

**Definitions**

1. Education Records

"Education records" consists of all official records, files and data directly related to a student that are maintained by the District or by a party acting for the District. A student's education record encompasses all the material incorporated in the student's cumulative record folder and includes, but is not necessarily limited to, identifying data, academic work completed, level of achievement (grades, standardized achievement test scores), daily attendance data, scores on standardized intelligence, aptitude and psychological tests, interest inventory results, health data, family background information, teacher or counselor ratings and written observations, and discipline data, including suspensions or expulsions. Student records are the property of the District, with access by others as set forth in this regulation.

2. Exclusions From the Term "Education Records"

The following documents are not "education records":

- a. Aggregated data that does not contain "personally identifiable information" about a specific student.
- b. Personal files, notes, or records maintained by staff members or professional consultants that are kept in their sole possession, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute. Such files or personal notes regarding students shall constitute the personal property of the person compiling the file.
- c. Records of the District's law enforcement unit.
- d. An employment record made and maintained in the normal course of business that relates exclusively to an individual in his or her capacity as an employee. However, records relating to a student who is employed as a result of his or her student's status are education records.
- e. Records of a student age 18 or older that are made or maintained by a physician or mental health professional that are utilized for treatment of the student and are disclosed only to individuals providing treatment. "Treatment" for this provision does not include remedial educational activities that are part of the District's instructional program.
- f. Records created or received by the District after the student no longer attends and that are not directly related to the individual's attendance as a student.

- g. Grades on peer-graded papers before they are collected and recorded by a teacher.
- h. Personal knowledge or observation of a school official. A school official is not prohibited from disclosing information about a student if the information is obtained through the school official's personal knowledge or observation, and not from the student's education records.

3. Personally Identifiable Information

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

"Biometric record" as used above means a record of one or more measurable biological or behavioral characteristics that can be used for automated recognition of an individual. These include fingerprints, eye patterns, voiceprints, DNA, facial characteristics, and handwriting.

4. Directory Information

"Directory Information" means information contained in an education record that would not generally be considered harmful or an invasion of privacy if disclosed. It includes, but is not limited to, a student's name, address, telephone listing, electronic mail address, photograph, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, grade level, enrollment status, degrees and awards or honors received, scholarship eligibility, and the most recent school attended by the student.

Directory information does not include a student's social security number or student identification number if the student identifier can be used to gain access to education records. A student identifier can be listed as directory information if the identifier must be used in conjunction with one or more factors that authenticate the student's identity, such as a PIN or password.

5. Parents

"Parents" means a natural parent, an adoptive parent, foster parent, legal guardian, or an individual acting as a parent in the absence of a parent or guardian, or in the case of a student receiving services provided to exceptional children, a person acting as the parent of a child or a surrogate parent appointed in accordance with state regulations. Either or both parents have access to a student's records, even if a separation or divorce has occurred, unless the parental rights of a parent have been legally terminated through adoption or other legal process; or unless a decree of divorce, separation, or other court order specifically prohibits parental access to school information or records.

6. Eligible Student

"Eligible student" means a student who has attained eighteen years of age, is an emancipated minor, or is attending an institution of post-secondary education.

7. School Official

A "school official" is a person employed by the District as an administrator, supervisor, instructor, or support staff member (including health or medical staff); a person serving on the School Board; law enforcement unit personnel as defined in this regulation; a person or company with whom the District has contracted to perform a special task (such as attorney, auditor, medical consultant, or therapist); a contractor, consultant, or other outside party to whom the District has outsourced services or functions that it would otherwise use employees to perform, provided that the outside party is under the direct control of the District with respect to use and maintenance of education records and subject to the same conditions governing use and disclosure of those records, or a parent or student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks.

8. Law Enforcement Unit Personnel

"Law enforcement unit personnel" are individuals employed, contracted, or permitted to monitor safety and security in and around the schools. Law enforcement unit personnel are responsible for referring potential or alleged violations of law to local law enforcement. The District's law enforcement unit includes the following individuals: [school resource officers; safety and security staff; principal; etc.].

9. Education Program

“Education program” means any program that is principally engaged in the provision of education, including, but not limited to, early childhood education, elementary and secondary education, postsecondary education, special education, job training, career and technical education, and adult education, and any program that is administered by an educational agency or institution.

**Annual Notice**

The Superintendent shall notify parents and eligible students of the rights accorded them under this policy. Annually, the Superintendent shall provide to parents and eligible students a notice which informs them of the following rights:

- \* to inspect and review their student’s education records, and the procedures for doing so;
- \* to seek amendment of student records which are believed to be inaccurate, misleading, or in violation of the student’s privacy rights, and the procedures for doing so;
- \* to consent to disclosure of personally identifiable information except where law authorizes disclosure without consent; and
- \* to file a complaint in accordance with 34 CFR Section 99.63 and 99.64.

The annual notice shall also provide the following information:

- \* that the District discloses student records without consent to school officials with a legitimate educational interest, and explanation of who constitutes a school official, and what constitutes a legitimate educational interest;
- \* that the District forwards records to other school districts or post-secondary institutions that have requested the records and where the student attends or is seeking to enroll; and
- \* the name and address of the official responsible for the records and the current fee for copies of records.

Finally, the annual notice will explain that the District discloses information about student eligibility for certain Alaska programs. The notice will identify the programs and explain whether a parent or eligible student may opt out of the following disclosures and if so, how to do so:

- \* the University of Alaska scholarship programs;
- \* the Alaska Performance Scholarship Program; and
- \* the Alaska Military Youth Academy operated by the Department of Military and Veterans’ Affairs.

In addition, the District will maintain for public inspection a list of the names and positions of those employees who routinely have access to student records specifically collected or maintained in conjunction with the provision of services to children with disabilities. Upon request, the District shall provide a parent of a student receiving special education or related services a list of the type and location of records collected, maintained and used by the District in conjunction with the provision of such services.

### **Custody and Protection of Student Records**

1. Place Records are Kept

Student records will generally be maintained in the cumulative record folders in the administrative offices of the District. With the consent of the Superintendent, or his designee, portions of student records may be kept in other places for reasons of effective school administration, such as data collected and maintained in physical education, vocational, health or special education locations.

2. Custodian of Records

Student records in each place where they are maintained shall be under the control of a custodian appointed by the Superintendent. The custodian shall be responsible for carrying out this regulation with respect to the records under his/her control. The custodian shall use reasonable physical, technological, or procedural controls to ensure that school officials obtain access to only those education records in which they have legitimate educational interests.

3. Record of Access to Student Records

Each individual student cumulative record folder, and each student record maintained separately from the folder, shall contain a written record of each request for, and each disclosure of, personally identifiable information. The record of access shall include

- a. the identity of the person reviewing the record and the person's official capacity;
- b. the specific record examined or requested;
- c. the legitimate interest that the person had in requesting or obtaining the information;
- d. the date of examination or request;

- e. if the District discloses personally identifiable information from a student record with the understanding that the information will be redisclosed on behalf of the District, then the names of the additional parties to which the receiving party may disclose the information and the legitimate interest which each additional party has in requesting or obtaining the information;
- f. if the District discloses personally identifiable information from education records to state or federal educational authorities for purposes of audit or evaluation, then the identity of the party and the fact that redisclosures may be made. The state or federal educational authorities must record any further disclosures made, in lieu of the District recording those disclosures. The District will obtain the records of redisclosure from the state or federal authority upon request of a parent or eligible student; and
- g. if disclosure is pursuant to a health or safety emergency, then the identity of individual requesting or receiving the information and a description of the articulable and significant threat to the health or safety of the student or others.

A record of access does not have to be kept for requests by, or disclosure to, the following individuals:

- a. parents of the student or an eligible student;
- b. school officials with a legitimate educational interest;
- c. those authorized to obtain disclosure by written consent of a parent or eligible student, unless the disclosure pertains to records of a student receiving special education or related services;
- d. those who request directory information, unless the disclosure pertains to records of a student receiving special education or related services; or
- e. the Attorney General of the United States, or designee, when disclosure is pursuant to an ex parte order in connection with the investigation or prosecution of terrorism crimes.

**Destruction of Records**

1. The District is not precluded from destroying any records, if not otherwise precluded by law, except that access shall be granted prior to the destruction of the education records where the parent or eligible student has requested such access.
2. In the case of records pertaining to students receiving special education or related services that are no longer needed by the District to comply with state or federal law or regulations, the District shall make reasonable efforts to notify the parent and offer the parent a copy of the record. Such records shall be destroyed upon request of the parent.
3. Records pertaining to the name, address, telephone number, grades, attendance, classes attended, grade level completed, and year completed of a student who has received special education or related services must be maintained indefinitely.

**Access by Parents or Eligible Students**

A parent of a student who is under the age of eighteen (18) years and who has attended or is currently enrolled in the District, has a right to inspect and review his or her student's records or any part thereof. This right of access does not apply to the child's address if the Superintendent determines that release of the address poses a threat to the health or safety of the child.

An eligible student has a right to inspect and review his or her student record or any part thereof. Parents' rights under this policy transfer to the eligible student. However, once a student has become an eligible student, the District may disclose records of the student to the parent without the student's consent in the following instances:

1. if the student is a dependent of either parent for federal income tax purposes; or
2. in connection with a health or safety emergency.

The right of access specified in this section shall include:

1. the right to inspect and review the content of student records;
2. the right to obtain copies of those records, which shall be at the expense of the parent or the eligible student (but not to exceed the actual cost to the District of producing such copies);
3. the right to a response from the District to reasonable requests for explanations and interpretations of those records; and
4. the right to an opportunity for a hearing to challenge the content of those records.

Parents or eligible students desiring to review student records shall present a written request to the office of the Superintendent. The request shall specify the specific records which the person wishes to inspect. In the event the District cannot determine the exact records to which access is sought, the District shall immediately contact the requesting person by letter or otherwise to determine the desired scope of records to be inspected.

Such inspection shall be made during reasonable business hours determined by mutual agreement between the District and the requesting person, but in no event shall access be withheld more than forty-five (45) days after the written request has been made. However, the District must respond to requests by a parent of a student receiving special education or related services within ten (10) days of the request and, in any case, before any meeting or hearing in which the parent may participate relating to the identification, placement, or program of the student.

Where the records requested include information concerning more than one student, the parent or eligible student shall be permitted to review only that part of the record pertaining to his child or his record, or where this cannot reasonably be done, the parent or eligible student shall be informed of the contents of that part of the record pertaining to his child.

#### **Access Without Parental Consent**

The District shall not permit access to or the release of student records or the personally identifiable information contained therein without the consent of a parent or eligible student except that access without consent, other than records containing personally identifiable information specifically collected or maintained in conjunction with the provision of special education or related services, shall be permitted to those persons, or under those circumstances, listed below:

1. School officials within the District who have a legitimate educational interest in having access to the records. A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.
2. Officials of other districts, schools, state operated correspondence programs, or post-secondary institutions in which the student seeks to enroll, or is already enrolled, so long as the disclosure is for purposes related to the student's enrollment or transfer. It is the policy of the District to forward student records to the entities or programs listed in this subsection without notifying the parent or eligible student. The District shall forward these records within 10 days after receiving a request. Notification of this practice will be provided to parents and students in the annual notification.



Missing Children: As required by state law, the District shall flag the school records of a child who is missing. Upon receipt of a request from another school or district for a record that has been flagged, the District shall immediately notify the Department of Public Safety. Unless directed to do so by the Department, the District may not forward a copy of the flagged records.

3. Upon their request, military recruiters and institutions of higher learning shall have access to secondary students' names, addresses, and telephone listings, unless an objection is made by the student's parent or guardian. Parents/guardians shall be notified of their right to make this objection.
4. Authorized representatives of the Comptroller General of the United States, the Attorney General of the United States, the Secretary of Education, or the Department of Education and Early Development of the State of Alaska, if the information is provided in connection with an audit or evaluation of federal or state supported education programs.

Information may not be disclosed under this subsection unless the District has entered into a written agreement with the organization: 1) designating the individual or entity as an authorized representative; 2) specifying the personally identifiable information from education records to be disclosed; 3) specifying that the purpose for which the personal information is being disclosed is to carry out an audit or evaluation of federal- or state-supported education programs, or to enforce or to comply with federal legal requirements that relate to those programs; 4) describing the activity with sufficient specificity to make clear that it falls within the audit or evaluation exception, including a description of how the personal information from education records will be used; 5) requiring the authorized representative to destroy the personal information from education records when the information is no longer needed for the purpose specified; 6) specifying the time period in which the information must be destroyed; and 7) establishing policies and procedures, consistent with FERPA and other federal and state confidentiality and privacy provisions, to protect personal information from education records from further disclosure (except back to the disclosing entity) and unauthorized use, including limiting use of personally identifiable information from education records to only authorized representatives with legitimate interests in an audit, evaluation, or enforcement or compliance activity.

5. In compliance with a judicial order or pursuant to any lawfully issued subpoena. However, the District shall make a reasonable effort to give the parent or eligible student notice of all such orders or subpoenas as soon as reasonably possible after they are received, and in advance of production of the records, so that the parents or eligible student may seek protective action. Prior notice will not be given in the following cases: a federal grand jury subpoena or order where the court has ordered that the existence or contents of the subpoena not be disclosed; a court or other issuing agency issues a subpoena for a law enforcement purpose and orders the school not to disclose the existence or contents of the subpoena; or when the parent is a party to a court proceeding involving child abuse and neglect and the subpoena or order is issued in that proceeding.
6. Disclosure in connection with financial aid conditioned on the student's attendance at an educational institution. Such disclosure will be made provided that the student has actually applied for or received the aid and the information disclosed is necessary to (a) determine eligibility for the aid, (b) determine the amount of the aid, (c) determine the conditions for the aid or (d) enforce the terms and conditions of the aid.
7. The disclosure is to organizations conducting studies for or on behalf of educational agencies or institutions for the purpose of (a) developing, validating or administering predictive tests, (b) administering student aid programs or (c) improving instruction.

Information may not be disclosed under this subsection unless the District has entered into a written agreement with the organization: 1) specifying the purpose, scope, and duration of the study and the information to be disclosed; 2) restricting the use of personally identifiable information only to purposes of the study as defined in the agreement; 3) assuring that the study will be conducted in a manner that does not permit personal identification of parents and students by individuals other than representatives of the organization that have legitimate interests in the information; and 4) providing that the information will be destroyed or returned to the District when no longer needed for the study, and specifying the time period for destruction or return. Nothing in this section requires the District to initiate a study, or agree with or endorse the conclusions or results of the study.

8. The disclosure is to accrediting organizations carrying out their accrediting functions.
9. Information may be disclosed in connection with a health and safety emergency subject to the conditions described below.
10. Directory information may be released subject to the conditions described in BP 5125.1.

11. The disclosure is to a caseworker of the state or local child welfare agency and the agency is legally responsible for the care and protection of the student.

*(cf. 5125.1 - Release of Directory Information)*

### **Transfer of Information to Third Parties**

1. The District shall not release personal information concerning a student except on the condition that the party to which the information is being transferred will not permit any other party to have access to such information without the prior written consent of the parent or eligible student. The District shall include with any information released to a party a written statement which informs the party of this requirement.
2. The District may disclose personally identifiable information with the understanding that the party receiving the information may make further disclosures on behalf of the district without the consent of the parent or eligible student if (a) these further disclosures meet the requirements for access without consent; and (b) the District maintains a record of third parties granted access and the legitimate interest of such parties.

### **Cooperation With Juvenile Justice System**

The school district will cooperate with the juvenile justice system in sharing information contained in permanent student records regarding students who have become involved with the juvenile justice system. The school district will enter into an interagency agreement with the juvenile justice agencies (“agencies”) involved.

The purpose of the agreement is to allow for the sharing of information prior to a student’s adjudication in order to promote and collaborate between the district and the agencies to improve school safety, reduce alcohol and illegal drug use, reduce truancy, and reduce in-school and out-of-school suspensions. This cooperation will enhance alternatives such as structured and well supervised educational programs, supplemented by coordinated and appropriate services, designed to correct behaviors that lead to truancy, suspension, and expulsions, and to support students in successfully completing their education.

The school district may share any information with the agencies contained in a student’s permanent record, which is directly related to the juvenile justice system’s ability to effectively serve the student. Prior to adjudication, information contained in the permanent record may be disclosed by the school district to the parties without parental consent or court order. Information shared pursuant to the agreement is used solely for determining the programs and services appropriate to the needs of the student or student’s family or coordinating the delivery of programs and services to the student or student’s family.

Information shared under the agreement is not admissible in any court proceedings which take place prior to a disposition hearing, unless written consent is obtained from a student’s parent, guardian, or custodian.

Confidential information shared between the school district and the agencies will remain confidential and will not be shared with any other person, unless otherwise provided by law.

**Records Pertaining to Children with Disabilities**

Personally identifiable information in those student records specifically collected or maintained in conjunction with the provision of special education or related services may not be released without the written consent of a parent unless the disclosure is to:

1. A school official as defined above.
2. An official of a school or school system in which the student intends to enroll; provided, however, that a parent must be notified of any such disclosure, offered a copy of the record, and notified of his or her right to request amendment of the record.
3. A representative of the Federal Comptroller General, U.S. Department of Education, or Alaska Department of Education and Early Development.

The contents of a student's record may be furnished to any person with the written consent of one of the student's parents. The written consent should specify the records to be released, the reasons for the release, and to whom the records will be released. Where the consent of a parent is required for the release of student records, a copy of the records to be released shall be provided on request to the student's parents or the eligible student, and to the student who is not an eligible student if so requested by the student's parents.

If a parent refuses to consent to release of a student record specifically collected or maintained in conjunction with the provision of special education or related services, the District may initiate a hearing pursuant to the provisions of 4 AAC Section 52.550.

**Release of Information for Health and Safety Emergencies**

The District may release information from records to appropriate persons, including parents of 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 persons. The District will take into account the totality of the circumstances, based on the information available at the time, to determine if there is an articulable and significant threat to the health or safety of a student or others.

The District may include in a student's records 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. Under the "health and safety emergency" exception, the District may disclose this information to teachers and school officials of the district, or to teachers and school officials of other districts, if those individuals have a legitimate educational interest in the behavior of the student.

Students

**STUDENT RECORDS** (continued)

AR 5125(m)

**Complaint Procedure**

A parent or eligible student may file a written complaint with the national Family Policy Compliance Office regarding an alleged violation of federal laws governing the administration of student records. These laws include the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, and its regulations found at 34 CFR Part 99. A complaint must be filed within 180 days of the date of the alleged violation, or of the date the parent or eligible student knew or reasonably should have known of the alleged violation. Complaints should be filed with:

Family Policy Compliance Office  
U.S. Department of Education  
Washington, D.C. 20202-5920  
(202) 260-3887

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