards received; and
10. The most recent previous LEA or institution attended by the student.

LEA RESPONSIBILITIES

LEA shall:

1. Annually notify parents and guardians of their rights to request student information;
2. Annually notify parents and guardians of its definition of personally identifiable information;
3. Annually notify parents and guardians of its definition of directory information;
4. Adopt procedures to ensure security when providing student records to parents or guardians;
5. Adopt procedures to ensure student records and data are provided only to authorized individuals; and

6. Provide student records and data within forty-five (45) calendar days of a request.

LEA shall not collect individual student data on a student's:

1. Political affiliation;
2. Religion;
3. Voting history;
4. Firearms ownership.

LEA shall not collect individual student data on a student's biometrics, analysis of facial expression, EEG brain wave patterns, skin conductance, galvanic skin response, heart rate variability, pulse, blood volume, posture, and eye-tracking, without written consent of the parent or student.

NOTICE FOR DIRECTORY INFORMATION

LEA must, with certain exceptions, obtain a parent's written consent prior to the disclosure of personally identifiable information from a student's education records. However, an LEA may disclose appropriately designated "directory information" without written consent, unless a parent has advised the LEA to the contrary in writing. The primary purpose of directory information is to allow the LEA to include this type of information in certain school publications. Examples include, but are not limited to:

1. A playbill, showing your student's role in a drama production;
2. The annual yearbook;
3. Honor roll or other recognition lists;
4. Graduation programs; and
5. Sports activity sheets, such as for football, basketball or wrestling, showing weight and height of team members.

Directory information, which is information that is generally not considered harmful or an invasion of privacy if released, can also be disclosed to outside organizations without a parent's prior written consent. Outside organizations include, but are not limited to, companies that manufacture class rings or publish yearbooks. In addition, two federal laws require LEA, because it receives assistance receiving assistance under the *Elementary and Secondary Education Act of 1965* (ESEA), to provide military recruiters, upon request, with the following information – names, addresses and telephone listings – unless parents have advised LEA that they do not want their student's information disclosed without their prior written consent.

Annually, LEA must notify parents and students of information it will release as directory information, and of the parents' right to exercise his/her right to advise LEA in writing that consent for release of such information is denied.

NOTICE OF PARENTAL RIGHTS CONCERNING EDUCATION RECORDS

The following notice of parental rights concerning education records shall be sent to all parents annually:

Parents' rights include:

1. The right to inspect and review the student's education records within forty-five (45) calendar days after the day LEA receives a request for access. Parents or students should submit to the school principal or designated LEA official a written request that identifies the records they wish to inspect. The principal or LEA official will make arrangements for access and notify the parent or student of the time and place where the records may be inspected.
2. The right to request amendment of the student's education records that the parent or student believes are inaccurate, misleading, or otherwise in violation of the student's privacy rights under FERPA and/or T.C.A. §49-1-701, et seq. Parents or students who wish to ask an LEA to amend a record should write the school principal or designated LEA official, clearly identify the part of the record they want changed, and specify why it should be changed. If the LEA decides not to amend the record as requested by the parent or student, the LEA will notify the parent or student of the decision and of their right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the parent or student when notified of the right to a hearing.
3. The right to provide written consent before the LEA discloses personally identifiable information (PII) from the student's education records, except to the extent that FERPA and T.C.A. §49-1-701, et seq., authorize disclosure without consent. One exception, which permits disclosure without consent, is disclosure to LEA officials with legitimate educational interests. An LEA official is a person employed by the LEA as an administrator, supervisor, instructor, or support staff member. An LEA official also may include a contractor outside of the LEA who performs an institutional service or function for which the LEA would otherwise use its own employees and who is under the direct control of the LEA with respect to the use and maintenance of PII from education records, such as: an attorney, auditor, medical consultant, or therapist; or other contractor or volunteer assisting another LEA official in performing his or her tasks. An LEA official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility. Upon request, the LEA discloses education records without consent to officials of another public school district in which a student seeks or intends to enroll, or is already enrolled if the disclosure is for purposes of the student's enrollment or transfer.
4. The right to file a complaint with the U.S. Department of Education concerning alleged failures by the LEA to comply with the requirements of FERPA. The name and address of the Office that administers FERPA are:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202
<http://familypolicy.ed.gov/>

RESTRICTIONS ON DISCLOSURE OF EDUCATION RECORDS

FERPA permits the disclosure of PII from students' education records, without consent of the parent or student, if the disclosure meets certain conditions found in §99.31 of the FERPA regulations and T.C.A. §49-1-701, et seq. Except for disclosures to LEA officials, disclosures related to some judicial orders or lawfully issued

subpoenas, disclosures of directory information, and disclosures to the parent or student, 34 C.F.R. §99.32 of the FERPA regulations requires LEA to record the disclosure. Parents and students have a right to inspect and review the record of disclosures.

Pursuant to 34 C.F.R. §99.31, LEA may disclose PII from the education records of a student without obtaining prior written consent of the parents or the student under the following circumstances:

- A. To other LEA officials, including teachers, within the LEA whom LEA has determined to have legitimate educational interests. This includes contractors, consultants, or other parties to whom the school has outsourced institutional services or functions, provided that the conditions listed in 34 C.F.R. §99.31(a)(1)(i)(B)(1) - (a)(1)(i)(B)(2) are met.
- B. To officials of another school district or institution of postsecondary education where the student seeks or intends to enroll, or where the student is already enrolled if the disclosure is for purposes related to the student's enrollment or transfer, subject to the requirements of §99.34.
- C. To authorized representatives of the U. S. Comptroller General, the U. S. Attorney General, the U.S. Secretary of Education, or State and local educational authorities, such as the State department of education. Disclosures under this provision may be made, subject to the requirements of 34 C.F.R. §99.35, in connection with an audit or evaluation of Federal- or State-supported education programs, or for the enforcement of or compliance with Federal legal requirements that relate to those programs. These entities may make further disclosures of PII to outside entities that are designated by them as their authorized representatives to conduct any audit, evaluation, or enforcement or compliance activity on their behalf.
- D. In connection with financial aid for which the student has applied or which the student has received, if the information is necessary to determine eligibility for the aid, determine the amount of the aid, determine the conditions of the aid, or enforce the terms and conditions of the aid.
- E. To State and local officials or authorities to whom information is specifically allowed to be reported or disclosed by a State statute that concerns the juvenile justice system and the system's ability to effectively serve, prior to adjudication, the student whose records were released, subject to 34 C.F.R. §99.38.
- F. To organizations conducting studies for, or on behalf of, the school, in order to: (a) develop, validate, or administer predictive tests; (b) administer student aid programs; or (c) improve instruction.
- G. To accrediting organizations to carry out their accrediting functions.
- H. To parents of a student if the student is a dependent for IRS tax purposes.
- I. To comply with a judicial order or lawfully issued subpoena.
- J. To appropriate officials in connection with a health or safety emergency, subject to 34 C.F.R. §99.36.
- K. Information LEA has designated as "directory information" under 34 C.F.R. §99.37.