

BOARD MEMBERS
AUTHORITY

BBE
(LEGAL)

BOARD ACTIONS

Because the Board is a body corporate, members can perform no valid act except as a body at meetings properly convened and conducted. Toyah ISD v. Pecos-Barstow ISD, 466 S.W.2d 377 (Tex. Civ. App.-San Antonio, 1971, no writ); Buchehe v. Woods, 528 S.W.2d 95 (Tex. Civ. App.-Tyler, 1975, no writ)

RIGHT OF ACCESS

Individual Trustees, in their official capacity as public officers entrusted with governing and overseeing the management of the District, have an inherent right of access to records maintained by the District, under Board policies for orderly access. *Atty. Gen. Op. No. JM-119 (1983)*; *Education Code 11.151* [See FL, GBA]

PROTECTIONS FOR
ACTING ON A
LEGISLATIVE
MEASURE

A Board member may not be subject to disciplinary action or a sanction, penalty, disability, or liability for:

1. An action permitted by law that the officer takes in the officer's official capacity regarding a legislative measure;
2. Proposing, endorsing, or expressing support for or opposition to a legislative measure or taking any action permitted by law to support or oppose a legislative measure;
3. The effect of a legislative measure or of a change in law proposed by a legislative measure on any person; or
4. A breach of duty, in connection with the member's practice of or employment in a licensed or regulated profession or occupation, to disclose to any person information, or to obtain a waiver or consent from any person, regarding the officer's actions relating to a legislative measure; or the substance, effects, or potential effects of a legislative measure.

Gov't Code 572.059

BOARD MEMBER
IMMUNITIES

The statutory immunity detailed below is in addition to and does not preempt the common law doctrine of official and governmental immunity. *Education Code 22.051(b)*

STATE LAW
IMMUNITIES

A Board member is not personally liable for any act that is incident to or within the scope of the duties of the Board member's position and that involves the exercise of judgment or discretion. *Education Code 22.0511(a)*

FEDERAL LAW
IMMUNITIES

Except as provided in 20 U.S.C. Section 6736(b), no Board member shall be liable for harm caused by an act or omission of the Board member on behalf of the District if the conditions of the Paul D. Coverdell Teacher Protection Act of 2001 are met. *20 U.S.C. Section 6733, 6736(a)*

[See also DH]

STUDENT RECORDS

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SECTION I: EDUCATION RECORDS

**'EDUCATION
RECORDS' DEFINED**

For the purposes of this policy, the term "education records" means those records, files, documents, and other materials that contain information directly related to a student and are maintained by an education agency or institution or by a person acting for such agency or institution.

The term "education records" does not include:

1. Records that are created or received by the District after an individual is no longer a student in attendance and that are not directly related to the individual's attendance as a student.
2. Records made by District personnel that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to anyone other than a temporary substitute for the maker of the record.
3. Records maintained by a law enforcement unit of the District that were created by that law enforcement unit for the purpose of law enforcement.
4. Records on a student who is 18 years of age or older, or who is attending an institution of postsecondary education, that are:
 - a. Made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional capacity or assisting in a paraprofessional capacity;
 - b. Made, maintained, or used only in connection with treatment of the student; and
 - c. Disclosed only to individuals providing the treatment. For the purpose of this definition, "treatment" does not include remedial educational activities or activities that are part of the program of instruction at the agency or institution.
5. Grades on peer-graded papers before they are collected and recorded by a teacher.

20 U.S.C. 1232g; 34 CFR 99.3

**SCREENING
RECORDS**

The principal of each school shall maintain records of screening for special senses and communication disorders, spinal screening, and assessment for type 2 diabetes for each student in the school. Records shall be open for inspection by the state or local health department. The Texas-Mexico Border Health Coordination Office

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may, directly or through local health departments, enter a school and inspect records relating to assessment for type 2 diabetes. Individual screening records may be transferred among schools in accordance with provisions below concerning ACCESS BY OTHER PERSONS. *20 U.S.C. 1232g; Health & Safety Code 36.006, 37.003, 95.004; 25 TAC 37.148(o)* [See FFAA]

IMMUNIZATION
RECORDS

The District shall maintain an individual immunization record during the period of attendance for each student admitted. The records shall be open for inspection at all reasonable times by the Texas Education Agency or by representatives of local health departments or the Texas Department of State Health Services. The District shall cooperate with other districts in transferring students' immunization records between other schools. Specific approval from students, parents, or guardians is not required prior to making such record transfers. *Education Code 38.002* [See FFAB]

MEDICAL RECORDS

The parent or guardian of a student is entitled to access to the student's medical records maintained by the District. On request of a student's parent or guardian, the District shall provide a copy of the student's medical records to the parent or guardian. The District may not impose a charge that exceeds the amount authorized by Section 552.261 of the Government Code [see GBA]. *Education Code 38.0095*

PRIVACY RULE FOR
NON-'EDUCATION
RECORDS'

To the extent the District is a covered entity under the Health Insurance Portability and Accountability Act (HIPAA), the District must comply with the Privacy Rule, 45 CFR Part 164, with respect to protected health information that is not an education record. *45 CFR 160.103, 164.501* [See CRD]

ASSESSMENT
INSTRUMENTS

The results of individual student performance on basic skills assessment instruments or other achievement tests administered by the District are confidential and may be made available only to the student, the student's parent or guardian, and to the school personnel directly involved with the student's educational program. However, overall student performance data shall be aggregated by ethnicity, sex, grade level, subject area, campus, and District, and made available to the public, with appropriate interpretations, at regularly scheduled Board meetings. The information may not contain the names of individual students or teachers. *Education Code 39.030(b)* [See EKB]

ACADEMIC
ACHIEVEMENT
RECORD (GRADES
9-12)

The District shall use the academic achievement record (transcript) form adopted by the State Board. This form shall serve as the academic record for each student and shall be maintained permanently by the District. Copies of the record shall be made available to students transferring to another district. The information may be provided to the student or to the receiving district or to both. The

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District shall respond promptly to all requests for student records from receiving districts. *19 TAC 74.14(b)* [See EI]

SECTION II: ACCESS, DISCLOSURE, AND AMENDMENT

ACCESS TO
EDUCATION RECORDS

DEFINITIONS

'ATTENDANCE'

"Attendance" includes, but is not limited to:

1. Attendance in person or by paper correspondence, videoconference, satellite, Internet, or other electronic information and telecommunications technologies for students who are not physically present in the classroom; and
2. The period during which a person is working under a work-study program.

'DISCLOSURE'

"Disclosure" means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record.

'PARENT'

"Parent" includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian.

'PERSONALLY
IDENTIFIABLE
INFORMATION'

"Personally identifiable information" includes, but is not limited to:

1. The student's name;
2. The name of the student's parent or other family members;
3. The address of the student or student's family;
4. A personal identifier, such as the student's biometric record, as defined by 34 CFR 99.3; social security number; or student number;
5. Other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name;
6. Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or
7. Information requested by a person who the District reasonably believes knows the identity of the student to whom the education record relates.

34 CFR 99.3

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ACCESS BY
PARENTS

Access to the education records of a student who is or has been in attendance at a school in the District shall be granted to the parent of the student who is a minor or who is a dependent for tax purposes. *34 CFR 99.10, 99.31(a)(8)*

The District shall presume that a parent has authority to inspect and review the student's records unless it has been provided with evidence that there is a court order, state statute, or legally binding document that specifically revokes these rights. A court may order the custodian of records to delete all references in a child's records to the place of residence of either party appointed as conservator before their release to another party appointed as conservator. *34 CFR 99.4; Family Code 153.012, 153.073*

A parent is entitled to access to all written records of the District concerning the parent's child, including attendance records, test scores, grades, disciplinary records, counseling records, psychological records, applications for admission, health and immunization information, teacher and counselor evaluations, and reports of behavioral patterns. *Education Code 26.004*

ACCESS BY
STUDENT

Whenever a student has attained 18 years of age or is attending an institution of postsecondary education, the rights accorded to, and consent required of, parents transfer from the parents to the student.

Nothing in this section prevents the District from disclosing education records, or personally identifiable information from education records, to a parent without prior written consent of an eligible student if the disclosure meets the conditions in 34 CFR 99.31(a), including if the student is a dependent for tax purposes or in the case of a health or safety emergency.

34 CFR 99.5

If material in the education record of a student includes information on another student, only the portion of the material relating to the student whose records were requested may be inspected and reviewed. *34 CFR 99.12(a)*

ACCESS BY OTHER
PERSONS

Personally identifiable information in education records shall not be released without the written consent of the student's parents, except to the following:

SCHOOL
OFFICIALS

1. School officials, including teachers, who have legitimate educational interests. An administrator, nurse, or teacher is entitled to access to a student's medical records maintained by the District for reasons determined in District policy.

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A contractor, consultant, volunteer, or other party to whom the District has outsourced institutional services or functions may be considered a school official under this paragraph provided that the outside party:

- a. Performs an institutional service or function for which the District would otherwise use employees;
- b. Is under the direct control of the District with respect to the use and maintenance of education records; and
- c. Is subject to the requirements of 34 CFR 99.33(a) governing the use and redisclosure of personally identifiable information from education records.

The District must use reasonable methods to ensure that school officials obtain access to only those education records in which they have legitimate educational interests. A district that does not use physical or technological access controls must ensure that its administrative policy for controlling access to education records is effective and that it remains in compliance with the legitimate educational interest requirement.

34 CFR 99.36; Education Code 38.009

OFFICIALS OF
OTHER SCHOOLS

2. Officials of other schools or school systems in which the student seeks or intends to enroll, or where the student is already enrolled so long as the disclosure is for purposes related to the student's enrollment or transfer, provided that the District either:

- a. Includes in its policies a statement that notifies the parent or student that it forwards education records on request of the other school to such officials; or
- b. Makes a reasonable attempt to notify the parent (unless the record transfer is initiated by the parent).

In either case, the District shall furnish a copy of the transferred records to the parent if requested and shall give the parent an opportunity for a hearing to challenge the content of the record. *34 CFR 99.34(a)*

AUTHORIZED
GOVERNMENTAL
REPRESENTATIVES

3. Authorized representatives of the officials or agencies headed by the Comptroller General of the United States, the Attorney General of the United States, the Secretary of Education, or state and local educational authorities who require access to student or other records necessary in connection with the audit and evaluation of federal- or state-supported education

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programs or in connection with the enforcement of or compliance with federal legal requirements that relate to such programs. 34 CFR 99.35

The District may not refuse to report information concerning a student holding an F, J, or M visa on the basis of the Family Educational Rights and Privacy Act (FERPA) and any regulation implementing FERPA. The District is authorized and required to report information that would ordinarily be protected by FERPA only to the extent required by 8 U.S.C. 1372, 8 CFR 214.3, or any corresponding regulation. 8 U.S.C. 1372(c)(2); 8 CFR 214.1(h)

FINANCIAL AID
PERSONNEL

4. Personnel involved with a student's application for, or receipt of, financial aid.

JUVENILE
JUSTICE
OFFICIALS

5. State and local officials to whom such information is specifically allowed to be reported or disclosed by state statute adopted:
- a. Prior to November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and its ability to effectively serve the student whose records are released, or
 - b. After November 19, 1974, if:
 - (1) The allowed reporting or disclosure concerns the juvenile justice system and its ability to effectively serve, prior to adjudication, the student whose records are released; and
 - (2) The officials and authorities to whom such information is disclosed certify in writing to the District that the information will not be disclosed to any other party except as provided under state law without the prior written consent of the parent of the student.

ORGANIZATIONS
CONDUCTING
STUDIES

6. Organizations conducting studies for, or on behalf of, the District for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction. Such studies must be conducted so that personal identification of students and their parents will not be revealed to persons other than authorized personnel of the organizations conducting the studies who have legitimate interests in the information. Such information must be destroyed when no longer needed for the original purposes of the studies.

The District must enter 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, as defined in this part, by anyone other than representatives of the organization with legitimate interests; and
- d. Requires the organization to destroy or return to the District all personally identifiable information when the 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 returned or destroyed.

The District is not required to initiate a study or agree with or endorse the conclusions or results of the study.

ACCREDITING
ORGANIZATIONS

7. Accrediting organizations that require the information for purposes of accreditation.

HEALTH &
SAFETY
EMERGENCY

8. Appropriate persons, including the student's parents, who, in an emergency, must have such information in order to protect the health or safety of the student or other person.

In making a determination, the District may take into account the totality of the circumstances pertaining to a threat to the health or safety of a student or other individuals. If the District determines that there is an articulable and significant threat to the health or safety of a student or other individuals, it 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 individuals. If, based on the information available at the time of the determination, there is a rational basis for the determination, the United States Department of Education will not substitute its judgment for that of the District in evaluating the circumstances and making its determination.

34 CFR 99.36

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DIRECTORY INFORMATION	<p>9. Any person requesting directory information after the District has given public notice of that definition. <i>34 CFR 99.37</i></p> <p><i>20 U.S.C. 1232g(b); 34 CFR 99.31</i></p>
WRITTEN CONSENT	<p>The parent shall provide a signed and dated written consent before the District discloses personally identifiable information from a student's education records to any individual, agency, or organization other than the parent, the student, or those listed above. Such consent shall specify records to be released, the reason for such release, and to whom the records are to be released. <i>34 CFR 99.30</i></p>
SUBPOENAED RECORDS	<p>The District shall release student records to an entity or persons designated in a subpoena. The District shall not disclose to any person the existence or contents of the subpoena if a court orders the District to refrain from such disclosure. Unless the court or other issuing agency orders the District to refrain from such disclosure or the order is 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 U.S.C. 2332b(g)(5)(B) or an act of domestic or international terrorism as defined in 18 U.S.C. 2331, the District shall make a reasonable effort to notify the parents and the student of all such subpoenas in advance of compliance. <i>20 U.S.C. 1232g(b)(1)(J), (b)(2)(B); 34 CFR 99.31(a)(9)</i></p>
SEX OFFENDERS	<p>The District may disclose personally identifiable information without consent if the disclosure concerns sex offenders and other individuals required to register under section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. 14071, and the information was provided to the District under 42 U.S.C. 14071 and applicable federal guidelines. <i>34 CFR 99.31(a)(16)</i></p>
REQUEST PROCEDURE	<p>Upon request of a properly qualified individual, access to a student's education record shall be granted within a reasonable period of time, not to exceed 45 days. The District shall respond to reasonable requests for explanations and interpretations of the records. <i>34 CFR 99.10</i></p>
DESTRUCTION OF RECORDS	<p>The District shall not destroy any education records if there is an outstanding request to inspect and review the records. <i>34 CFR 99.10(e)</i></p>
DE-IDENTIFIED RECORDS	<p>The District, or a party that has received education records or information from education records, may release the records or information without the parent's written consent after the removal of all personally identifiable information provided that the District or other party has made a reasonable determination that a student's</p>

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identity is not personally identifiable, whether through single or multiple releases, and taking into account other reasonably available information.

EDUCATION
RESEARCH

The District, or a party that has received education records or information from education records, may release de-identified student level data from education records for the purpose of education research by attaching a code to each record that may allow the recipient to match information received from the same source, provided that:

1. The District or other party that releases de-identified data under this section does not disclose any information about how it generates and assigns a record code, or that would allow a recipient to identify a student based on a record code;
2. The record code is used for no purpose other than identifying a de-identified record for purposes of education research and cannot be used to ascertain personally identifiable information about a student; and
3. The record code is not based on a student's social security number or other personal information.

AUTHENTICATING
REQUESTORS'
IDENTITIES

The District must use reasonable methods to identify and authenticate the identity of parents, students, school officials, and any other parties to whom the District discloses personally identifiable information from education records.

34 CFR 99.31(b)-(c)

TRANSFER NOT
PERMITTED

Personal information from student education records shall be transferred to a third party only on the condition that such party will not permit any other party to have access to such information without the written consent of the student's parent. If a third party permits access to information in violation of this policy, the District shall not permit access to information from education records to that third party for a period of not less than five years. *20 U.S.C. 1232g(b)(4)(B); 34 CFR 99.33(a)(1)*

The District shall inform a party to whom a disclosure is made of the requirements of 34 CFR 99.33, unless the disclosure is made pursuant to a court order, lawfully issued subpoena, or litigation; the disclosed information is directory information; the disclosure concerns sex offenders; or the disclosure is made to a parent of a student who is not an eligible student or to a student. *34 CFR 99.33(c), (d)*

The District may disclose personally identifiable information with the understanding that the party receiving the information may

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make further disclosures of the information on behalf of the District if:

1. The disclosures meet the requirements of 34 CFR 99.31; and
2. The District has complied with the requirements of 34 CFR 99.32(b) regarding the record of disclosure; or a state or local educational authority or federal official or agency listed requesting information through a subpoena or ex parte order has complied with the requirements of 34 CFR 99.32(b)(2).

34 CFR 99.33(b)

RECORD OF ACCESS
TO STUDENT
RECORDS

Each school shall maintain a record, kept with the education record of each student that indicates all individuals, agencies, or organizations that have requested or obtained access to a student's education records, as well as the names of state and local educational authorities and federal officials and agencies listed in 34 CFR 99.31(a)(3) that may make further disclosures of personally identifiable information from the student's education records without consent. The District must obtain a copy of the record of further disclosures maintained by the named authorities, officials, and agencies under 34 CFR 99.32(b)(2) and make it available in response to a parent's request to review the record.

The District must record the following information when it discloses personally identifiable information from education records under the health or safety emergency exception [see HEALTH & SAFETY EMERGENCY, above]:

1. The articulable and significant threat to the health or safety of a student or other individuals that formed the basis for the disclosure; and
2. The parties to whom the District disclosed the information.

34 CFR 99.32

The records shall include at least the name of the person or agency that made the request and the legitimate interest the person or agency had in the information. The record will be maintained as long as the District maintains the student's education record. The record of access shall be available only to parents, school officials responsible for custody of the records, and those state, local, and federal officials authorized to audit the operation of the system.
20 U.S.C. 1232g(b)(4)(A)

The record shall not include requests for access by, or access granted to, parents of the student or officials of the District, requests accompanied by prior written consent of the parent, re-

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quests for directory information, or a party seeking or receiving records in accordance with a subpoena or ex parte order. *34 CFR 99.32(d)*

RIGHT TO AMEND
RECORDS

The parent of a student whose records are covered by this policy may ask the District to amend the student's record if the parent believes it contains information that is inaccurate, misleading, or in violation of the student's right of privacy or other rights. If the District decides not to amend the education records requested, it shall inform the parent of its decision and his or her right to a hearing to challenge the content of the student's education records.

If the District decides to amend the records as a result of the hearing, it shall inform the parent in writing. If, as a result of the hearing, the District decides not to amend the records, it shall inform the parent of the right to place a statement in the records commenting on the contested information and/or stating why the parent disagrees with the decision of the District. Any explanation shall be maintained with the contested part of the record for as long as the record is maintained and shall be disclosed whenever the contested portion of the record is disclosed.

34 CFR 99.20, 99.21

FEES FOR COPIES

No fee shall be charged to search for or to retrieve the education records of a student. A fee may be charged for copies of education records that are made for the parents or students under this policy provided that the fee does not effectively prevent them from exercising their right to inspect and review those records. Hardship cases shall be dealt with on an individual basis. *20 U.S.C. 1232g; 34 CFR 99.11; Education Code 26.012*

RECORDS OF
STUDENTS WITH
DISABILITIES

The District shall permit parents to inspect and review education records collected, maintained, or used for purposes of identifying, evaluating, placing, or educating students with disabilities. *34 CFR 300.613(a)*

ACCESS RIGHTS

In addition to policies applicable to all student records, the following guidelines shall apply when parents of a student with disabilities request to review or inspect District records relating to the education of their child:

1. Parents may request that a representative inspect and review the records. *34 CFR 300.613(b)(3)*
2. The District shall comply with a request without unnecessary delay and before any meeting regarding an individualized education program (IEP) or hearing relating to the identification, evaluation, or placement of the child, and in no case longer than 45 days after the request. *34 CFR 300.613(a)*

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3. The District shall keep a record of persons obtaining access to these student records (except access by parents and authorized employees), including name, date of access, and the purpose for which the person is authorized to use the records. *34 CFR 300.614*

LIST OF TYPES AND
LOCATIONS OF
INFORMATION

The District shall provide parents on request a list of types and locations of education records. *34 CFR 300.616*

PARENTAL
CONSENT

Parental consent must be obtained before personally identifiable information is used for any purpose other than meeting a requirement under the Individuals with Disabilities Education Act or disclosed to anyone other than officials of agencies collecting or using this information. The District may not release information from these records without parental consent except as provided in FERPA. *34 CFR 300.622*

CONFIDENTIALITY

The District shall protect the confidentiality of personally identifiable information in collection, storage, disclosure, and destruction of records. One official in the District shall assume responsibility for ensuring confidentiality of personally identifiable information. All persons collecting or using this information shall receive training or instruction concerning the legal requirements involved in handling these records. The District shall maintain for public inspection a current listing of the names and positions of employees who may have access to this information. *34 CFR 300.623*

DESTRUCTION OF
INFORMATION

The District shall inform parents when personally identifiable information collected, maintained, or used to provide special education and related services is no longer needed to provide educational services to the student. Such information shall be destroyed at the request of the parents.

A permanent record of the student's name, address, phone number, grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

34 CFR 300.624

ANNUAL
NOTIFICATION OF
RIGHTS

The District shall give parents of students in attendance and eligible students in attendance annual notification of their rights under FERPA.

The notice must inform parents or eligible students that they have the right to:

1. Inspect and review the student's education records;

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2. Seek amendment of the student's education records that the parent or eligible student believes to be inaccurate, misleading, or otherwise in violation of the student's privacy rights;
3. Consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that the Act and 34 CFR 99.31 authorize disclosure without consent; and
4. File with the United States Department of Education a complaint under 34 CFR 99.63 and 99.64 concerning alleged failures by the District to comply with the requirements of the Act and 34 CFR part 99.

The notice must include all of the following:

1. The procedure for exercising the right to inspect and review education records.
2. The procedure for requesting amendment of records under 34 CFR 99.20.
3. If the District has a policy of disclosing education records under 34 CFR 99.31(a)(1), a specification of criteria for determining who constitutes a school official and what constitutes a legitimate educational interest.

The District may provide this notice by any means that are reasonably likely to inform the parents or eligible students of their rights.

The District shall effectively notify parents who are disabled and parents of students who have a primary or home language other than English.

20 U.S.C. 1232g(e); 34 CFR 99.7

SECTION III: DIRECTORY INFORMATION

DIRECTORY
INFORMATION
DEFINITION

"Directory information" means information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. Directory information includes the student's name, address, telephone listing, electronic mail address, photograph, date and place of birth, dates of attendance, grade level, enrollment status, participation in officially recognized activities and sports, weight and height of members of athletic teams, honors and awards received, and the most recent educational agency or institution attended. "Directory information" does not include a student's:

1. Social security number; or

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2. Student identification number, unless the student identification number, user identification number, or other unique personal identifier used by the student for purposes of accessing or communicating in electronic systems cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user's identity, such as a personal identification number, password, or other factor known or possessed only by the authorized user.

DISCLOSURE OF
DIRECTORY
INFORMATION

The District may release directory information if it has given public notice of:

1. The types of personally identifiable information that it has designated as directory information.
2. The right of the parent to refuse to permit the District to designate any or all of that information about the student as directory information.
3. The period of time within which the parent must notify the District in writing that he or she does not want any or all of those types of information about the student designated as directory information.

IN CLASS

A parent or eligible student may not use the right of refusal to opt out of directory information disclosures to prevent the District from disclosing or requiring a student to disclose the student's name, identifier, or institutional e-mail address in a class in which the student is enrolled.

FORMER
STUDENTS

The District may disclose directory information about former students without satisfying the public notice conditions above. However, the District must continue to honor any valid request to opt out of the disclosure of directory information made while a student was in attendance unless the student rescinds the opt-out request.

CONFIRMATION
OF IDENTITY OR
RECORDS

The District may not disclose or confirm directory information without meeting the written consent requirements in 34 CFR 99.30 if a student's social security number or other non-directory information is used alone or combined with other data elements to identify or help identify the student or the student's records.

34 CFR 99.3, 99.37

DESIGNATION OF
DIRECTORY
INFORMATION

The District may designate as directory information any or all information defined as directory information by FERPA. Directory information under that Act that is not designated by the District as directory information for that District is excepted from disclosure by the District under Government Code Chapter 552. [See GBA]

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Directory information consented to by a parent for use only for a limited school-sponsored purpose, such as for a student directory, student yearbook, or District publication, if any such purpose has been designated by the District, remains otherwise confidential and may not be released under Government Code Chapter 552.

ANNUAL NOTICE

The District shall provide the following to the parent of each District student, at the beginning of each school year or on enrollment of the student after the beginning of the school year:

1. A written explanation of the provisions of FERPA regarding the release of directory information about the student; and
2. Written notice of the right of the parent to object to the release of directory information about the student under FERPA.

CONTENTS OF
NOTICE

The notice must contain:

1. The following statement in boldface type that is 14-point or larger:

"Certain information about District students is considered directory information and will be released to anyone who follows the procedures for requesting the information unless the parent or guardian objects to the release of the directory information about this student. If you do not want [insert name of District] to disclose directory information from your child's education records without your prior written consent, you must notify the District in writing by [insert date]. [Insert name of District] has designated the following information as directory information: [Here the District must include any directory information it chooses to designate as directory information for the District, such as a student's name, address, telephone listing, electronic mail address, photograph, degrees, honors, and awards received, date and place of birth, major field of study, dates of attendance, grade level, most recent education institution attended, participation in officially recognized activities and sports, and the weight and height of members of athletic teams.];"

2. A form, such as a check-off list or similar mechanism, that:
 - a. Immediately follows, on the same page or the next page, the required statement; and
 - b. Allows a parent to record:
 - (1) The parent's objection to the release of all directory information or one or more specific categories of directory information if District policy permits the par-

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ent to object to one or more specific categories of directory information;

- (2) The parent's objection to the release of a secondary student's name, address, and telephone number to a military recruiter or institution of higher education; and
 - (3) The parent's consent to the release of one or more specific categories of directory information for a limited school-sponsored purpose if such purpose has been designated by the District and is specifically identified, such as for a student directory, student yearbook, or District publication; and
3. A statement that federal law requires districts receiving assistance under the Elementary and Secondary Education Act of 1965 [see EHBD] to provide a military recruiter or an institution of higher education, on request, with the name, address, or telephone number of a secondary student unless the parent has advised the District that the parent does not want the student's information disclosed without the parent's prior written consent.

Education Code 26.013

STUDENT
RECRUITING
INFORMATION

Notwithstanding the DIRECTORY INFORMATION provisions above, each district receiving assistance under the Elementary and Secondary Education Act of 1965 (ESEA) shall provide, on a request made by military recruiters or an institution of higher education, access to secondary school students' names, addresses, and telephone listings.

CONSENT TO
RELEASE

A secondary school student or the parent of the student may request that the student's name, address, and telephone listing described above not be released without prior written parental consent, and the District shall notify parents of the option to make a request and shall comply with any request.

20 U.S.C. 7908

SECTION IV: VIDEOTAPES AND RECORDINGS

VIDEOTAPES AND
RECORDINGS

A District employee must obtain the written consent of a child's parent before the employee may make or authorize the making of a videotape of a child or record or authorize the recording of a child's voice.

EXCEPTIONS

A District employee is not required to obtain the consent of a child's parent before the employee may make a videotape of a child or

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authorize the recording of a child's voice if the videotape or voice recording is to be used only for:

1. The purposes of safety, including the maintenance of order and discipline in common areas of the school or on school buses;
2. A purpose related to a cocurricular or extracurricular activity;
3. A purpose related to regular classroom instruction; or
4. Media coverage of the school.

Education Code 26.009 [See EHA, FM, and FO]

SECTION V: INFORMATION FROM LAW ENFORCEMENT

**INFORMATION FROM
LAW ENFORCEMENT**

**ORAL NOTICE OF
ARREST OR
REFERRAL**

Upon receipt of oral notice from a law enforcement agency that it has arrested a student or referred a student to the juvenile board for a specified offense [see GRA], the Superintendent shall promptly notify all instructional and support personnel who have responsibility for supervising the student. All personnel shall keep the information received confidential.

**WRITTEN NOTICE
OF ARREST OR
REFERRAL**

Upon subsequent receipt of confidential, written notice of the arrest or referral, the Superintendent or designee may send the information in the confidential notice to a District employee having direct supervisory responsibility over the student if the Superintendent or designee determines that the employee needs the information for educational purposes or for the protection of the person informed or others.

**ORAL NOTICE OF
CONVICTION OR
ADJUDICATION**

Upon receipt of oral notice from a prosecuting attorney of a student's conviction, deferred prosecution, or adjudication of a specified offense, including a statement as to whether the student is required to register as a sex offender, the Superintendent shall, within 24 hours of receiving the notice, notify all instructional and support personnel who have regular contact with the student.

**NOTICE OF
TRANSFER OR
REENROLLMENT**

Upon receipt of notice from a parole, probation, or community supervision office having jurisdiction over a student that a student has transferred or reenrolled, the Superintendent of the District to which the student transfers or returns shall, within 24 hours of receiving the notice, notify all instructional and support personnel who have regular contact with the student.

A person who receives information described above shall not disclose it except as specifically authorized by Code of Criminal Procedure 15.27.

Code of Criminal Procedure 15.27

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Information received by the District under this provision shall not be attached to the permanent academic file of the student who is the subject of the report. The District shall destroy the information at the end of the academic year in which the report was filed. *Education Code 37.017*

DUTY TO FLAG
RECORDS

Upon receipt of notification from a law enforcement agency or the missing children and missing persons information clearinghouse that a child under 11 years of age who attended or who is enrolled in the school is missing, the school shall flag the child's records and maintain the records in its possession so that on receipt of a request regarding the child, the school will be able to notify law enforcement or the missing children and missing persons information clearinghouse that a request for a flagged record has been made.

REQUEST IN
PERSON

When a request for a flagged record is made in person, the school may not advise the requesting party that the request concerns a missing child and shall:

1. Require the person requesting the flagged record to complete a form stating the person's name, address, telephone number, and relationship to the child for whom a request is made, and the name, address, and birth date of the child;
2. Obtain a copy of the requesting party's driver's license or other photographic identification, if possible;
3. If the request is for a birth certificate, inform the requesting party that a copy of a certificate will be sent by mail; and
4. Immediately notify the appropriate law enforcement agency that a request has been made concerning a flagged record and include a physical description of the requesting party, the identity and address of the requesting party, and a copy of the requesting party's driver's license or other photographic identification.

After providing the information listed above, the school shall mail a copy of the requested record to the requesting party on or after the 21st day after the date of the request.

REQUEST IN
WRITING

When a request for a flagged record is made in writing, the school may not advise the requesting party that the request concerns a missing child and shall immediately notify the appropriate law enforcement agency that a request has been made concerning a flagged record and provide to the law enforcement agency a copy of the written request. After providing the notification, the school shall mail a copy of the requested record to the requesting party on or after the 21st day after the date of the request.

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REMOVAL OF FLAG

On the return of a missing child under 11 years of age, the law enforcement agency shall notify each school that has maintained flagged records for the child that the child is no longer missing. On receipt of this notification, the school shall remove the flag from the records.

A school that has reason to believe that a missing child has been recovered may request confirmation that the missing child has been recovered from the appropriate law enforcement agency or the missing children and missing persons information clearing-house. If a response is not received after the 45th day after the date of the request for confirmation, the school may remove the flag from the record and shall inform the law enforcement agency or the missing children and missing persons information clearing-house that the flag has been removed.

Code of Criminal Procedure 63.020–63.022