

****681 – Student Records:** This policy is updated to include optional language further defining “records.” The examples of what constitutes “records” are taken from the 2017 Idaho Special Education Manual. We have also included health and medical information in the list of examples of personally identifiable information, and have included other technical corrections. Finally, we added a reference to the recent *Joint Guidance on the Application of the Family Educational Rights and Privacy Act (FERPA) and the Health Insurance Portability and Accountability Act of 1996 (HIPPA) to Student Health Records*, issued by the U.S. Department of Health and Human Services and the U.S. Department of Education in December 2019.

(Note to self this policy needs to be updated for the Federal Programs Audit)

DEFINITIONS

For the purposes of this policy, the following definitions apply:

“Biometric record” is defined as a record of one or more measurable biological or behavioral characteristics that can be used for automated recognition of an individual. Examples include fingerprints, retina and iris patterns, voiceprints, DNA sequence, facial characteristics, and handwriting.

“Common area” means any area within the school district that is not being used for instructional study or where there is no reasonable expectation of privacy, including but not limited to, hallways, auditoriums, cafeterias, libraries, gymnasiums, entrances, parking areas, and school transportation.

“Directory information” is defined as information contained in an educational record of a student which would not generally be considered harmful or an invasion of privacy if disclosed.

“Eligible student” is defined as a student over the age of eighteen (18).

“Educational record” is defined as those records directly related to a student and maintained by this district or by a party acting on behalf of this district.

“Electronic surveillance” means video/digital components of multi-media surveillance systems, including but not limited to, cameras, recording units, tapes, CD/DVDs, camera phones, tablets, etc. All electronic surveillance shall be limited to video without recording sound so as to prevent any violation of Idaho wiretapping statutes.

“Law enforcement unit” is an individual, office, department, division, or other component of this school district, such as a unit of commissioned police officers or noncommissioned security guards, that is officially authorized or designated by this school district to (1) enforce any federal, state or local law, or refer to appropriate authorities a matter for enforcement of any law against any individual or organization, other than the school district; or (2) maintain the physical security and safety of schools in the district.

“Legitimate educational interest” is defined as the performance of education- or discipline-related tasks in connection with a student, providing educational services to a student or a

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student's family, or performing administrative or other educational responsibilities prescribed by the school or the district. 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 duties.

“Parent” is defined as a natural parent, guardian, or individual acting in the absence of a parent or guardian, who is providing the student with food, clothing, discipline, and guidance on a day-to-day basis in the home environment.

“School official” is defined as *a person employed as an administrator, supervisor, instructional staff member, or support staff member (including health or medical staff and law enforcement unit personnel), a board member, a volunteer, a contractor outside of the district who performs an institutional service or function for which the district would otherwise use its own employees and who is under the direct control of the school with respect to the use and maintenance of personally identifiable information from education records (such as an attorney, auditor, medical consult, or therapist), a parent or student volunteering to serve on an official committee (such as a discipline or grievance committee), or a parent, student or other volunteer assisting another school official in performing his or her tasks.*

“Student” means any individual who is attending or who has attended any schools within the school district.

ANNUAL NOTIFICATION REQUIREMENTS

The district will provide parents and eligible students annual notification of their rights under [the](#) Family Educational Rights and Privacy Act (FERPA). The annual notice will contain information regarding the right to inspect their children’s records, the right to seek an amendment of a record, the right to consent to disclosures of personally identifiable information (PII), with certain exceptions, and the right to file a complaint with the U.S. Department of Education.

EDUCATIONAL RECORDS

Educational records include, but are not limited to, the cumulative file, special education records, and disciplinary records. *Records may also include, but are not limited to, any of the following: academic work completed (courses taken, transcript); level of achievement (grades, portfolios, performance assessments, scores on standardized achievement tests, etc.); attendance data; scores of standardized intelligence, aptitude, and psychological tests (and protocols of the same if they include PII); records of teachers, counselors, medical personnel, and psychologists working directly with a student if disclosed to others; interest inventory results; observations and verified reports of serious or recurring behavior patterns; videotapes and audiotapes; health data including medical assessments; family background information; transportation records; and student records maintained by agencies and individuals contracting with the district).*

Educational records do not include records that are kept in the sole possession of the maker of the record, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record. *Education records do not*

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include emails, unless the emails have been printed off and are maintained in a student's education record.

The cumulative educational record of each student is maintained at the district's central office. The building principal, individual teachers, and special education personnel may also have files containing particular educational records.

RETENTION AND DESTRUCTION OF EDUCATIONAL RECORDS

The district will perpetually maintain a permanent record for each student including the student's name, address, phone number, grades, classes attended, immunization records, test scores, attendance records, grade level and year completed. Additional information contained in the record may be destroyed or redacted after a period of at least five (5) years after the student dis-enrolls from the district, if appropriate. The permanent record may be kept in any format and medium determined feasible by the board.

Written records of individual students are confidential and will be shredded or destroyed as appropriate under supervision of the staff member responsible for the records. The records manager will maintain a log that documents the date of destruction of any educational records.

RIGHT TO INSPECT EDUCATIONAL RECORDS

Parents or eligible students may inspect and review educational records. This district will comply with a request for access to records within a reasonable period of time, but in no case more than forty-five (45) calendar days after it has received the request. This district will respond to reasonable requests for explanations and interpretations of the records.

If circumstances effectively prevent the parent or eligible student from exercising the right to inspect and review education records, the district will provide a copy of the requested records or make other arrangements for the inspection and review of the requested records. The district may charge the parent or eligible student the actual costs for copying the records unless payment of such cost is determined to effectively preclude the parent or eligible student from having access to the educational records.

The district will not destroy requested educational records if there is an outstanding request to inspect and review those records.

DISCLOSURE OF STUDENT RECORDS TO NONCUSTODIAL PARENT

A noncustodial parent's access to records and information pertaining to his or her minor child will not be denied solely because the parent is not the child's custodial parent. However, information concerning a minor child's home address will be deleted from all records supplied to a noncustodial parent if the custodial parent has advised the district in writing to do so.

PERSONALLY IDENTIFIABLE INFORMATION (PII)

SECTION 600: EDUCATIONAL PROGRAMS

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Personally identifiable information (PII) will not be released from an educational record without the prior written consent of the parent or eligible student, except under specific circumstances. PII 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 social security number, student number, or biometric record;
5. Other indirect identifiers, such as the student’s date of birth, place of birth, and mother’s maiden name;
6. A list of personal characteristics that would make the student’s identification easily traceable; _____ Deleted: or
7. Health or medical information, including immunization records; or
8. Other information that would make the student’s identity easily traceable.

RELEASE OF PII WITHOUT PRIOR CONSENT

Personally identifiable information may be disclosed without prior written consent of the parent or eligible student under the following conditions:

1. To teachers or other school officials who have a legitimate educational interest.
2. To officials of another school, school system, or institution of post-secondary education where the student seeks or intends to enroll or where the student is enrolled.
3. To authorized representatives of federal, state, and local educational authorities in connection with audit or evaluation of federal- or state-supported education programs, or for the enforcement of or compliance with federal legal requirements related to those programs.
4. In connection to the application for or receipt of financial aid.
5. To state and local juvenile justice systems or their officials.
6. To an agency caseworker or other representative of a state or local child welfare agency, or tribal organization, when the state or tribal organization is legally responsible for the care and protection of the student.
7. To organizations conducting studies for, or on behalf of, this district to develop, validate, or administer predictive tests, administer student aid programs, or improve instruction.

- 8. To accrediting organizations to carry out their accrediting functions.
- 9. To parents of an eligible student if the student is a dependent for Internal Revenue Service (IRS) tax purposes.
- 10. To comply with a judicial order or lawfully issued subpoena.
- 11. To appropriate officials in connection with a health or safety emergency.
- 12. To a party seeking information that this district has designated as “directory information.”
- 13. To the parent or eligible student.

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ACCESS LOG

This district will maintain a record of each request for access to and each disclosure of PII from the educational record of each student. This access log will be maintained with the student’s educational records as long as the records are maintained. The access log will specify the individuals who have requested or received PII from the educational records and the legitimate educational interest the parties had in requesting or obtaining the information. If the information was released without prior parental consent, the specific exception for such consent will also be set forth.

A record will not be kept when a student’s record is accessed by the parent or eligible student or a school official with legitimate educational interest, a written consent has been received from the parent or eligible student, a request is received for directory information only, or the district is ordered to not disclose the request for records.

DIRECTORY INFORMATION

Directory information includes, but is not limited to:

- 1. Student name;
- 2. Address;
- 3. Telephone listing;
- 4. Electronic mail address (e-mail);
- 5. Photographs of the student used by the district for recognition of student achievement and community relations, including, but not limited to, publication in the district’s or school’s newsletters, in the school setting, and on the district’s or school’s web site;
- 6. Video recordings of the student in common areas by electronic surveillance, recorded for the purpose of maintaining the physical security and safety of the school; to the extent electronic surveillance video recordings exist, they may be a public record or may become an educational record pursuant to Policy No. 940. The district reserves the right

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to edit, including concealing identities, any electronic surveillance recordings to comply with applicable state and federal law prior to any release or disclosure.

7. Date and place of birth;
8. Major field of study;
9. Grade level;
10. Enrollment status;
11. Participation in officially recognized activities such as sports;
12. Weight and height of members of athletic teams;
13. Dates of attendance;
14. Degrees, honors, and awards received;
15. The most recent previous school, school district, or institution attended; and
16. A student identification number, user identification, or other unique personal identifier, used for purposes of accessing or communicating in electronic systems or displayed on a student ID badge, but only if the identifier cannot be used to access education records, except when used in conjunction with one or more factors that authenticate the user's identity, such as a personal identification number (PIN), password or other factor known or possessed only by the authorized user.

DISCLOSURE OF DIRECTORY INFORMATION

This district may disclose directory information after giving written, public notice annually to parents of students in attendance and eligible students in attendance that:

1. All information in the definition of directory information as set forth in this policy has been designated as directory information by this district;
2. A parent or eligible student has the right to refuse to allow this district to designate any or all of the types of information about the student as directory information, except that the district cannot be prevented from disclosing or requiring a student to disclose the student's name, identifier, or email address in a class in which the student is enrolled, or prevent the district from requiring a student to wear, to display publicly, or to disclose a student identification card or badge that contains directory information.
3. **The board must choose either Option A, Option B, or Option C:**

OPTION A

If a parent or eligible student does not want any of the directory information about the

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student released, the parent or eligible student must notify this district in writing *within* _____ (___) *calendar days* after receiving notice that directory information may be disclosed.

OPTION B

If a parent or eligible student does not want any of the directory information about the student released, the parent or eligible student must notify this district in writing *by September* ___ *of the current school year* that directory information may be disclosed.

OPTION C

If a parent or eligible student does not want any of the directory information about the student released, the parent or eligible student must notify this district in writing *within* _____ (___) *days from the first day of school, or date of enrollment, whichever occurs first*, that directory information may be disclosed.

4. The district will provide, on a request made by military recruiters or an institution of higher education, access to secondary school students' names, addresses, and telephone listings unless a parent or secondary school student requests, in writing, that the student's name, address, and telephone listing not be released without prior written parental consent.

The district may disclose directory information about former students without notice. However, the district will 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 (*see Policy No. 681F2, Student Records: FERPA Directory Information Opt-Out Form*).

PROCEDURE TO AMEND RECORDS

If a parent or eligible student believes that the educational records relating to the student contain information that is inaccurate, misleading, or in violation of the student's right of privacy, they may seek to amend the record. The right to seek amendment cannot be used to challenge a grade or an individual's opinion (unless the grade or the opinion has been inaccurately recorded) or a district's decision to create or maintain particular education records. When a request to amend educational records is received, *it will be reduced to writing and* the following procedure will be followed:

Review Process

1. Within *thirty calendar (30) days* of receiving a request to amend the record, this district, through its designee, will determine whether the information contained in a record is inaccurate, misleading, or in violation of the student's right of privacy. If the district determines that the requested amendment is appropriate, it will correct the record and provide written notice of the changes to the parent or eligible student.
2. If this district determines that the information is not inaccurate, misleading, or in violation of the student's right of privacy, it will inform the parent or eligible student, *in writing*, of

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its decision, *the reasons why it denied the request to amend the record*, and the right to a hearing.

Hearing Process

1. The parent or eligible student, on request, has an opportunity for a hearing to challenge the contents of the student's educational records on the grounds that the information contained in the educational records is inaccurate, misleading, or in violation of the privacy rights of the student.
2. This district will hold the requested hearing within *thirty (30) school days* after it receives a request for the hearing. Notice of the date, time, and place will be given to the parent or eligible student at least *ten (10) school days* prior to the hearing.
3. Any individual, including a district employee who does not have a direct interest in its outcome, may conduct the hearing. The parent or eligible student will be given a full and fair opportunity to present evidence relevant to the issues raised at the hearing. The parent or eligible student may, at their own expense, be assisted or represented by an individual of his or her own choice, including an attorney.
4. *The individual conducting the hearing is not bound by common law or by the rules of evidence. Evidence will be admitted and given weight only if it is the kind of evidence which reasonable persons are accustomed to rely on in the conduct of serious affairs.*
5. The hearing officer will make his/her decision in writing within *fourteen (14) school days* after the close of the hearing. The decision will be based solely on the evidence presented at the hearing and will include a summary of the evidence and the reasons for the decision. The hearing officer's decision will be the final decision of this district.
6. If the hearing officer concludes that the information being contested is inaccurate, misleading, or otherwise in violation of the privacy rights of the student, the district will amend the records at issue and inform the parent or eligible student of the amendment in writing.
7. If the hearing officer concludes that the information in the educational record is not inaccurate, misleading, or otherwise in violation of the privacy rights of the student, the district will inform the parent or the eligible student of the right to place a statement in the record commenting on the contested information stating why he or she disagrees with the district's decision. If such a statement is received by this district, it will remain as part of the record for as long as the student's record is maintained and the statement will be disclosed whenever this district discloses the portion of the record to which the statement relates.

LAW ENFORCEMENT UNIT

The district may designate one or more law enforcement units as provided under FERPA. A law enforcement unit may consist of a single individual and need not be a law enforcement officer. All school security records including, but not limited to, school security campus or school bus

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videotapes, records relating to weapons screening devices, visitor logs, and any records of interviews relating to potential violations of the law may be maintained by the law enforcement unit. These records are not deemed to be educational records.

The district may disclose any law enforcement unit records, files, documents, and other materials pertaining to the investigation of a violation of the law to a law enforcement agency or the Idaho Department of Health and Welfare. The disclosure of such records to a law enforcement agency or the Idaho Department of Health and Welfare does not prohibit the use of those records for educational purposes such as student discipline.

SPECIAL EDUCATION RECORDS

This district recognizes the right of parents of students with disabilities and eligible students with disabilities to inspect and review educational records relating to the student that are collected, maintained, or used by this district.

The district will also comply with a request to inspect and review such records without unnecessary delay, and:

1. In no event more than forty-five (45) calendar days after the request has been made;
2. Before any meeting regarding the student’s individualized education program (IEP);
3. Before any hearing relating to the identification, evaluation, or educational placement of the student or the provision of a free appropriate public education (FAPE) to the student; or
4. Before a resolution session.

The right of parents of students with disabilities and eligible students with disabilities to inspect and review education records includes:

1. The right to a response to reasonable requests for explanations and interpretations of the records;
2. The right to request copies of the records if failure to provide copies would effectively prevent the parent from exercising the right to inspect and review records; and
3. The right to have a representative of the parent inspect and review the records.

RETENTION AND DESTRUCTION OF SPECIAL EDUCATION RECORDS

Educational records, including eligibility documentation and IEPs, will be maintained for at least five (5) years after disenrollment of a student with disabilities from the district. Medicaid-related records, specifically expenditure documentation, cost allocation process, all student records related to the Medicaid billing and service delivery (e.g., data sheets, IEPs, health care plans, physician recommendations for assessments and IEP services, evaluation recommendations, documented supervision of paraprofessionals), and revenue documentation, will be maintained for a period of six (6) years.

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The district will inform a parent and/or eligible student when PII collected, maintained, or used is to be destroyed because the information is no longer needed to provide educational services to the student. The parent and/or eligible student must be informed of PII that the district intends to destroy and that the information will be destroyed no earlier than forty-five (45) calendar days from the date of the notice. The parent and/or eligible student must also be informed of the procedure to follow if he or she wishes to formally object to the destruction of the information and wants the records sent to him or her.

Written records of individual students are confidential and will be shredded, destroyed, or redacted as appropriate under supervision of the staff member responsible for the records, if not released to the parent and/or eligible student. The records manager will maintain a log that documents the date of destruction or release of the records.

A permanent record of the student’s name, address, phone number, grades, classes attended, immunization records, test scores, attendance records, grade level, and year completed may be maintained by the district without a time limitation. Any other PII will be destroyed at the request of the parent and/or eligible student if it is older than five (5) years and no longer needed to provide special education. *When informing the parent and/or eligible student of his or her rights, the district should remind the parent and/or eligible student that the records might be needed for Social Security benefits or other purposes in the future.*



LEGAL REFERENCE:

Idaho Code §32-717A – Parents’ Access to Records and Information
The Family Educational Rights and Privacy Act of 1974

20 USC §1232g
34 CFR Part 99

Uninterrupted Scholars Act, Pub.L. 112-278 (2013)
Individuals with Disabilities Education Improvement Act of 2004

20 USC §§1412(2)(D) and 1417
34 CFR §§300.610 through 300.626

Idaho Special Education Manual 2017

Joint Guidance on the Application of the Family Educational Rights and Privacy Act (FERPA) and the Health Insurance Portability and Accountability Act of 1996 (HIPPA) to Student Health Records, U.S. Department of Health and Human Services and U.S. Department of Education, December 2019 Update (First Issued November 2008)

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**Language in text set forth in italics is optional.*

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