

**FAMILY AND MEDICAL LEAVE POLICY**

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*[Note: School districts are required by statute to have a policy addressing these issues.]*

**I. PURPOSE**

The purpose of this policy is to provide for family and medical leave to school district employees in accordance with the Family and Medical Leave Act of 1993 (FMLA). ~~and also with parenting leave under state law.~~

**II. GENERAL STATEMENT OF POLICY**

The following procedures and policies regarding family and medical leave are adopted by the school district, pursuant to the requirements of the FMLA. ~~and consistent with the requirements of the Minnesota parenting leave laws.~~

**III. DEFINITIONS**

A. “Covered active duty” means:

1. in the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; and
2. in the case of a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty under a provision of law referred to in 10 United States Code section 101(a)(13)(B).

B. “Covered servicemember” means:

1. a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or
2. a covered veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves, and was discharged or released under conditions other than dishonorable, at any time during the period of five years preceding the first date the eligible employee takes FMLA leave to care for the covered veteran.

C. “Eligible employee” means an employee who has been employed by the school district for a total of at least 12 months and who has been employed for at least 1,250 hours of service during the 12-month period immediately preceding the commencement of the leave. An employee returning from fulfilling his or her Uniformed Services Employment and Reemployment Rights Act (USERRA)-

covered service obligation shall be credited with the hours of service that would have been performed but for the period of absence from work due to or necessitated by USERRA-covered service. In determining whether the employee met the hours of service requirement, and to determine the hours that would have been worked during the period of absence from work due to or necessitated by USERRA-covered service, the employee's pre-service work schedule can generally be used for calculations. While the 12 months of employment need not be consecutive, employment periods prior to a break in service of seven years or more may not be counted unless: (1) the break is occasioned by the employee's fulfillment of his or her USERRA-covered service obligation; or (2) a written agreement, including a collective bargaining agreement, exists concerning the school district's intention to rehire the employee after the break in service.

- D. "Military caregiver leave" means leave taken to care for a covered servicemember with a serious injury or illness.
  
- E. "Next of kin of a covered servicemember" means the nearest blood relative other than the covered servicemember's spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the covered servicemember by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicemember has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA. When no such designation is made and there are multiple family members with the same level of relationship to the covered servicemember, all such family members shall be considered the covered servicemember's next of kin, and the employee may take FMLA leave to provide care to the covered servicemember, either consecutively or simultaneously. When such designation has been made, the designated individual shall be deemed to be the covered servicemember's only next of kin.
  
- F. "Outpatient status" means, with respect to a covered servicemember who is a current member of the Armed Forces, the status of a member of the Armed Forces assigned to:
  - 1. a military medical treatment facility as an outpatient; or
  - 2. a unit established for the purpose of providing command and control of members of the Armed Forces receiving care as outpatients.
  
- G. "Qualifying exigency" means a situation where the eligible employee seeks leave for one or more of the following reasons:
  - 1. to address any issues that arise from a short-notice deployment (seven calendar days or less) of a covered military member;
  - 2. to attend military events and related activities of a covered military member;

3. to address issues related to childcare and school activities of a covered military member's child;
  4. to address financial and legal arrangements for a covered military member;
  5. to attend counseling provided by someone other than a health care provider for oneself, a covered military member, or his/her child;
  6. to spend up to 15 calendar days with a covered military member who is on short-term, temporary rest and recuperation leave during a period of deployment;
  7. to attend post-deployment activities related to a covered military member;
  8. to address care needs of a covered military member's parent who is incapable of self-care; and
  9. to address other events related to a covered military member that both the employee and school district agree is a qualifying exigency.
- H. "Serious health condition" means an illness, injury, impairment, or physical or mental condition that involves:
1. inpatient care in a hospital, hospice, or residential medical care facility; or
  2. continuing treatment by a health care provider.
- I. "Spouse" means a husband or wife. For purposes of this definition, husband or wife refers to the other person with whom an individual entered into marriage as defined or recognized under state law for purposes of marriage in the state in which the marriage was entered into or, in the case of a marriage entered into outside of any state, if the marriage is valid in the place where entered into and could have been entered into in at least one state. This definition includes an individual in a same-sex or common law marriage that either: (1) was entered into in a state that recognizes such marriages; or (2) if entered into outside of any state, is valid in the place where entered into and could have been entered into in at least one state.
- J. "Veteran" has the meaning given in 38 United States Code section 101.

#### **IV. LEAVE ENTITLEMENT**

##### **A. Twelve-week Leave under Federal Law**

1. Eligible employees are entitled to a total of 12 work weeks of unpaid family or medical leave during the applicable 12-month period as defined

below, plus any additional leave as required by law. Leave may be taken for one or more of the following reasons in accordance with applicable law:

- a. birth of the employee's child and to care for such child;
  - b. placement of an adopted or foster child with the employee;
  - c. to care for the employee's spouse, son, daughter, or parent with a serious health condition;
  - d. the employee's serious health condition makes the employee unable to perform the functions of the employee's job; and/or
  - e. any qualifying exigency arising from the employee's spouse, son, daughter, or parent being on covered active duty, or notified of an impending call or order to covered active duty in the Armed Forces.
2. For the purposes of this policy, "year" is defined as a rolling 12-month period measured backward from the date an employee's leave is to commence.

***[Note: An employer is permitted to choose any one of the following methods for determining the 12-month period in which the 12 weeks of FMLA leave entitlement occurs: (a) the calendar year; (b) any fixed 12-month leave year, such as a fiscal year, a year required by State law, or a year starting on an employee's anniversary date; (c) the 12-month period measured forward from the date any employee's first FMLA leave; or (d) a "rolling" 12-month period measured backward from the date an employee uses any FMLA leave. It is recommended, however, that school districts use the 12-month rolling measurement as it prevents employees from stacking 12-week leave entitlement that could occur if, for example, a calendar or fiscal year is utilized. Where a calendar, fiscal or similar period is used, an employee could use 12 weeks at the end of the period and then again at the beginning of the period, providing an entitlement to a leave of 24 consecutive weeks. If a school district changes its definition of a "year" in this policy, it must give employees notice of at least 60 days before implementing this change.]***

3. An employee's entitlement to FMLA leave for the birth, adoption, or foster care of a child expires at the end of the 12-month period beginning on the date of the birth or placement.
4. A "serious health condition" typically requires either inpatient care or continuing treatment by or under the supervision of a health care provider, as defined by applicable law. Family and medical leave generally is not intended to cover short-term conditions for which treatment and recovery

are very brief.

5. A “serious injury or illness,” in the case of a member of the Armed Forces, including a member of the National Guard or Reserves, means:
- a. injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces or that existed before the beginning of the member’s active duty and was aggravated by service in the line of duty on active duty in the Armed Forces and that may render the member medically unfit to perform the duties of the member’s office, grade, rank, or rating; and
  - b. in the case of a covered veteran who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time, during the period of five years preceding the date on which the veteran undergoes the medical treatment, recuperation, or therapy, means a qualifying injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces or that existed before the beginning of the member’s active duty and was aggravated by service in the line of duty in the Armed Forces and that manifested itself before or after the member became a veteran, and is:
    - (1) a continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the servicemember unable to perform the duties of the servicemember’s office, grade, rank, or rating; or
    - (2) a physical or mental condition for which the covered veteran has received a U.S. Department of Veterans Affairs Service-Related Disability (VASRD) rating of 50 percent or greater and such VASRD rating is based, in whole or in part, on the condition precipitating the need for military caregiver leave; or
    - (3) a physical or mental condition that substantially impairs the covered veteran’s ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service, or would do so absent treatment; or
    - (4) an injury, including a psychological injury, on the basis of which the covered veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for Family

Caregivers.

6. Eligible spouses employed by the school district are limited to an aggregate of 12 weeks of leave during any 12-month period for the birth and care of a newborn child or adoption of a child, the placement of a child for foster care, or to care for a parent. This limitation for spouses employed by the school district does not apply to leave taken: by one spouse to care for the other spouse who is seriously ill; to care for a child with a serious health condition; because of the employee's own serious health condition; or pursuant to Paragraph IV.A.1.e. above.
7. Depending on the type of leave, intermittent or reduced schedule leave may be granted in the discretion of the school district or when medically necessary. However, part-time employees are only eligible for a pro-rata portion of leave to be used on an intermittent or reduced schedule basis, based on their average hours worked per week. Where an intermittent or reduced schedule leave is foreseeable based on planned medical treatment, the school district may transfer the employee temporarily to an available alternative position for which the employee is qualified and which better accommodates recurring periods of leave than does the employee's regular position, and which has equivalent pay and benefits.
8. If an employee requests a leave for the serious health condition of the employee or the employee's spouse, child, or parent, the employee will be required to submit sufficient medical certification. In such a case, the employee must submit the medical certification within 15 days from the date of the request or as soon as practicable under the circumstances.
9. If the school district has reason to doubt the validity of a health care provider's certification, it may require a second opinion at the school district's expense. If the opinions of the first and second health care providers differ, the school district may require certification from a third health care provider at the school district's expense. An employee may also be required to present a certification from a health care provider indicating that the employee is able to return to work.
10. Requests for leave shall be made to the school district. When leave relates to an employee's spouse, son, daughter, parent, or covered servicemember being on covered active duty, or notified of an impending call or order to covered active duty pursuant to Paragraph IV.A.1.e. above, and such leave is foreseeable, the employee shall provide reasonable and practical notice to the school district of the need for leave. For all other leaves, employees must give 30 days' written notice of a leave of absence where practicable. The failure to provide the required notice may result in a delay of the requested leave. Employees are expected to make a reasonable effort to schedule leaves resulting from planned medical treatment so as not to disrupt unduly the operations of the school district, subject to and in coordination with the health care provider.

11. The school district may require that a request for leave under Paragraph IV.A.1.e. above be supported by a copy of the covered military member's active duty orders or other documentation issued by the military indicating active duty or a call to active duty status and the dates of active duty service. In addition, the school district may require the employee to provide sufficient certification supporting the qualifying exigency for which leave is requested.
12. During the period of a leave permitted under this policy, the school district will provide health insurance under its group health plan under the same conditions coverage would have been provided had the employee not taken the leave. The employee will be responsible for payment of the employee contribution to continue group health insurance coverage during the leave. An employee's failure to make necessary and timely contributions may result in termination of coverage. An employee who does not return to work after the leave may be required, in some situations, to reimburse the school district for the cost of the health plan premiums paid by it.
13. The school district may request or require the employee to substitute accrued paid leave for any part of the 12-week period. Employees may be allowed to substitute paid leave for unpaid leave by meeting the requirements set out in the administrative directives and guidelines established for the implementation of this policy, if any. Employees eligible for leave must comply with the family and medical leave directives and guidelines prior to starting leave. The superintendent shall be responsible to develop directives and guidelines as necessary to implement this policy. Such directives and guidelines shall be submitted to the school board for annual review.

The school district shall comply with written notice requirements as set forth in federal regulations.

14. Employees returning from a leave permitted under this policy are eligible for reinstatement in the same or an equivalent position as provided by law. However, the employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the leave.

~~B. Twelve-week Leave under State Law~~

~~An employee who does not qualify for parenting leave under Paragraphs IV.A.1.a. or IV.A.1.b. above may qualify for a 12-week unpaid leave which is available to a biological or adoptive parent in conjunction with the birth or adoption of a child, or to a female employee for prenatal care or incapacity due to pregnancy, childbirth, or related health conditions. The length of the leave shall be determined by the employee but must not exceed 12 weeks unless agreed to by~~

~~the school district. — This leave is separate and exclusive of the family and medical leave described in the preceding paragraphs but may be reduced by any period of paid parental, disability, personal, or medical, or sick leave, or accrued vacation provided by the school district so that the total leave does not exceed 12 weeks, unless agreed to by the school district, or leave taken for the same purpose under the FMLA. The leave taken under this section shall begin at a time requested by the employee. An employee who plans to take leave under this section must give the school district reasonable notice of the date the leave shall commence and the estimated duration of the leave. For leave taken by a biological or adoptive parent in conjunction with the birth or adoption of a child, the leave must begin within 12 months of the birth or adoption; except that, in the case where the child must remain in the hospital longer than the mother, the leave must begin within 12 months after the child leaves the hospital.~~

B. Twenty-six-week Servicemember Family Military Leave

1. An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered servicemember shall be entitled to a total of 26 work weeks of leave during a 12-month period to care for the servicemember. The leave described in this paragraph shall be available only during a single 12-month period. For purposes of this leave, the need to care for a servicemember includes both physical and psychological care.
2. During a single 12-month period, an employee shall be entitled to a combined total of 26 work weeks of leave under Paragraphs IV.A. and IV.C. above.
3. The 12-month period referred to in this section begins on the first day the eligible employee takes leave to care for a covered servicemember and ends 12 months after that date.
4. Eligible spouses employed by the school district are limited to an aggregate of 26 weeks of leave during any 12-month period if leave is taken for birth of the employee's child or to care for the child after birth; for placement of a child with the employee for adoption or foster care or to care for the child after placement; to care for the employee's parent with a serious health condition; or to care for a covered servicemember with a serious injury or illness.
5. The school district may request or require the employee to substitute accrued paid leave for any part of the 26-week period. Employees may be allowed to substitute paid leave for unpaid leave by meeting the requirements set out in the administrative directives and guidelines established for the implementation of this policy, if any. Employees eligible for leave must comply with the family and medical leave directives and guidelines prior to starting leave.
6. An employee will be required to submit sufficient medical certification

issued by the health care provider of the covered servicemember and other information in support of requested leave and eligibility for such leave under this section within 15 days from the date of the request or as soon as practicable under the circumstances.

7. The provisions of Paragraphs IV.A.7., IV.A.10., IV.A.12., IV.A.13., and IV.A.14. above shall apply to leaves under this section.

## **V. SPECIAL RULES FOR INSTRUCTIONAL EMPLOYEES**

- A. An instructional employee is one whose principal function is to teach and instruct students in a class, a small group, or an individual setting. This includes, but is not limited to, teachers, coaches, driver's education instructors, and special education assistants.
- B. Instructional employees who request foreseeable medically necessary intermittent or reduced work schedule leave greater than 20 percent of the workdays in the leave period may be required to:
  1. take leave for the entire period or periods of the planned medical treatment; or
  2. move to an available alternative position for which the employee is qualified, and which provides equivalent pay and benefits, but not necessarily equivalent duties.
- C. Instructional employees who request continuous leave near the end of a semester may be required to extend the leave through the end of the semester. The number of weeks remaining before the end of a semester does not include scheduled school breaks, such as summer, winter, or spring break.
  1. If an instructional employee begins leave for any purpose more than five weeks before the end of a semester and it is likely the leave will last at least three weeks, the school district may require that the leave be continued until the end of the semester.
  2. If the instructional employee begins leave for a purpose other than the employee's own serious health condition during the last five weeks of a semester, the school district may require that the leave be continued until the end of the semester if the leave will last more than two weeks or if the employee's return from leave would occur during the last two weeks of the semester.
  3. If the instructional employee begins leave for a purpose other than the employee's own serious health condition during the last three weeks of the semester and the leave will last more than five working days, the school district may require the employee to continue taking leave until the end of the semester.

4. If the school district requires an instructional employee to extend leave through the end of a semester as set forth in this paragraph, only the period of leave until the employee is ready and able to return to work shall be charged against the employee's FMLA leave entitlement. Any additional leave required by the school district to the end of the school term is not counted as FMLA leave but as an unpaid or paid leave, to the extent the instructional employee has accrued paid leave available and the school district shall maintain the employee's group health insurance and restore the employee to the same or equivalent job, including other benefits, at the conclusion of the leave.

## VI. OTHER

- A. The provisions of this policy are intended to comply with applicable law, including the FMLA and applicable regulations. Any terms used from the FMLA will have the same meaning as defined by the FMLA and/or applicable regulations. To the extent that this policy is ambiguous or contradicts applicable law, the language of the applicable law will prevail.
- B. The requirements stated in the collective bargaining agreement between employees in a certified collective bargaining unit and the school district regarding family and medical leaves (if any) shall be followed.

## VII. DISSEMINATION OF POLICY

- A. A poster prepared by the U.S. Department of Labor summarizing the major provisions of the Family and Medical Leave Act and informing employees how to file a complaint shall be conspicuously posted in each school district building in areas accessible to employees and applicants for employment.
- B. This policy will be reviewed at least annually for compliance with state and federal law.

**Legal References:** ~~Minn. Stat. §§ 181.940-181.944 (Parenting Leave and Accommodations)~~  
10 U.S.C. § 101 *et seq.* (Armed Forces General Military Law)  
29 U.S.C. § 2601 *et seq.* (Family and Medical Leave Act)  
38 U.S.C. § 101 (Definitions)  
29 C.F.R. Part 825 (Family and Medical Leave Act)

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## **PROTECTION AND PRIVACY OF PUPIL RECORDS**

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### **I. PURPOSE**

The school district recognizes its responsibility in regard to the collection, maintenance, and dissemination of pupil records and the protection of the privacy rights of students as provided in federal law and state statutes.

### **II. GENERAL STATEMENT OF POLICY**

The following procedures and policies regarding the protection and privacy of parents and students are adopted by the school district, pursuant to the requirements of 20 United States Code, section 1232g, *et seq.*, (Family Educational Rights and Privacy Act (FERPA)), 34 Code of Federal Regulations part 99 and consistent with the requirements of the Minnesota Government Data Practices Act, Minnesota Statutes, chapter 13, and Minnesota Rules parts 1205.0100-1205.2000.

### **III. DEFINITIONS**

#### **A. Authorized Representative**

“Authorized representative” means any entity or individual designated by the school district, state, or an agency headed by an official of the Comptroller of the United States, the Attorney General of the United States, the Secretary of the U.S. Department of Education, or state and local educational authorities to conduct, with respect to federal or state supported education programs, any audit or evaluation or any compliance or enforcement activity in connection with federal legal requirements that relate to these programs.

#### **B. Biometric Record**

“Biometric record,” as referred to in “Personally Identifiable,” means a record of one or more measurable biological or behavioral characteristics that can be used for automated recognition of an individual (e.g., fingerprints, retina and iris patterns, voiceprints, DNA sequence, facial characteristics, and handwriting).

#### **C. Dates of Attendance**

“Dates of attendance,” as referred to in “Directory Information,” means the period of time during which a student attends or attended a school or schools in the school district, including attendance in person or by paper correspondence, videoconference, satellite, Internet, or other electronic information and telecommunications technologies for students who are not in the classroom, and including the period during which a student is working under a work-study program. The term does not include specific daily records of a student’s attendance at a school or schools in the school district.

D. Directory Information

1. “Directory information,” under federal law, means information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. It includes the student’s name; photograph; dates of attendance; grade level; enrollment status (i.e., full-time or part-time); participation in officially recognized activities and sports; weight and height of members of athletic teams; degrees, honors and awards received; and the most recent educational agency or institution attended. Directory information does not include:
  - a. a student’s social security number;
  - b. a student’s identification number (ID), user ID, or other unique personal identifier used by a student for purposes of accessing or communicating in electronic systems if the identifier may be used to access education records without use of one or more factors that authenticate the student’s identity such as a personal identification number (PIN), password, or other factor known or possessed only by the authorized user;
  - c. a student ID or other unique personal identifier that is displayed on a student ID badge if the identifier can be used to gain access to educational records when used in conjunction with one or more factors that authenticate the student’s identity, such as a PIN, password, or other factor known or possessed only by the student;
  - d. personally identifiable data which references religion, race, color, social position, or nationality; or
  - e. data collected from nonpublic school students, other than those who receive shared time educational services, unless written consent is given by the student’s parent or guardian.
2. Under Minnesota law, a school district may not designate a student’s home address, telephone number, email address, parent’s electronic mail address, or other personal contact information as “directory information.”

E. Education Records

1. What constitutes “education records.” Education records means those records that are: (1) directly related to a student; and (2) maintained by the school district or by a party acting for the school district.
2. What does not constitute education records. The term “education records” does not include:

- a. Records of instructional personnel that are:
  - (1) kept in the sole possession of the maker of the record;
  - (2) used only as a personal memory aid;
  - (3) not accessible or revealed to any other individual except a temporary substitute teacher; and
  - (4) destroyed at the end of the school year.
  
- b. Records of a law enforcement unit of the school district, provided education records maintained by the school district are not disclosed to the unit, and the law enforcement records are:
  - (1) maintained separately from education records;
  - (2) maintained solely for law enforcement purposes; and
  - (3) disclosed only to law enforcement officials of the same jurisdiction.
  
- c. Records relating to an individual, including a student, who is employed by the school district which:
  - (1) are made and maintained in the normal course of business;
  - (2) relate exclusively to the individual in that individual's capacity as an employee; and
  - (3) are not available for use for any other purpose.

However, records relating to an individual in attendance at the school district who is employed as a result of his or her status as a student are education records.
  
- d. Records relating to an eligible student, or a student attending an institution of postsecondary education, that are:
  - (1) made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional or paraprofessional capacity or assisting in that capacity;
  - (2) made, maintained, or used only in connection with the provision of treatment to the student; and
  - (3) disclosed only to individuals providing the treatment;

provided that the records can be personally reviewed by a physician or other appropriate professional of the student's choice. For the purpose of this definition, "treatment" does not include remedial educational activities or activities that are a part of the program of instruction within the school district.

- e. Records created or received by the school district after an individual is no longer a student at the school district and that are not directly related to the individual's attendance as a student.
- f. Grades on peer-related papers before the papers are collected and recorded by a teacher.

F. Education Support Services Data

"Education support services data" means data on individuals collected, created, maintained, used, or disseminated relating to programs administered by a government entity or entity under contract with a government entity designed to eliminate disparities and advance equities in educational achievement for youth by coordinating services available to participants, regardless of the youth's involvement with other government services. Education support services data does not include welfare data under Minnesota Statutes, section 13.46.

Unless otherwise provided by law, all education support services data are private data on individuals and must not be disclosed except according to Minnesota Statutes, section 13.05 or a court order.

G. Eligible Student

"Eligible student" means a student who has attained eighteen (18) years of age or is attending an institution of postsecondary education.

H. Juvenile Justice System

"Juvenile justice system" includes criminal justice agencies and the judiciary when involved in juvenile justice activities.

I. Legitimate Educational Interest

"Legitimate educational interest" includes an interest directly related to classroom instruction, teaching, student achievement and progress, discipline of a student, student health and welfare, and the ability to respond to a request for education data. It includes a person's need to know in order to:

- 1. Perform an administrative task required in the school or employee's contract or position description approved by the school board;

2. Perform a supervisory or instructional task directly related to the student's education;
3. Perform a service or benefit for the student or the student's family such as health care, counseling, student job placement, or student financial aid; or
4. Perform a task directly related to responding to a request for data.

J. Parent

"Parent" means a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent of the student in the absence of a parent or guardian. The school district may presume the parent has the authority to exercise the rights provided herein, unless it has been provided with evidence that there is a state law or court order governing such matters as marriage dissolution, separation or child custody, or a legally binding instrument which provides to the contrary.

K. Personally Identifiable

"Personally identifiable" means that the data or information includes, but is not limited to: (a) a student's name; (b) the name of the student's parent or other family member; (c) the address of the student or student's family; (d) a personal identifier such as the student's social security number or student number or biometric record; (e) other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name; (f) 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 (g) information requested by a person who the school district reasonably believes knows the identity of the student to whom the education record relates.

L. Record

"Record" means any information or data recorded in any way including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche.

M. Responsible Authority

"Responsible authority" means [Data Practices Compliance Official Sue Stark](#).

N. Student

"Student" includes any individual who is or has been in attendance, enrolled, or registered at the school district and regarding whom the school district maintains

education records. Student also includes applicants for enrollment or registration at the school district and individuals who receive shared time educational services from the school district.

O. School Official

“School official” includes: (a) a person duly elected to the school board; (b) a person employed by the school board in an administrative, supervisory, instructional, or other professional position; (c) a person employed by the school board as a temporary substitute in a professional position for the period of his or her performance as a substitute; and (d) a person employed by, or under contract to, the school board to perform a special task such as a secretary, a clerk, a public information officer or data practices compliance official, an attorney, or an auditor for the period of his or her performance as an employee or contractor.

P. Summary Data

“Summary data” means statistical records and reports derived from data on individuals but in which individuals are not identified and from which neither their identities nor any other characteristic that could uniquely identify the individual is ascertainable.

Q. Other Terms and Phrases

All other terms and phrases shall be defined in accordance with applicable state and federal law or ordinary customary usage.

#### IV. GENERAL CLASSIFICATION

State law provides that all data collected, created, received, or maintained by a school district are public unless classified by state or federal law as not public or private or confidential. State law classifies all data on individuals maintained by a school district which relates to a student as private data on individuals. This data may not be disclosed to parties other than the parent or eligible student without consent, except pursuant to a valid court order, certain state statutes authorizing access, and the provisions of FERPA and the regulations promulgated thereunder.

#### V. STATEMENT OF RIGHTS

A. Rights of Parents and Eligible Students

Parents and eligible students have the following rights under this policy:

1. The right to inspect and review the student’s education records;
2. The right to request the amendment of the student’s education records to ensure that they are not inaccurate, misleading, or otherwise in violation of the student’s privacy or other rights;

3. The right to consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that such consent is not required for disclosure pursuant to this policy, state or federal law, or the regulations promulgated thereunder;
4. The right to refuse release of names, addresses, and home telephone numbers of students in grades 11 and 12 to military recruiting officers and postsecondary educational institutions;
5. The right to file a complaint with the U.S. Department of Education concerning alleged failures by the school district to comply with the federal law and the regulations promulgated thereunder;
6. The right to be informed about rights under the federal law; and
7. The right to obtain a copy of this policy at the location set forth in Section XXI. of this policy.

**B. Eligible Students**

All rights and protections given to parents under this policy transfer to the student when he or she reaches eighteen (18) years of age or enrolls in an institution of postsecondary education. The student then becomes an "eligible student." However, the parents of an eligible student who is also a "dependent student" are entitled to gain access to the education records of such student without first obtaining the consent of the student. In addition, parents of an eligible student may be given access to education records in connection with a health or safety emergency if the disclosure meets the conditions of any provision set forth in 34 Code of Federal Regulations section 99.31(a).

**C. Students with a Disability**

The school district shall follow 34 Code of Federal Regulations sections 300.610-300.617 with regard to the privacy, notice, access, recordkeeping, and accuracy of information related to students with a disability.

**VI. DISCLOSURE OF EDUCATION RECORDS**

**A. Consent Required for Disclosure**

1. The school district shall obtain a signed and dated written informed consent of the parent of a student or the eligible student before disclosing personally identifiable information from the education records of the student, except as provided herein.
2. The written consent required by this subdivision must be signed and dated by the parent of the student or the eligible student giving the consent and

shall include:

- a. a specification of the records to be disclosed;
  - b. the purpose or purposes of the disclosure;
  - c. the party or class of parties to whom the disclosure may be made;
  - d. the consequences of giving informed consent; and
  - e. if appropriate, a termination date for the consent.
3. When a disclosure is made under this subdivision:
- a. if the parent or eligible student so requests, the school district shall provide him or her with a copy of the records disclosed; and
  - b. if the parent of a student who is not an eligible student so requests, the school district shall provide the student with a copy of the records disclosed.
4. A signed and dated written consent may include a record and signature in electronic form that:
- a. identifies and authenticates a particular person as the source of the electronic consent; and
  - b. indicates such person's approval of the information contained in the electronic consent.
5. If the responsible authority seeks an individual's informed consent to the release of private data to an insurer or the authorized representative of an insurer, informed consent shall not be deemed to have been given unless the statement is:
- a. in plain language;
  - b. dated;
  - c. specific in designating the particular persons or agencies the data subject is authorizing to disclose information about the data subject;
  - d. specific as to the nature of the information the subject is authorizing to be disclosed;
  - e. specific as to the persons or agencies to whom the subject is authorizing information to be disclosed;

- f. specific as to the purpose or purposes for which the information may be used by any of the parties named in Clause e. above, both at the time of the disclosure and at any time in the future; and
- g. specific as to its expiration date which should be within a reasonable time, not to exceed one year except in the case of authorizations given in connection with applications for: (i) life insurance or noncancellable or guaranteed renewable health insurance and identified as such, two years after the date of the policy, or (ii) medical assistance under Minnesota Statutes, chapter 256B or Minnesota Care under Minnesota Statutes, chapter 256L, which shall be ongoing during all terms of eligibility, for individualized education program health-related services provided by a school district that are subject to third party reimbursement.

6. Eligible Student Consent

Whenever a student has attained eighteen (18) years of age or is attending an institution of post-secondary education, the rights accorded to and the consent required of the parent of the student shall thereafter only be accorded to and required of the eligible student, except as provided in Section V. of this policy.

B. Prior Consent for Disclosure Not Required

The school district may disclose personally identifiable information from the education records of a student without the written consent of the parent of the student or the eligible student unless otherwise provided herein, if the disclosure is:

- 1. To other school officials, including teachers, within the school district whom the school district determines have a legitimate educational interest in such records;
- 2. To a contractor, consultant, volunteer, or other party to whom the school district has outsourced institutional services or functions provided that the outside party:
  - a. performs an institutional service or function for which the school district would otherwise use employees;
  - b. is under the direct control of the school district with respect to the use and maintenance of education records; and
  - c. will not disclose the information to any other party without the prior consent of the parent or eligible student and uses the information only for the purposes for which the disclosure was

made;

3. To officials of other schools, school districts, or post-secondary educational institutions in which the student seeks or intends to enroll, or is already enrolled, as long as the disclosure is for purposes related to the student's enrollment or transfer. The records shall include information about disciplinary action taken as a result of any incident in which the student possessed or used a dangerous weapon, and with proper annual notice (see Section XIX.), suspension and expulsion information pursuant to section 7917 of the federal Every Student Succeeds Act, 20 United States Code, section 7917, and, if applicable, data regarding a student's history of violent behavior. The records also shall include a copy of any probable cause notice or any disposition or court order under Minnesota Statutes, section 260B.171, unless the data are required to be destroyed under Minnesota Statutes, section 120A.22, subdivision 7(c) or section 121A.75. On request, the school district will provide the parent or eligible student with a copy of the education records that have been transferred and provide an opportunity for a hearing to challenge the content of those records in accordance with Section XV. of this policy;
4. To authorized representatives of the Comptroller General of the United States, the Attorney General of the United States, the Secretary of the U.S. Department of Education, or the Commissioner of the State Department of Education or his or her representative, subject to the conditions relative to such disclosure provided under federal law;
5. In connection with financial aid for which a student has applied or has received, if the information is necessary for such purposes as to:
  - a. determine eligibility for the aid;
  - b. determine the amount of the aid;
  - c. determine conditions for the aid; or
  - d. enforce the terms and conditions of the aid.

"Financial aid" for purposes of this provision means a payment of funds provided to an individual or a payment in kind of tangible or intangible property to the individual that is conditioned on the individual's attendance at an educational agency or institution;

6. To state and local officials or authorities to whom such information is specifically allowed to be reported or disclosed pursuant to state statute adopted:
  - a. before November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and such system's ability to

- effectively serve the student whose records are released; or
- b. after November 19, 1974, if the reporting or disclosure allowed by state statute concerns the juvenile justice system and the system's ability to effectively serve, prior to adjudication, the student whose records are released, provided the officials and authorities to whom the records are disclosed certify in writing to the school district that the data will not be disclosed to any other party, except as provided by state law, without the prior written consent of the parent of the student. At a minimum, the school district shall disclose the following information to the juvenile justice system under this paragraph: a student's full name, home address, telephone number, and date of birth; a student's school schedule, attendance record, and photographs, if any; and parents' names, home addresses, and telephone numbers;
7. To organizations conducting studies for or on behalf of educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, or improving instruction; provided that the studies are conducted in a manner which does not permit the personal identification of parents or students by individuals other than representatives of the organization who have a legitimate interest in the information, the information is destroyed when no longer needed for the purposes for which the study was conducted, and the school district enters into a written agreement with the organization that: (a) specifies the purpose, scope, and duration of the study or studies and the information to be disclosed; (b) requires the organization to use personally identifiable information from education records only to meet the purpose or purposes of the study as stated in the written agreement; (c) requires the organization to conduct the study in a manner that does not permit personal identification of parents and students by anyone other than representatives of the organization with legitimate interests; and (d) requires the organization to destroy all personally identifiable information when information is no longer needed for the purposes for which the study was conducted and specifies the time period in which the information must be destroyed. For purposes of this provision, the term, "organizations," includes, but is not limited to, federal, state, and local agencies and independent organizations. In the event the Department of Education determines that a third party outside of the school district to whom information is disclosed violates this provision, the school district may not allow that third party access to personally identifiable information from education records for at least five (5) years;
  8. To accrediting organizations in order to carry out their accrediting functions;
  9. To parents of a student eighteen (18) years of age or older if the student is a dependent of the parents for income tax purposes;

10. To comply with a judicial order or lawfully issued subpoena, provided, however, that the school district makes a reasonable effort to notify the parent or eligible student of the order or subpoena in advance of compliance therewith so that the parent or eligible student may seek protective action, unless the disclosure is in compliance with a federal grand jury subpoena, or any other subpoena issued for law enforcement purposes, and the court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed, or the disclosure is in compliance with an ex parte court order obtained by the United States Attorney General (or designee not lower than an Assistant Attorney General) concerning investigations or prosecutions of an offense listed in 18 United States Code, section 2332b(g)(5)(B), an act of domestic or international terrorism as defined in 18 United States Code, section 2331, or a parent is a party to a court proceeding involving child abuse and neglect or dependency matters, and the order is issued in the context of the proceeding. If the school district initiates legal action against a parent or student, it may disclose to the court, without a court order or subpoena, the education records of the student that are relevant for the school district to proceed with the legal action as a plaintiff. Also, if a parent or eligible student initiates a legal action against the school district, the school district may disclose to the court, without a court order or subpoena, the student's education records that are relevant for the school district to defend itself;
11. To appropriate parties, including parents of an eligible student, in connection with an emergency if knowledge of the information is necessary to protect the health, including the mental health, or safety of the student or other individuals. The decision is to be based upon information available at the time the threat occurs that indicates that there is an articulable and significant threat to the health or safety of a student or other individuals. In making a determination whether to disclose information under this section, the school district may take into account the totality of the circumstances pertaining to a threat and may disclose information from education records to any person whose knowledge of the information is necessary to protect the health or safety of the student or other students. A record of this disclosure must be maintained pursuant to Section XIII.E. of this policy. In addition, an educational agency or institution may include in the education records of a student appropriate information concerning disciplinary action taken against the student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community. This information may be disclosed to teachers and school officials within the school district and/or teachers and school officials in other schools who have legitimate educational interests in the behavior of the student;
12. To the juvenile justice system if information about the behavior of a student who poses a risk of harm is reasonably necessary to protect the

health or safety of the student or other individuals;

13. Information the school district has designated as “directory information” pursuant to Section VII. of this policy;
14. To military recruiting officers and post-secondary educational institutions pursuant to Section XI. of this policy;
15. To the parent of a student who is not an eligible student or to the student himself or herself;
16. To appropriate ~~health authorities to parties, including parents or an eligible student, in connection with an emergency if knowledge of the extent information is necessary to administer immunization programs protect the health or safety of the student or other individuals (34 Code of Federal Regulations, part 99.36)~~ and for bona fide epidemiologic investigations which the ~~commissioner of health~~ Commissioner of the Minnesota Department of Health determines are necessary to prevent disease or disability to individuals in the public educational agency or institution in which the investigation is being conducted;
17. To volunteers who are determined to have a legitimate educational interest in the data and who are conducting activities and events sponsored by or endorsed by the educational agency or institution for students or former students;
18. To the juvenile justice system, on written request that certifies that the information will not be disclosed to any other person except as authorized by law without the written consent of the parent of the student:
  - a. the following information about a student must be disclosed: a student’s full name, home address, telephone number, date of birth; a student’s school schedule, daily attendance record, and photographs, if any; and any parents’ names, home addresses, and telephone numbers;
  - b. the existence of the following information about a student, not the actual data or other information contained in the student’s education record, may be disclosed provided that a request for access must be submitted on the statutory form and it must contain an explanation of why access to the information is necessary to serve the student: (1) use of a controlled substance, alcohol, or tobacco; (2) assaultive or threatening conduct that could result in dismissal from school under the Pupil Fair Dismissal Act; (3) possession or use of weapons or look-alike weapons; (4) theft; or (5) vandalism or other damage to property. Prior to releasing this information, the principal or chief administrative officer of a school who receives such a request must, to the extent permitted by

federal law, notify the student's parent or guardian by certified mail of the request to disclose information. If the student's parent or guardian notifies the school official of an objection to the disclosure within ten (10) days of receiving certified notice, the school official must not disclose the information and instead must inform the requesting member of the juvenile justice system of the objection. If no objection from the parent or guardian is received within fourteen (14) days, the school official must respond to the request for information.

The written requests of the juvenile justice system member(s), as well as a record of any release, must be maintained in the student's file;

19. To the principal where the student attends and to any counselor directly supervising or reporting on the behavior or progress of the student if it is information from a disposition order received by a superintendent under Minnesota Statutes, section 260B.171, subdivision 3. The principal must notify the counselor immediately and must place the disposition order in the student's permanent education record. The principal also must notify immediately any teacher or administrator who directly supervises or reports on the behavior or progress of the student whom the principal believes needs the information to work with the student in an appropriate manner, to avoid being needlessly vulnerable, or to protect other persons from needless vulnerability. The principal may also notify other school district employees, substitutes, and volunteers who are in direct contact with the student if the principal determines that these individuals need the information to work with the student in an appropriate manner, to avoid being needlessly vulnerable, or to protect other persons from needless vulnerability. Such notices from the principal must identify the student, outline the offense, and describe any conditions of probation about which the school must provide information if this information is provided in the disposition order. Disposition order information received is private educational data received for the limited purpose of serving the educational needs of the student and protecting students and staff. The information may not be further disseminated by the counselor, teacher, administrator, staff member, substitute, or volunteer except as necessary to serve the student, to protect students and staff, or as otherwise required by law, and only to the student or the student's parent or guardian;
20. To the principal where the student attends if it is information from a peace officer's record of children received by a superintendent under Minnesota Statutes, section 260B.171, subdivision 5. The principal must place the information in the student's education record. The principal also must notify immediately any teacher, counselor, or administrator directly supervising the student whom the principal believes needs the information to work with the student in an appropriate manner, to avoid being needlessly vulnerable, or to protect other persons from needless vulnerability. The principal may also notify other district employees,

substitutes, and volunteers who are in direct contact with the student if the principal determines that these individuals need the information to work with the student in an appropriate manner, to avoid being needlessly vulnerable, or to protect other persons from needless vulnerability. Such notices from the principal must identify the student and describe the alleged offense if this information is provided in the peace officer's notice. Peace officer's record information received is private educational data received for the limited purpose of serving the educational needs of the student and protecting students and staff. The information must not be further disseminated by the counselor, teacher administrator, staff member, substitute, or volunteer except to communicate with the student or the student's parent or guardian as necessary to serve the student, to protect students and staff, or as otherwise required by law.

The principal must delete the peace officer's record from the student's education record, destroy the data, and make reasonable efforts to notify any teacher, counselor, staff member, administrator, substitute, or volunteer who received information from the peace officer's record if the county attorney determines not to proceed with a petition or directs the student into a diversion or mediation program or if a juvenile court makes a decision on a petition and the county attorney or juvenile court notifies the superintendent of such action;

21. To the Secretary of Agriculture, or authorized representative from the Food and Nutrition Service or contractors acting on behalf of the Food and Nutrition Service, for the purposes of conducting program monitoring, evaluations, and performance measurements of state and local educational and other agencies and institutions receiving funding or providing benefits of one or more programs authorized under the National School Lunch Act or the Child Nutrition Act of 1966 for which the results will be reported in an aggregate form that does not identify any individual, on the conditions that: (a) any data collected shall be protected in a manner that will not permit the personal identification of students and their parents by other than the authorized representatives of the Secretary; and (b) any personally identifiable data shall be destroyed when the data are no longer needed for program monitoring, evaluations, and performance measurements; or
22. To an agency caseworker or other representative of a State or local child welfare agency, or tribal organization (as defined in 25 United States Code, section 5304), who has the right to access a student's case plan, as defined and determined by the State or tribal organization, when such agency or organization is legally responsible, in accordance with State or tribal law, for the care and protection of the student, provided that the education records, or the personally identifiable information contained in such records, of the student will not be disclosed by such agency or organization, except to an individual or entity engaged in addressing the student's education needs and authorized by such agency or organization to receive such disclosure and such disclosure is consistent with the State

or tribal laws applicable to protecting the confidentiality of a student's education records.

23. When requested, and in accordance with requirements for parental consent in 34 Code of Federal Regulations, section 300.622(b)(2), and part 99, educational agencies or institutions may share personal student contact information and directory information for students served in special education with postsecondary transition planning and services under Minnesota Statutes, section 125A.08, paragraph (b), clause (1), whether public or private, with the Minnesota Department of Employment and Economic Development, as required for coordination of services to students with disabilities under Minnesota Statutes, sections 125A.08, paragraph (b), clause (1); 125A.023; and 125A.027.

**[NOTE: The 2025 Minnesota legislature amended Minnesota Statutes, section 13.32, subdivision 5, to include this update.]**

C. Nonpublic School Students

The school district may disclose personally identifiable information from the education records of a nonpublic school student, other than a student who receives shared time educational services, without the written consent of the parent of the student or the eligible student unless otherwise provided herein, if the disclosure is:

1. Pursuant to a valid court order;
2. Pursuant to a statute specifically authorizing access to the private data; or
3. To appropriate health authorities to the extent necessary to administer immunization programs and for bona fide epidemiological investigations which the ~~commissioner of health~~ Commissioner of the Minnesota Department of Health determines are necessary to prevent disease or disability to individuals in the public educational agency or institution in which the investigation is being conducted; or
4. or appropriate parties, including parents or an eligible student, in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals.

## VII. RELEASE OF DIRECTORY INFORMATION

A. Educational Data

1. Educational data designated as directory information is public data on individuals to the extent required under federal law. Directory information must be designated pursuant to the provisions of:

- a. Minnesota Statutes, section 13.32, subdivision 5; and
  - b. 20United States Code, section 1232g, and 34 Code of Federal Regulations, section 99.37, which were in effect on January 3, 2012.
2. The school district may not designate a student's home address, telephone number, email address, or other personal contact information as directory information under Minnesota Statutes, section 13.32.
  3. A parent's personal contact information must be treated as private data on individuals regardless of whether that contact information was previously designated as or treated as directory information under Minnesota Statutes, section 13.32, subdivision 2.
  4. When requested, the school district must share personal contact information and directory information, whether public or private, with the Minnesota Department of Education, as required for federal reporting purposes.

B. Former Students

Unless a former student validly opted out of the release of directory information while the student was in attendance and has not rescinded the opt out request at any time, the school district may disclose directory information from the education records generated by it regarding the former student without meeting the requirements of Paragraph C. of this section. In addition, under an explicit exclusion from the definition of an "education record," the school district may release records that only contain information about an individual obtained after he or she is no longer a student at the school district and that are not directly related to the individual's attendance as a student (e.g., a student's activities as an alumnus of the school district).

C. Present Students and Parents

The school district may disclose directory information from the education records of a student and information regarding parents without prior written consent of the parent of the student or eligible student, except as provided herein.

1. When conducting the directory information designation and notice process required by federal law, the school district shall give parents and students notice of the right to refuse to let the district designate specified data about the student as directory information.
2. The school district shall give annual notice by any means that are reasonably likely to inform the parents and eligible students of:

- a. the types of personally identifiable information regarding students and/or parents that the school district has designated as directory information;
- b. the parent's or eligible student's right to refuse to let the school district designate any or all of those types of information about the student and/or the parent as directory information; and
- c. the period of time in which a parent or eligible student has to notify the school district in writing that he or she does not want any or all of those types of information about the student and/or the parent designated as directory information.

**[NOTE: Federal law allows a school district to specify that the disclosure of directory information will be limited to specific parties, for specific purposes, or both. If the school district chooses to impose these limitations, it is advisable to add a new paragraph VII.C.3. that specifies that disclosures of directory information will be limited to specific parties and/or for specific purposes and identify those parties and/or purposes.]**

**To the extent a school district adds these restrictions, it must then limit its directory information disclosures to those individuals and/or purposes specified in this public notice. Procedures to address how these restrictions will be enforced by the school district are advised. This is an important policy decision for the local school board which must balance not only the privacy interests of the student against public disclosure, but also the additional administrative requirements such restrictions will place on the school district.]**

3. Allow a reasonable period of time after such notice has been given for a parent or eligible student to inform the school district in writing that any or all of the information so designated should not be disclosed without the parent's or eligible student's prior written consent, except as provided in Section VI. of this policy.
4. A parent or eligible student may not opt out of the directory information disclosures to:
  - a. prevent the school district from disclosing or requiring the student to disclose the student's name, ID, or school district e-mail address in a class in which the student is enrolled; or
  - b. prevent the school district from requiring a student to wear, to display publicly, or to disclose a student ID card or badge that exhibits information that may be designated as directory information and that has been properly designated by the school district as directory information.
5. The school district shall not disclose or confirm directory information

without meeting the written consent requirements contained in Section VI.A. of this policy if a student's social security number or other non-directory information is used alone or in combination with other data elements to identify or help identify the student or the student's records.

D. Procedure for Obtaining Nondisclosure of Directory Information

The parent's or eligible student's written notice shall be directed to the responsible authority and shall include the following:

1. Name of the student and/or parent, as appropriate;
2. Home address;
3. School presently attended by student;
4. Parent's legal relationship to student, if applicable; and
5. Specific categories of directory information to be made not public without the parent's or eligible student's prior written consent, which shall only be applicable for that school year.

E. Duration

The designation of any information as directory information about a student or parents will remain in effect for the remainder of the school year unless the parent or eligible student provides the written notifications provided herein.

## VIII. DISCLOSURE OF PRIVATE RECORDS

A. Private Records

For the purposes herein, education records are records which are classified as private data on individuals by state law and which are accessible only to the student who is the subject of the data and the student's parent if the student is not an eligible student. The school district may not disclose private records or their contents except as summary data, or except as provided in Section VI. of this policy, without the prior written consent of the parent or the eligible student. The school district will use reasonable methods to identify and authenticate the identity of parents, students, school officials, and any other party to whom personally identifiable information from education records is disclosed.

B. Private Records Not Accessible to Parent

In certain cases, state law intends, and clearly provides, that certain information

contained in the education records of the school district pertaining to a student be accessible to the student alone, and to the parent only under special circumstances, if at all.

1. The responsible authority may deny access to private data by a parent when a minor student who is the subject of that data requests that the responsible authority deny such access. The minor student's request must be submitted in writing setting forth the reasons for denying access to the parent and must be signed by the minor. Upon receipt of such request the responsible authority shall determine if honoring the request to deny the parent access would be in the best interest of the minor data subject. In making this determination the responsible authority shall consider the following factors:

- a. whether the minor is of sufficient age and maturity to be able to explain the reasons for and understand the consequences of the request to deny access;
- b. whether the personal situation of the minor is such that denying parental access may protect the minor data subject from physical or emotional harm;
- c. whether there are grounds for believing that the minor data subject's reasons for precluding parental access are reasonably accurate;
- d. whether the data in question is of such a nature that disclosure of it to the parent may lead to physical or emotional harm to the minor data subject; and
- e. whether the data concerns medical, dental or other health services provided pursuant to Minnesota Statutes, sections 144.341-144.347, in which case the data may be released only if the failure to inform the parent would seriously jeopardize the health of the minor.

C. Private Records Not Accessible to Student

Students shall not be entitled to access to private data concerning financial records and statements of the student's parent or any information contained therein.

D. Military-Connected Youth Identifier

When a school district updates its enrollment forms in the ordinary course of business, the school district must include a box on the enrollment form to allow students to self-identify as a military-connected youth. For purposes of this ~~section~~ **Paragraph**, a "military-connected youth" means having an immediate family member, including a parent or sibling, who is currently in the armed forces

either as a reservist or on active duty or has recently retired from the armed forces. Data collected under this provision is private data on individuals, but summary data may be published by the Department of Education.

## **IX. DISCLOSURE OF CONFIDENTIAL RECORDS**

### **A. Confidential Records**

Confidential records are those records and data contained therein which are made not public by state or federal law, and which are inaccessible to the student and the student's parents or to an eligible student.

### **B. Reports Under the Maltreatment of Minors Reporting Act**

Pursuant to Minnesota Statutes, chapter 260E , written copies of reports pertaining to a neglected and/or physically and/or sexually abused child shall be accessible only to the appropriate welfare and law enforcement agencies. In respect to other parties, such data shall be confidential and will not be made available to the parent or the subject individual by the school district. The subject individual, however, may obtain a copy of the report from either the local welfare agency, county sheriff, or the local police department subject to the provisions of Minnesota Statutes, chapter 260E.

Regardless of whether a written report is made under Minnesota Statutes, chapter 260E, as soon as practicable after a school receives information regarding an incident that may constitute maltreatment of a child in a school facility, the school shall inform the parent, legal guardian, or custodian of the child that an incident occurred that may constitute maltreatment of the child, when the incident occurred, and the nature of the conduct that may constitute maltreatment.

### **C. Investigative Data**

Data collected by the school district as part of an active investigation undertaken for the purpose of the commencement or defense of pending civil legal action, or are retained in anticipation of a pending civil legal action are classified as protected nonpublic data in the case of data not on individuals, and confidential data in the case of data on individuals.

1. The school district may make any data classified as protected non-public or confidential pursuant to this subdivision accessible to any person, agency, or the public if the school district determines that such access will aid the law enforcement process, promote public health or safety, or dispel widespread rumor or unrest.
2. A complainant has access to a statement he or she provided to the school district.

3. Parents or eligible students may have access to investigative data of which the student is the subject, but only to the extent the data is not inextricably intertwined with data about other school district students, school district employees, and/or attorney data as defined in Minnesota Statutes, section 13.393.
4. Once a civil investigation becomes inactive, civil investigative data becomes public unless the release of the data would jeopardize another pending civil legal action, except for those portions of such data that are classified as not public data under state or federal law. Any civil investigative data presented as evidence in court or made part of a court record shall be public. For purposes of this provision, a civil investigation becomes inactive upon the occurrence of any of the following events:
  - a. a decision by the school district, or by the chief attorney for the school district, not to pursue the civil legal action. However, such investigation may subsequently become active if the school district or its attorney decides to renew the civil legal action;
  - b. the expiration of the time to file a complaint under the statute of limitations or agreement applicable to the civil legal action; or
  - c. the exhaustion or expiration of rights of appeal by either party to the civil legal action.
5. A “pending civil legal action” for purposes of this subdivision is defined as including, but not limited to, judicial, administrative, or arbitration proceedings.

D. Chemical Abuse Records

To the extent the school district maintains records of the identity, diagnosis, prognosis, or treatment of any student which are maintained in connection with the performance of any drug abuse prevention function conducted, regulated, or directly or indirectly assisted by any department or agency of the United States, such records are classified as confidential and shall be disclosed only for the purposes and under the circumstances expressly authorized by law.

**X. DISCLOSURE OF SCHOOL RECORDS PRIOR TO EXCLUSION OR EXPULSION HEARING**

At a reasonable time prior to any exclusion or expulsion hearing, the student and the student’s parent or guardian or representative shall be given access to all school district records pertaining to the student, including any tests or reports upon which the action proposed by the school district may be based, pursuant to the Minnesota Pupil Fair Dismissal Act, Minnesota Statutes, section 121A.40, *et seq.*

**XI. DISCLOSURE OF DATA TO MILITARY RECRUITING OFFICERS AND POSTSECONDARY EDUCATIONAL INSTITUTIONS**

- A. The school district will release the names, addresses, electronic mail address (which shall be the electronic mail addresses provided by the school district, if available, that may be released to military recruiting officers only), and home telephone numbers of students in grades 11 and 12 to military recruiting officers and post-secondary educational institutions within sixty (60) days after the date of the request unless a parent or eligible student has refused in writing to release this data pursuant to Paragraph C. below.
- B. Data released to military recruiting officers under this provision:
1. may be used only for the purpose of providing information to students about military service, state and federal veterans' education benefits, and other career and educational opportunities provided by the military;
  2. cannot be further disseminated to any other person except personnel of the recruiting services of the armed forces; and
  3. copying fees shall not be imposed.
- C. A parent or eligible student has the right to refuse the release of the name, address, electronic mail addresses (which shall be the electronic mail addresses provided by the school, if available, that may be released to military recruiting officers only) or home telephone number to military recruiting officers and postsecondary educational institutions. To refuse the release of the above information to military recruiting officers and postsecondary educational institutions, a parent or eligible student must notify the Superintendent in writing. The written request must include the following information:
1. Name of student and parent, as appropriate;
  2. Home address;
  3. Student's grade level;
  4. School presently attended by student;
  5. Parent's legal relationship to student, if applicable;
  6. Specific category or categories of information which are not to be released to military recruiting officers and post-secondary educational institutions; and
  7. Specific category or categories of information which are not to be released to the public, including military recruiting officers and post-secondary educational institutions.

- D. Annually, the school district will provide public notice by any means that are reasonably likely to inform the parents and eligible students of their rights to refuse to release the names, addresses, and home phone numbers of students in grades 11 and 12 without prior consent.
- E. A parent or eligible student's refusal to release the above information to military recruiting officers and post-secondary educational institutions does not affect the school district's release of directory information to the rest of the public, which includes military recruiting officers and post-secondary educational institutions. In order to make any directory information about a student private, the procedures contained in Section VII. of this policy also must be followed. Accordingly, to the extent the school district has designated the name and grade level of students as directory information, absent a request from a parent or eligible student not to release such data, this information will be public data and accessible to members of the public, including military recruiting officers and post-secondary educational institutions.

## **XII. LIMITS ON REDISCLOSURE**

### **A. Redisclosure**

Consistent with the requirements herein, the school district may only disclose personally identifiable information from the education records of a student on the condition that the party to whom the information is to be disclosed will not disclose the information to any other party without the prior written consent of the parent of the student or the eligible student, except that the officers, employees, and agents of any party receiving personally identifiable information under this ~~section~~ **Article** may use the information, but only for the purposes for which the disclosure was made.

### **B. Redisclosure Not Prohibited**

- 1. Subdivision A. of this ~~section~~ **Article** does not prevent the school district from disclosing personally identifiable information under Section VI. of this policy with the understanding that the party receiving the information may make further disclosures of the information on behalf of the school district provided:
  - a. The disclosures meet the requirements of Section VI. of this policy; and
  - b. The school district has complied with the record-keeping requirements of ~~Section~~ **Article** XIII. of this policy.
- 2. Subdivision A. of this ~~section~~ **Article** does not apply to disclosures made pursuant to court orders or lawfully issued subpoenas or litigation, to disclosures of directory information, to disclosures to a parent or student

or to parents of dependent students, or to disclosures concerning sex offenders and other individuals required to register under 42 United States Code, section 14071. However, the school district must provide the notification required in Section XII.D. of this policy if a redisclosure is made based upon a court order or lawfully issued subpoena.

C. Classification of Disclosed Data

The information disclosed shall retain the same classification in the hands of the party receiving it as it had in the hands of the school district.

D. Notification

The school district shall inform the party to whom a disclosure is made of the requirements set forth in this ~~section~~ Article, except for disclosures made pursuant to court orders or lawfully issued subpoenas, disclosure of directory information under Section VII. of this policy, disclosures to a parent or student, or disclosures to parents of a dependent student. In the event that the Family Policy Compliance Office determines that a state or local educational authority, a federal agency headed by an official listed in 34 Code of Federal Regulations section 99.31(a)(3), or an authorized representative of a state or local educational authority or a federal agency headed by an official listed in section 99.31(a)(3), or a third party outside of the school district improperly rediscloses personally identifiable information from education records or fails to provide notification required under this section of this policy, the school district may not allow that third party access to personally identifiable information from education records for at least five (5) years.

**XIII. RESPONSIBLE AUTHORITY; RECORD SECURITY; AND RECORD KEEPING**

A. Responsible Authority

The responsible authority shall be responsible for the maintenance and security of student records.

B. Record Security

The principal of each school subject to the supervision and control of the responsible authority shall be the records manager of the school and shall have the duty of maintaining and securing the privacy and/or confidentiality of student records.

C. Plan for Securing Student Records

The building principal shall submit to the responsible authority a written plan for securing students records by September 1 of each school year. The written plan

shall contain the following information:

1. A description of records maintained;
2. Titles and addresses of person(s) responsible for the security of student records;
3. Location of student records, by category, in the buildings;
4. Means of securing student records; and
5. Procedures for access and disclosure.

D. Review of Written Plan for Securing Student Records

The responsible authority shall review the plans submitted pursuant to Paragraph C. of this ~~section~~ **Article** for compliance with the law, this policy, and the various administrative policies of the school district. The responsible authority shall then promulgate a chart incorporating the provisions of Paragraph C. which shall be attached to and become a part of this policy.

E. Record Keeping

1. The principal shall, for each request for and each disclosure of personally identifiable information from the education records of a student, maintain a record, with the education records of the student, that indicates:
  - a. the parties who have requested or received personally identifiable information from the education records of the student;
  - b. the legitimate interests these parties had in requesting or obtaining the information; and
  - c. the names of the state and local educational authorities and federal officials and agencies listed in Section VI.B.4. of this policy that may make further disclosures of personally identifiable information from the student's education records without consent.
2. In the event the school district discloses personally identifiable information from an education record of a student pursuant to Paragraph XII.B. of this policy, the record of disclosure required under this ~~section~~ **Article** shall also include:
  - a. the names of the additional parties to which the receiving party may disclose the information on behalf of the school district;
  - b. the legitimate interests under Section VI. of this policy which each of the additional parties has in requesting or obtaining the

- information; and
- c. a copy of the record of further disclosures maintained by a state or local educational authority or federal official or agency listed in Section VI.B.4. of this policy in accordance with 34 Code of Federal Regulations, section 99.32 and to whom the school district disclosed information from an education record. The school district shall request a copy of the record of further disclosures from a state or local educational authority or federal official or agency to whom education records were disclosed upon a request from a parent or eligible student to review the record of requests for disclosure.
3. Section XIII.E.1. does not apply to requests by or disclosure to a parent of a student or an eligible student, disclosures pursuant to the written consent of a parent of a student or an eligible student, requests by or disclosures to other school officials under Section VI.B.1. of this policy, to requests for disclosures of directory information under Section VII. of this policy, or to a party seeking or receiving the records as directed by a federal grand jury or other law enforcement subpoena and the issuing court or agency has ordered that the existence or the contents of the subpoena or the information provided in response to the subpoena not be disclosed or as directed by an ex parte court order obtained by the United States Attorney General (or designee not lower than an Assistant Attorney General) concerning investigations or prosecutions of an offense listed in 18 United States Code, section 2332b(g)(5)(B) or an act of domestic or international terrorism.
  4. The record of requests of disclosures may be inspected by:
    - a. the parent of the student or the eligible student;
    - b. the school official or his or her assistants who are responsible for the custody of the records; and
    - c. the parties authorized by law to audit the record-keeping procedures of the school district.
  5. The school district shall record the following information when it discloses personally identifiable information from education records under the health or safety emergency exception:
    - a. the articulable and significant threat to the health or safety of a student or other individual that formed the basis for the disclosure; and
    - b. the parties to whom the school district disclosed the information.

6. The record of requests and disclosures shall be maintained with the education records of the student as long as the school district maintains the student's education records.

#### **XIV. RIGHT TO INSPECT AND REVIEW EDUCATION RECORDS**

A. Parent of a Student, an Eligible Student or the Parent of an Eligible Student Who is Also a Dependent Student

The school district shall permit the parent of a student, an eligible student, or the parent of an eligible student who is also a dependent student who is or has been in attendance in the school district to inspect or review the education records of the student, except those records which are made confidential by state or federal law or as otherwise provided in Section VIII. of this policy.

B. Response to Request for Access

The school district shall respond to any request pursuant to Subdivision A. of this ~~section~~ **Article** immediately, if possible, or within ten (10) days of the date of the request, excluding Saturdays, Sundays, and legal holidays.

C. Right to Inspect and Review

The right to inspect and review education records under Subdivision A. of this ~~section~~ **Article** includes:

1. The right to a response from the school district to reasonable requests for explanations and interpretations of records; and
2. If circumstances effectively prevent the parent or eligible student from exercising the right to inspect and review the education records, the school district shall provide the parent or eligible student with a copy of the records requested or make other arrangements for the parent or eligible student to inspect and review the requested records.
3. Nothing in this policy shall be construed as limiting the frequency of inspection of the education records of a student with a disability by the student's parent or guardian or by the student upon the student reaching the age of majority.

D. Form of Request

Parents or eligible students shall submit to the school district a written request to inspect education records which identify as precisely as possible the record or records he or she wishes to inspect.

E. Collection of Student Records

If a student's education records are maintained in more than one location, the responsible authority may collect copies of the records or the records themselves from the various locations so they may be inspected at one site. However, if the parent or eligible student wishes to inspect these records where they are maintained, the school district shall attempt to accommodate those wishes. The parent or eligible student shall be notified of the time and place where the records may be inspected.

F. Records Containing Information on More Than One Student

If the education records of a student contain information on more than one student, the parent or eligible student may inspect and review or be informed of only the specific information which pertains to that student.

G. Authority to Inspect or Review

The school district may presume that either parent of the student has authority to inspect or review the education records of a student unless the school district has been provided with evidence that there is a legally binding instrument or a state law or court order governing such matters as marriage dissolution, separation, or custody which provides to the contrary.

H. Fees for Copies of Records

1. The school district shall charge a reasonable fee for providing photocopies or printed copies of records unless printing a copy is the only method to provide for the inspection of data. In determining the amount of the reasonable fee, the school district shall consider the following:
  - a. the cost of materials, including paper, used to provide the copies;
  - b. the cost of the labor required to prepare the copies;
  - c. any schedule of standard copying charges established by the school district in its normal course of operations;
  - d. any special costs necessary to produce such copies from machine-based record-keeping systems, including but not limited to computers and microfilm systems; and
  - e. mailing costs.
2. If 100 or fewer pages of black and white, letter or legal size paper copies are requested, actual costs shall not be used, and, instead, the charge shall be no more than 25 cents for each page copied.

3. The cost of providing copies shall be borne by the parent or eligible student.
4. The responsible authority, however, may not impose a fee for a copy of an education record made for a parent or eligible student if doing so would effectively prevent or, in the case of a student with a disability, impair the parent or eligible student from exercising their right to inspect or review the student's education records.

## **XV. REQUEST TO AMEND RECORDS; PROCEDURES TO CHALLENGE DATA**

### **A. Request to Amend Education Records**

The parent of a student or an eligible student who believes that information contained in the education records of the student is inaccurate, misleading, or violates the privacy rights of the student may request that the school district amend those records.

1. The request shall be in writing, shall identify the item the requestor believes to be inaccurate, misleading, or in violation of the privacy or other rights of the student, shall state the reason for this belief, and shall specify the correction the requestor wishes the school district to make. The request shall be signed and dated by the requestor.
2. The school district shall decide whether to amend the education records of the student in accordance with the request within thirty (30) days after receiving the request.
3. If the school district decides to refuse to amend the education records of the student in accordance with the request, it shall inform the parent of the student or the eligible student of the refusal and advise the parent or eligible student of the right to a hearing under Subdivision B. of this ~~section~~ **Article**.

### **B. Right to a Hearing**

If the school district refuses to amend the education records of a student, the school district, on request, shall provide an opportunity for a hearing in order to challenge the content of the student's education records to ensure that information in the education records of the student is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student. A hearing shall be conducted in accordance with Subdivision C. of this ~~section~~ **Article**.

1. If, as a result of the hearing, the school district decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall amend the education records of the student accordingly and so inform the parent of the student or the eligible student in writing.

2. If, as a result of the hearing, the school district decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall inform the parent or eligible student of the right to place a statement in the record commenting on the contested information in the record or stating why he or she disagrees with the decision of the school district, or both.
3. Any statement placed in the education records of the student under Subdivision B. of this ~~section~~ **Article** shall:
  - a. be maintained by the school district as part of the education records of the student so long as the record or contested portion thereof is maintained by the school district; and
  - b. if the education records of the student or the contested portion thereof is disclosed by the school district to any party, the explanation shall also be disclosed to that party.

C. Conduct of Hearing

1. The hearing shall be held within a reasonable period of time after the school district has received the request, and the parent of the student or the eligible student shall be given notice of the date, place, and time reasonably in advance of the hearing.
2. The hearing may be conducted by any individual, including an official of the school district who does not have a direct interest in the outcome of the hearing. The school board attorney shall be in attendance to present the school board's position and advise the designated hearing officer on legal and evidentiary matters.
3. The parent of the student or eligible student shall be afforded a full and fair opportunity for hearing to present evidence relative to the issues raised under Subdivisions A. and B. of this ~~section~~ **Article** and may be assisted or represented by individuals of his or her choice at his or her own expense, including an attorney.
4. The school district shall make a decision in writing within a reasonable period of time after the conclusion of the hearing. The decision shall be based solely on evidence presented at the hearing and shall include a summary of evidence and reasons for the decision.

D. Appeal

The final decision of the designated hearing officer may be appealed in accordance with the applicable provisions of Minnesota Statutes, chapter 14 relating to contested cases.

## XVI. PROBLEMS ACCESSING DATA

- A. The data practices compliance official is the designated employee to whom persons may direct questions or concerns regarding problems in obtaining access to data or other data practices problems.
- B. Data practices compliance official means *[designate title and actual name of individual]*.
- C. Any request by an individual with a disability for reasonable modifications of the school district's policies or procedures for purposes of accessing records shall be made to the data practices compliance official.

## XVII. COMPLAINTS FOR NONCOMPLIANCE WITH FERPA

### A. Where to File Complaints

Complaints regarding alleged violations of rights accorded parents and eligible students by FERPA, and the rules promulgated thereunder, shall be submitted in writing to the U.S. Department of Education, Student Privacy Policy Office, 400 Maryland Avenue S.W., Washington, D.C. 20202-8520.

### B. Content of Complaint

A complaint filed pursuant to this ~~section~~ **Article** must contain specific allegations of fact giving reasonable cause to believe that a violation of FERPA and the rules promulgated thereunder has occurred.

## XVIII. WAIVER

A parent or eligible student may waive any of his or her rights provided herein pursuant to FERPA. A waiver shall not be valid unless in writing and signed by the parent or eligible student. The school district may not require such a waiver.

## XIX. ANNUAL NOTIFICATION OF RIGHTS

### A. Contents of Notice

The school district shall give parents of students currently in attendance and eligible students currently in attendance annual notice by such means as are reasonably likely to inform the parents and eligible students of the following:

1. That the parent or eligible student has a right to inspect and review the student's education records and the procedure for inspecting and reviewing education records;

2. That the parent or eligible student has a right to seek amendment of the student's education records to ensure that those records are not inaccurate, misleading, or otherwise in violation of the student's privacy or other rights and the procedure for requesting amendment of records;
3. That the parent or eligible student has a right to consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that federal and state law and the regulations promulgated thereunder authorize disclosure without consent;
4. That the parent or eligible student has a right to file a complaint with the U.S. Department of Education regarding an alleged failure by the school district to comply with the requirements of FERPA and the rules promulgated thereunder;
5. The criteria for determining who constitutes a school official and what constitutes a legitimate educational interest for purposes of disclosing education records to other school officials whom the school district has determined to have legitimate educational interests; and
6. That the school district forwards education records on request to a school in which a student seeks or intends to enroll or is already enrolled as long as the disclosure is for purposes related to the student's enrollment or transfer and that such records may include suspension and expulsion records pursuant to the federal Every Student Succeeds Act and, if applicable, a student's history of violent behavior.

**B. Notification to Parents of Students Having a Primary Home Language Other Than English**

The school district shall provide for the need to effectively notify parents of students identified as having a primary or home language other than English.

**C. Notification to Parents or Eligible Students Who are Disabled**

The school district shall provide for the need to effectively notify parents or eligible students identified as disabled.

**XX. DESTRUCTION AND RETENTION OF RECORDS**

Destruction and retention of records by the school district shall be controlled by state and federal law.

**XXI. COPIES OF POLICY**

Copies of this policy may be obtained by parents and eligible students at the superintendent's office.

- Legal References:**
- Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)
  - Minn. Stat. § 13.32, Subd. 5 (Directory Information)
  - Minn. Stat. § 13.393 (Attorneys)
  - Minn. Stat. Ch. 14 (Administrative Procedures Act)
  - Minn. Stat. § 120A.22 (Compulsory Instruction)
  - Minn. Stat. § 121A.40-121A.56 (The Pupil Fair Dismissal Act)
  - Minn. Stat. § 121A.75 (Receipt of Records; Sharing)
  - Minn. Stat. § 127A.852 (Military-Connected Youth Identifier)
  - Minn. Stat. § 144.341-144.347 (Consent of Minors for Health Services)
  - Minn. Stat. Ch. 256B (Medical Assistance for Needy Persons)
  - Minn. Stat. Ch. 256L (MinnesotaCare)
  - Minn. Stat. § 260B.171, Subds. 3 and 5 (Disposition Order and Peace Officer Records of Children)
  - Minn. Stat. Ch. 260E (Reporting of Maltreatment of Minors)
  - Minn. Stat. § 363A.42 (Public Records; Accessibility)
  - Minn. Stat. § 480.40 (Personal Information, Dissemination)
  - Minn. Stat. § 626.557 (Reporting of Maltreatment of Vulnerable Adults)
  - Minn. Rules Parts 1205.0100-1205.2000 (Data Practices)
  - 10 U.S.C. § 503(b) and (c) (Enlistments: Recruiting Campaigns; Compilation of Directory Information)
  - 18 U.S.C. § 2331 (Definitions)
  - 18 U.S.C. § 2332b (Acts of Terrorism Transcending National Boundaries)
  - 20 U.S.C. § 1232g *et seq.* (Family Educational Rights and Privacy Act)
  - 20 U.S.C. § 6301 *et seq.* (Every Student Succeeds Act)
  - 20 U.S.C. § 7908 (Armed Forces Recruiting Information)
  - 20 U.S.C. § 7917 (Transfer of School Disciplinary Records)
  - 25 U.S.C. § 5304 (Definitions – Tribal Organization)
  - 26 U.S.C. §§ 151 and 152 (Internal Revenue Code)
  - 42 U.S.C. § 1711 *et seq.* (Child Nutrition Act)
  - 42 U.S.C. § 1751 *et seq.* (Richard B. Russell National School Lunch Act)
  - 34 C.F.R. §§ 99.1-99.67 (Family Educational Rights and Privacy)
  - 34 C.F.R. § 300.610-300.627 (Confidentiality of Information)
  - 42 C.F.R. § 2.1 *et seq.* (Confidentiality of Drug Abuse Patient Records)
  - Gonzaga University v. Doe*, 536 U.S. 273 309 (2002)
  - Dept. of Admin. Advisory Op. No. 21-008 (December 8, 2021)

## Resources

U.S. Department of Education: [FAQs on Photos and Videos under FERPA | Protecting Student Privacy](#) (accessed 012926)

U.S. Department of Education: [Letter to Wachter Regarding Surveillance Video of Multiple Students | Protecting Student Privacy](#) (accessed 012926)

[U.S. Department of Education: School Resource Officers, School Law Enforcement Units, and the Family Educational Rights and Privacy Act \(FERPA\) | Protecting Student Privacy \(accessed 012926\)](#)

[U.S. Department of Education: Protecting Student Privacy While Using Online Educational Services: Requirements and Best Practices | Protecting Student Privacy \(accessed 012926\)](#)

[U.S. Department of Education: FERPA/IDEA Crosswalk | Protecting Student Privacy \(accessed 012926\)](#)

[U.S. Department of Education: What is the Protection of Pupil Rights Amendment? | Protecting Student Privacy \(accessed 012926\)](#)

[Minnesota Department of Health: The Family Educational Rights and Privacy Act \(FERPA\) and Immunization Data \(including Possible School Consent Language for Sharing Immunization Data with Registries\) \(accessed 012926\)](#)

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**IMMUNIZATION REQUIREMENTS**

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*[Note: The provisions of this policy substantially reflect statutory requirements.]*

**I. PURPOSE**

The purpose of this policy is to require that all students receive the proper immunizations as mandated by law to ensure the health and safety of all students.

**II. GENERAL STATEMENT OF POLICY**

All students are required to provide proof of immunization, or appropriate documentation exempting the student from such immunization, and such other data necessary to ensure that the student is free from any communicable diseases, as a condition of enrollment.

**III. STUDENT IMMUNIZATION REQUIREMENTS**

A. No student may be enrolled or remain enrolled, on a full-time, part-time, or shared-time basis, in any elementary or secondary school within the school district until the student or the student's parent or guardian has submitted to the designated school district administrator the required proof of immunization. Prior to the student's first date of attendance, the student or the student's parent or guardian shall provide to the designated school district administrator one of the following statements:

1. a statement from a physician, advanced practice registered nurse, physician assistant, or a public clinic which provides immunizations (hereinafter "medical statement"), affirming that the student received the immunizations required by law, consistent with medically acceptable standards; or
2. a medical statement affirming that the student received the primary schedule of immunizations required by law and has commenced a schedule of the remaining required immunizations, indicating the month and year each immunization was administered, consistent with medically acceptable standards.

B. The statement of a parent or guardian of a student or an emancipated student may be substituted for the medical statement. If such a statement is substituted, this statement must indicate the month and year each immunization was administered. Upon request, the designated school district administrator will provide information to the parent or guardian of a student or an emancipated student of the dosages required for each vaccine according to the age of the student.

C. The parent or guardian of persons receiving instruction in a home school shall submit one of the statements set forth in **Section Paragraph** III.A. or III.B., above, or statement of immunization set forth in **Section Article** IV., below, to the

superintendent of the school district by October 1 of the first year of their home schooling in Minnesota and the grade 7 year.

- D. When there is evidence of the presence of a communicable disease, or when required by any state or federal agency and/or state or federal law, students and/or their parents or guardians may be required to submit such other health care data as is necessary to ensure that the student has received any necessary immunizations and/or is free of any communicable diseases. No student may be enrolled or remain enrolled in any elementary or secondary school within the school district until the student or the student's parent or guardian has submitted the required data.
- E. The school district may allow a student transferring into a school a maximum of thirty (30) days to submit a statement specified in **Section Paragraph** III.A. or III.B., above, or **Section Article** IV., below. Students who do not provide the appropriate proof of immunization or the required documentation related to an applicable exemption of the student from the required immunization within the specified time frames shall be excluded from school until such time as the appropriate proof of immunizations or exemption documentation has been provided.
- F. If a person who is not a Minnesota resident enrolls in a school district online learning course or program that delivers instruction to the person only by computer and does not provide any teacher or instructor contact time or require classroom attendance, the person is not subject to the immunization, statement, and other requirements of this policy.

#### **IV. EXEMPTIONS FROM IMMUNIZATION REQUIREMENTS**

Students will be exempt from the foregoing immunization requirements under the following circumstances:

- A. The parent or guardian of a minor student or an emancipated student submits a signed medical statement affirming that the immunization of the student is contraindicated for medical reasons or that laboratory confirmation of the presence of adequate immunity exists; or
- B. The parent or guardian of a minor student or an emancipated student submits **his or her** a notarized statement stating the student has not been immunized because of the conscientiously held beliefs of the parent, guardian or **emancipated** student.

#### **V. NOTICE OF IMMUNIZATION REQUIREMENTS**

- A. The school district will develop and implement a procedure to:
  - 1. notify parents and students of the immunization and exemption requirements by use of a form approved by the **Minnesota** Department of

Health;

2. notify parents and students of the consequence for failure to provide required documentation regarding immunizations;
3. review student health records to determine whether the required information has been provided; and
4. make reasonable arrangements to send a student home when the immunization requirements have not been met and advise the student and/or the student's parent or guardian of the conditions for re-enrollment.

[See Attachments A, B, C, and D.]

- B. The notice provided shall contain written information describing the exemptions from immunization as permitted by law. The notice shall be in a font size at least equal to the font size and style as the immunization requirements and on the same page as the immunization requirements.

## VI. IMMUNIZATION RECORDS

- A. The school district will maintain a file containing the immunization records for each student in attendance at the school district for at least five years after the student attains the age of majority.
- B. Student immunization records maintained by the school district are generally considered education records subject to the Family Education Records and Privacy Act (FERPA). The school district may not disclose personally identifiable information (PII), including immunization records, without parent or eligible student consent unless a permissible exception applies. Upon request, the school district may exchange immunization data with persons or agencies providing services on behalf of the student. Immunization data is private student data and disclosure of such data shall be governed by Policy 515 Protection and Privacy of Pupil Records.
- C. The designated school district administrator will assist a student and/or the student's parent or guardian in the transfer of the student's immunization file to the student's new school within thirty (30) days of the student's transfer.
- D. Upon request of a public or private post-secondary educational institution as defined in Minnesota Statutes, section 135A.14, the designated school district administrator ~~will~~ shall assist in the transfer of the student's immunization file to the post-secondary educational institution.

## VII. OTHER

Within sixty (60) days of the commencement of each new school term, the school district

will forward a report to the [Minnesota](#) Commissioner of the Department of Education stating the number of students attending each school in the school district, including the number of students receiving instruction in a home school, the number of students who have not been immunized, and the number of students who received an exemption. The school district also will forward a copy of all exemption statements received by the school district to the Commissioner of the [Minnesota](#) Department of Health.

***Legal References:*** Minn. Stat. § 13.32 (Educational Data)  
Minn. Stat. § 121A.15 (Health Standards; Immunizations; School Children)  
Minn. Stat. § 121A.17 (School Board Responsibilities)  
Minn. Stat. § 144.29 (Health Records; Children of School Age)  
Minn. Stat. § 144.3351 (Immunization Data)  
Minn. Stat. § 144.441 (Tuberculosis Screening in Schools)  
Minn. Stat. § 144.442 (Testing in Schools)  
Minn. Rules Parts 4604.0100-4604.1020 (Immunization)  
[20 U.S.C. § 1232g \(Family Educational and Privacy Rights Act\)](#)  
*McCarthy v. Ozark Sch. Dist.*, 359 F.3d 1029 (8<sup>th</sup> Cir. 2004)  
Op. Atty. Gen. 169-W (July 23, 1980)  
Op. Atty. Gen. 169-W (Jan. 17, 1968)

**Resources:** [MN Department of Health: School Health Personnel Immunization and Disease Reporting \(accessed 12/15/25\)](#)

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MSBA/MASA Model Policy 615

Orig. 1997

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Rev. 2026

## **615 TESTING ACCOMMODATIONS, MODIFICATIONS, AND EXEMPTIONS FOR IEPS, SECTION 504 PLANS, AND LEP STUDENTS**

### **I. PURPOSE**

The purpose of the policy is to provide adequate opportunity for students identified as having individualized education program (IEP), Rehabilitation Act of 1973, Section 504 accommodation plan (504 plan), or English Learner (EL) needs to participate in statewide assessment systems designed to hold schools accountable for the academic performance of all students.

### **II. GENERAL STATEMENT OF POLICY**

A. The federal Every Student Succeeds Act (ESSA) and Minnesota statutes require that public school students be assessed annually in reading, mathematics, and science. The Minnesota Comprehensive Assessment (MCA), the Minnesota Test of Academic Skills (MTAS), and Alternate Minnesota Comprehensive Assessment (Alt MCA) are the standards-based accountability assessments used to meet this requirement.

The MCA and MTAS/Alt MCA are criterion-referenced assessments, which means they measure a snapshot of student learning of a fixed set of criteria: the Minnesota Academic Standards. The Minnesota K-12 Academic Standards are revised every ten (10) years, according to a schedule determined by the state legislature. When standards are updated, the statewide assessments are also updated with a new series to align to the new standards. The new assessments are administered when the new academic standards are fully implemented.

B. The Minnesota Test of Academic Skills (MTAS) and the Alternate Minnesota Comprehensive Assessment (Alt MCA)

1. The Minnesota Test of Academic Skills (MTAS) and Alternate Minnesota Comprehensive Assessment (Alt MCA) are the standards-based accountability assessments designed for, and limited to, students with the most significant cognitive disabilities. They are designed to measure student progress toward Minnesota's academic standards and meet the requirements of the Elementary and Secondary Education Act (ESEA). Students who receive special education services and meet the eligibility criteria may take the MTAS/Alt MCA.

2. In compliance with the transition to new Minnesota academic standards, the Minnesota Department of Education (MDE) is developing alternative assessments, the Alt MCA, to replace the MTAS, according to the following schedule:

a. Science Alternate MCA (2024-25 school year);

b. Reading Alternate MCA (2025-26 school year); and

c. Mathematics Alternate MCA (2027-28 school year).

### **III. DEFINITIONS**

#### **A. Most Significant Cognitive Disability**

This term describes students whose cognitive impairments may prevent them from attaining grade-level achievement standards, even with the very best instruction. IEP teams may use the following characteristics to identify if a student has a most significant cognitive disability:

1. The student's cognitive functioning is significantly below age expectations. The IEP team can determine that a student may be significantly below the average cognitive functioning of typically developing peers by
  - a. a standardized norm-referenced measure of cognitive functioning, or
  - b. when formal cognitive assessments are inappropriate, invalid or documented in other ways, other data-based measures may be used to document functioning significantly below age expectations as referenced in the Individuals with Disabilities Education Act (IDEA).
2. The student's disability has a significant impact on their ability to function in multiple environments, including home, school and community.
3. The student needs explicit and intensive instruction and/or extensive supports in multiple settings to acquire, maintain and generalize academic and life skills to actively participate in school, work, home and community environments.

B. Other key terms are defined in the current MDE Procedures Manual for the Minnesota Assessments (see Resources).

### **IV. ALTERNATIVE ASSESSMENT**

#### **A. Initial Steps**

1. The school district will utilize the existing annual review of IEPs or 504 plans to review, on a case-by-case basis, and determine how a student with a disability will participate in statewide testing.
2. The IEP must review the student's instructional program to ensure that the student is receiving instruction linked to the general education curriculum to the extent appropriate. If instruction is not linked to the general education curriculum, the IEP team must review the student's goals and determine how access to the general curriculum will be provided.
3. The IEP team must first consider the student's ability to participate in the MCA, with or without accommodations. The IEP team must document, in the IEP, the reasons why the MCA is or is not an appropriate measure of the

student's academic progress and how the student would participate in statewide testing.

If the IEP team establishes that the MCA is not an appropriate measure of the student's knowledge and skills on grade-level content standards, even when the student is provided allowable and appropriate accommodations, the IEP team may consider the administration of an alternate assessment.

4. Participation decisions will be made separately for mathematics, reading, and science. Participation decisions must be made annually and documented in a student's IEP.

**B. Alternate Assessment Eligibility Requirements**

1. ~~The following requirements must be met f~~For a student with a significant cognitive disability to be eligible for an alternative assessment, the IEP team must determine that the following are true:

- a. the student's cognitive functioning to be significantly below age expectations;
- b. the student's disability has a significant impact on ~~theirhis or her~~ ability to function in multiple environments, including home, school, and community; and
- c. the student needs explicit and intensive instruction and/or extensive supports in multiple settings to acquire, maintain, and generalize academic and life skills ~~in order~~ to actively participate in school, work, home, and community environments.<sup>27</sup>

~~(5) — The IEP team must document, in the IEP, reasons the MCA is or is not an appropriate measure of the student's academic progress and how the student would participate in statewide testing.~~

2. Alternate assessment~~MTAS~~ participation decisions must not be made on the following factors:

- a. Student's disability category as defined in Minnesota Rules, part 3525.1325-1348;
- b. ~~Placement~~Educational environment or instructional setting;
- c. Participation in a separate, specialized curriculum;
- d. An expectation that the student will receive a low score on the MCA;
- e. Language, social, cultural, or economic differences;
- f. Concern for participation rate~~accountability~~ calculations at the district level.

**V. ALTERNATE ACCESS FOR ELs**

**A. ACCESS for ELs**

1. All English learners in grades K–12 in public schools are required to participate annually in an English language proficiency assessment. With very few exceptions, all English learners take the ACCESS for ELs.

Minnesota students identified as English learners (ELs) require an additional assessment to determine their progress toward English language proficiency. These students take the WIDA ACCESS assessment annually. English learners who receive special education services and meet alternate assessment participation guidelines may take the WIDA Alternate ACCESS.

The school district will utilize the existing annual review of IEPs or 504 plans to review, on a case-by-case basis, and determine how an identified EL student with a disability will participate in statewide testing. Some students with significant cognitive disabilities may be eligible to take the Alternate ACCESS for ELLs instead of the ACCESS for ELL.

**B. Eligibility Requirements**

1. The student is identified as an English learner (EL) and is reported as EL in student enrollment data submitted in the Minnesota Automated Reporting Student System (MARSS); in order to take an English language proficiency assessment.
2. The student must have a most significant cognitive disability; If the student has been identified as eligible to take the MTAS in mathematics, reading, or science, the student meets this criterion.
3. The student cannot meaningfully participate in the WIDA ACCESS, even with allowable accommodations.
4. The IEP team must document, in the IEP, reasons the MCA is or is not an appropriate English language proficiency assessment for the student.

**C. Alternate ACCESS participation decisions must not be made on the following factors:**

1. The student's disability category alone;
2. The student's placement or instructional setting;
3. The student's language background, or other social, cultural, or economic factors;
4. An expectation that the student will receive a low score on the WIDA ACCESS for ELs; and

5. A desire to simplify test administration, which may include behavioral concerns or anticipated emotional distress.

~~C. EL Students New to the United States~~

~~EL students new to the United States will take all assessments, including all academic assessments (math, reading, and science), as well as the English Language Proficiency Assessment (ACCESS).~~

## **VI. GRANTING AND DOCUMENTING ACCOMMODATIONS, MODIFICATIONS, OR EXEMPTIONS FOR TESTING**

See Chapter 5 of the current "Procedures Manual for the Minnesota Assessments" and Guidelines for Administration of Accommodations and Linguistic Supports.

## **VII. RECORDS**

All test accommodations, modifications, or exemptions shall be reported to the school district test administrator. The school district test administrator shall be responsible for keeping a list of all such test accommodations, modifications, and exemptions for school district audit purposes. Testing results will be documented and reported.

**Legal References:** Minn. Stat. § 120B.11 (School District Process for Reviewing Curriculum, Instruction, and Student Achievement Goals; Striving for Comprehensive Achievement and Civic Readiness)  
Minn. Stat. § 120B.30 (Statewide Testing and Reporting System)  
Minn. Stat. § 125A.08 (Individualized Education Programs)  
Minn. Rules Parts 3501.0660 (Academic Standards for Language Arts)  
Minn. Rules Parts 3501.0700-3501.0745 (Academic Standards for Mathematics)  
Minn. Rules Parts 3501.0820 (Academic Standards for the Arts)  
Minn. Rules Parts 3501.0900-3501.0960 (Academic Standards in Science)  
Minn. Rules Parts 3501.1300-3501.1345 (Academic Standards for Social Studies)  
Minn. Rules Parts 3501.1400-3501.1410 (Academic Standards for Physical Education)

**Cross References:** MSBA/MASA Model Policy 104 (School District Mission Statement)  
MSBA/MASA Model Policy 601 (School District Curriculum and Instruction Goals)  
MSBA/MASA Model Policy 613 (Graduation Requirements)  
MSBA/MASA Model Policy 614 (School District Testing Plan and Procedure)  
MSBA/MASA Model Policy 616 (School District System Accountability)

**Resources:** Minnesota Department of Education (MDE): [Alternate Assessments](#) (accessed 12/31/25)  
MDE: [Statewide Assessments Policies and Procedures](#) (accessed 12/31/25)  
MDE: [Eligibility Requirements and Decision-Making Tool for Minnesota Alternative Assessment](#) (MTAS/Alternate MCA) (accessed 12/31/25)  
MDE: [English Learner Education](#) (accessed 1/1/26)  
MDE: [Minnesota's Assessments for English Learners](#) (accessed 1/1/26)  
WIDA: [WIDA Alternate ACCESS Participation Decision Tree](#) (accessed 1/1/26)

**ESTABLISHMENT AND ADOPTION OF SCHOOL DISTRICT BUDGET**

701

*[Note: The provisions of this policy substantially reflect the requirements of Minnesota Statutes.]*

**I. PURPOSE**

The purpose of this policy is to establish lines of authority and procedures for the establishment of the school district's revenue and expenditure budgets.

**II. GENERAL STATEMENT OF POLICY**

The policy of the school district is to establish its revenue and expenditure budgets in accordance with the applicable provisions of law. Budget planning is an integral part of program planning so that the annual budget will effectively express and implement school board goals and the priorities of the school district.

**III. REQUIREMENTS**

- A. The superintendent or such other school official as designated by the superintendent or the school board shall each year prepare preliminary revenue and expenditure budgets for review by the school board or its designated committee or committees. ~~The preliminary budgets shall be accompanied by such written commentary as may be necessary for them to be clearly understood by the members of the school board and the public. The school board shall review the projected revenues and expenditures for the school district for the next fiscal year and make such adjustments in the expenditure budget as necessary to carry out the education program within the revenues projected.~~ When projected expenditures exceed projected revenues, the school board may consider use of an available fund balance, if one exists.
- B. ~~The school district must maintain separate accounts to identify revenues and expenditures for each building.~~ Expenditures shall be reported in compliance with Minnesota Statutes section 123B.76.
- C. Prior to July 1 of each year, the school board ~~shall~~ **must** approve and adopt its ~~initial~~ revenue and expenditure budgets for the next school year. The ~~adopted expenditure~~ budget document ~~shall so adopted must~~ be ~~considered the school board's an~~ expenditure ~~authorizing or appropriations document authorization for that school year~~. No funds ~~may shall~~ be expended for any purpose in any school year prior to the adoption of the budget document which authorizes that expenditure for that year, or prior to the adoption of an amendment to that budget document by the school board to authorize that expenditure for that year.
- D. Each year, the school district ~~shall~~ **must** publish its adopted revenue and expenditure budgets for the current year, the actual revenues, expenditures, and fund balances for the prior year, and the projected fund balances for the current year in the form prescribed by the Minnesota Commissioner of Education within

one week of the acceptance of the final audit by the school board, or November 30, whichever is earlier. A statement ~~shall~~ **must** be included in the publication that the complete budget in detail may be inspected by any resident of the school district upon request to the superintendent. ~~A summary of this information and the address of the school district's official website where the information can be found must be published in a newspaper of general circulation in the school district.~~ At the same time as this publication, the school district shall publish the other information required by Minnesota Statutes section 123B.10.

- E. At the public hearing on the adoption of the school district's proposed property tax levy, the school board shall review its current budget and the proposed property taxes payable in the following calendar year.
- F. The school district must also post the materials specified in Paragraph III.D. above **in a conspicuous place** on the school district's official website, including a link to the school district's school report card on the Minnesota Department of Education's website, and publish a summary of information and the address of the school district's website where the information can be found in a qualified newspaper of general circulation in the district.

#### **IV. IMPLEMENTATION**

- A. The school board places the responsibility for administering the adopted budget with the superintendent. The superintendent may delegate duties related thereto to other school officials, but the superintendent maintains the ultimate responsibility for this function.
- B. The program-oriented budgeting system will be supported by a program-oriented accounting structure organized and operated on a fund basis as provided for in Minnesota statutes through the Uniform Financial Accounting and Reporting Standards for Minnesota School Districts (UFARS).
- C. The superintendent or the superintendent's designee is authorized to make payments of claims or salaries authorized by the adopted or amended budget prior to school board approval.
- D. Supplies and capital equipment can be ordered prior to budget adoption only by authority of the school board. If additional personnel are provided in the proposed budget, actual hiring may not occur until the budget is adopted unless otherwise approved by the school board. Other funds to be expended in a subsequent school year may not be encumbered prior to budget adoption unless specifically approved by the school board.
- E. The school district shall make such reports to the Minnesota Commissioner of Education as required relating to initial allocations of revenue, reallocations of revenue, and expenditures of funds.

**Legal References:** Minn. Stat. § 123B.10 (Publication of Financial Information)

Minn. Stat. § 123B.76 (Expenditures; Reporting)  
Minn. Stat. § 123B.77 (Accounting, Budgeting, and Reporting  
Requirements)

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