

**USE OF STUDENT RECORDS**

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The following procedures and policies regarding the protection and privacy of parents and students are adopted by the school, pursuant to the requirements of 20 U.S.C., Sec. 1232g et seq., 45 C.F.R., Part 99, and consistent with the requirements of the Minnesota Government Data Practices Act, Minn. Stat. 15.1611 et seq.

I. Definitions

A. Directory information. “Directory information” includes the following information relating to a student: The student’s name, address, height and weights of athletic team members, participation in officially recognized activities and sports, awards received, videos and photographs of students in school and at school activities, last known addresses and telephone numbers of alumni, year of LILA graduation, and other similar information. Directory information does not include identifying data that references religion, race, color, social position, nationality, or date of birth.

B. Education records. “Education records” means those records that are directly related to a student and are maintained by the school.

1. The term does not include:

a. Records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which:

- i. Are in the sole possession of the maker thereof;
- ii. Are destroyed at the end of the school year; and
- iii. Are not accessible or revealed to any other individual except a substitute. For the purpose of this definition, a “substitute” means an individual who performs on a temporary basis the duties of the individual who made the records and does not refer to an individual who permanently succeeds the maker of the record in his or her position.

b. Records relating to an individual, including a student, who is employed by the school which:

- i. Are made and maintained in the normal course of business;

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- ii. Relate exclusively to the individual in that individual's capacity as an employee; and
    - iii. Are not available for use for any other purpose.
  - c. Records relating to an eligible student that are:
    - i. Created or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional or paraprofessional capacity, or assisting in that capacity, but not employed or compensated by the school at the time the record is prepared or created;
    - ii. Created, maintained, or used only in connection with the provision of treatment to the student; and
    - iii. Not disclosed to anyone other than individuals providing the treatment; provided, that the records can be personally reviewed by a physician or other appropriate professional of the student's choice. For the purpose of this definition, "treatment" does not include remedial educational activities or activities which are part of the program of instruction within the school.
  - d. Alumni records that contain only information relating to a person after that person is no longer a student in the school and that do not relate to the person as a student.
- C. Eligible student. "Eligible student" means a student who has attained eighteen years of age.
- D. Legitimate educational interest. "Legitimate educational interest" includes interests directly related to classroom instruction, teaching, student achievement and progress, discipline of a student, and student health and welfare. It includes a person's need to know in order to perform an administrative task required in the school employee's contract, terms of employment, or position description, perform a supervisory or instructional task directly related to the student's education, perform a service or benefit for the student or the student's family such as health care, counseling, student job placement, or student financial aid.
- E. Parent. "Parent" includes a parent, a guardian, or an individual acting as a parent of a student in the absence of a parent or guardian. The school may

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presume the parent has the authority to exercise the rights provided herein unless the school has been provided with evidence that there is a state law or court order governing such matters as divorce, separation or custody, or a legally binding instrument which provides to the contrary.

- F. Personally identifiable. “Personally identifiable” means that the data or information includes the name of a student, the student’s parent, or other family member, the address of the student, a personal identifier, such as the student’s social security number, or student’s number, a list of personal characteristics which would make the student’s identity easily traceable or other information which would make the student’s identity easily traceable.
- G. Record. “Record” means any information or data recorded in any medium, including, but not limited to: handwriting, print, tapes, file, microfilm, and microfiche.
- H. Responsible authority. “Responsible authority” means the school Director.
- I. Student. “Student” includes any individual with respect to whom the school maintains education records.
- J. School official. “School official” includes a person duly elected or appointed to the school board; a person employed by the school in an administrative, supervisory, instructional or other professional position: a person employed by the school as a temporary substitute in a professional position for the period of his or her performance as a substitute; a person employed by or under contract to the school to perform a special task such as a secretary, a clerk, an attorney or other contracted employee for the period of his or her performance as an employee or contractor.
- K. Summary data. “Summary data” means statistical records and reports derived from data on individuals but in which individuals are not identified and from which neither their identities nor any other characteristic that could uniquely identify an individual is ascertainable.
- L. All other terms and phrases shall be defined in accordance with applicable state and federal law or ordinary custom and usage.

II. In General

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State law provides that all data collected, created, received or maintained by a school district is public unless classified by state or federal law as not public or private or confidential. State law classifies all data on individuals maintained by a school district that relates to a student as private data on individuals. This data may not be disclosed to parties other than the parent or eligible student without consent except pursuant to a valid court order, certain state statutes authorizing access, and the provision of 20 U.S.C. Sec. 1232g and the regulations promulgated thereunder.

III. Statement of Rights

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

1. The right to inspect and review the student's education record.
2. The right to exercise a limited control over other people's access to the student's education record.
3. The right to seek to correct the student's education record; in a hearing if necessary.
4. The right to report violations of the federal law to the Department of Health, Education and Welfare.
5. The right to be informed about rights under the federal law.

B. All rights and protections given parents under this policy transfer to the student when he or she reaches age 18 or enrolls in an institution of postsecondary education. The student then becomes an eligible student.

IV. Disclosure of Education Records

A. Consent Required for Disclosure:

1. The school shall obtain the written consent of the parent of a student or the eligible student before disclosing personally identifiable information from the education records of a student, other than directory information, except as provided herein.

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2. Consent is not required under this section where the disclosure is to the parent of a student who is not an eligible student or the student himself or herself.
3. The written consent required by paragraph IV.A.1. must be signed and dated by the parent of the student or the eligible student given the consent and shall include:
  - a. A specification of the records to be disclosed;
  - b. The purpose or purposes of the disclosure;
  - c. The party or class of parties to whom the disclosure may be made; and
  - d. If appropriate, a termination date for the consent.

**B. Eligible Student Consent**

Whenever a student has attained eighteen years of age, or is attending an institution of post-secondary education, the rights accorded to and the consent required of the parent of the student shall thereafter only be accorded to and required of the eligible student.

**C. Prior Consent for Disclosure Not Required**

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

1. To school officials and their authorized staff within the school, provided that they have a legitimate educational interest in such records;
2. To officials of other schools or school districts in which the student seeks or intends to enroll and that the school will not further notify parents or eligible students prior to such a transfer. Upon request, the school will provide the parent or eligible student with a copy of the education records that have been transferred and provide an opportunity for a hearing to challenge the content of these records;

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3. To authorized representatives of the Comptroller General of the United States, other federal educational authorities as provided by 20 U.S.C. Sec. 1232g, and the Commissioner of the State Department of Education or his or her representative, subject to the conditions relative to such disclosure provided under federal law;
4. In connection with financial aid for which a student has applied or received;
5. To state and local officials or authorities to whom such information is specifically required to be reported or disclosed by state statute enacted prior to November 19, 1974;
6. To organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, provided that the studies are conducted in a manner which will not permit the personal identification of students and their parents by individuals other than representatives of the organization and the information will be destroyed when no longer needed for the purposes for which the study was conducted; the term “organizations” includes, but is not limited to, federal, state and local agencies, and independent organizations;
7. To accrediting organizations in order to carry out their accrediting functions;
8. To parents of a dependent student, as defined in Section 152 of the Internal Revenue Code of 1954;
9. To comply with a judicial order or lawfully issued subpoena, provided that the school makes a reasonable effort to notify the parent of the student or the eligible student of the order or subpoena in advance of compliance therewith; and
10. To appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals. Factors to be considered in determining disclosure include:

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- a. The seriousness of the threat to the health or safety of the student or other individuals;
  - b. The need for the information to meet the emergency;
  - c. Whether the parties to whom the information is disclosed are in a position to deal with the emergency; and
  - d. The extent to which time is of the essence in dealing with the emergency.
- D. The student’s parents or the eligible student may obtain a copy of records disclosed under this provision.

**V. RELEASE OF DIRECTORY INFORMATION**

- A. Directory information is public except as provided herein.
- B. Former Students:  
The school may disclose directory information from the education records generated by it regarding an individual who is no longer in attendance at the school.
- C. Current Students:  
The school may disclose directory information from the education records of a student without the prior written consent of the parent of the student or eligible student except as provided herein. Prior to such disclosure the school shall:
- 1. Give public notice of the categories of personally identifiable information that it has designated as directory information.
  - 2. Allow a reasonable period of time after such notice has been given for a parent or eligible student to inform the school in writing that any or all of the information so designated should not be disclosed without the parent’s or eligible student’s prior written consent (except to the officials or agencies outlines in Section IV above).
- D. Procedure for Obtaining Non-Disclosure of Directory Information:  
The parent’s or eligible student’s written notice shall be directed to the responsible authority, must be renewed annually, and shall include the following:

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1. Name of student;
  2. Home address;
  3. School presently attended by student;
  4. Parent’s legal relationship to student, if applicable; and
  5. Specific categories of directory information to be made not public without the parent’s or eligible student’s prior written consent.
- E. The designation of any information as directory information about a student will remain in effect until it is modified at the written direction of the student’s parent or the eligible student.

**VI. DISCLOSURE OF PRIVATE RECORDS**

- A. Private Records:  
For the purpose herein, education records are records that are classified as private data on individuals by state law and which are accessible only to the student subject of the data and the student’s parent if the student is not an eligible student. The school may not disclose private records or their contents, except as summary data and except as provided in Section IV herein, without the prior written consent of the parent.
- B. Private Records Not Accessible To Parents:  
In certain cases, state law intends and clearly provides that certain information contained in the education records of the school pertaining to a student be accessible to the student alone, and to the parent only under special circumstances, if at all.
1. Pursuant to Minn. Stat. 626.556, reports pertaining to neglected and physically or sexually abused children shall be accessible to appropriate welfare and law enforcement agencies and the subject individual alone. The school shall not make such reports available to the parent.

**VII. DISCLOSURE OF CONFIDENTIAL RECORDS**

- A. Confidential records are those records and data contained therein which are made not public by state or federal law and which are inaccessible to the student and the student’s parent.

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- B. Records in the possession of the school which include data on a student that is collected by a civil or criminal investigative agency as part of an active investigation undertaken for the purpose of commencement of a legal action shall be treated as confidential by the school until such time as the provisions of Minn. Stat. 15.1611, Subd. 2a, no longer so classify that data.

**VIII. LIMITATIONS ON REDISCLOSURE**

- A. Consistent with the requirements herein, the school may only disclose personally identifiable information from the education records of a student on the condition that the party to whom the information is disclosed will not disclose the information to any other party without the prior written consent of the parent of the student or the eligible student, except that the personally identifiable information which is disclosed to an institution, agency or organization may be used by its officers, employees and agents, but only for the purposes for which the disclosure was made.
- B. Paragraph VIII, A, of this Section does not preclude the school from disclosing personally identifiable information under Section IV herein with the understanding that the information will be disclosed to other parties under that section; provided that the recordkeeping requirements of federal law are met with respect to each of those parties.
- C. The information disclosed shall retain the same classification in the hands of the party receiving it as it had in the school.
- D. The school shall, except for the disclosure of directory information under Section V, inform the party to whom a disclosure is made of the requirement set forth in Paragraph VIII, A of this Section.

**IX. RESPONSIBLE AUTHORITY, RECORD SECURITY, AND RECORDKEEPING**

- A. Responsible Authority:  
The responsible authority for the maintenance and security of student records shall be the school Director.
- B. Record Security:

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The school Director's designee, subject to the supervision and control of the responsible authority, shall be the records manager of the school and shall have the duty of maintaining and securing the privacy and/or confidentiality of student records.

- C. The Director's designee will submit to the responsible authority a plan for securing student records by September 1 of each school year. The plan shall contain the following information:
1. A description of records maintained;
  2. Titles and addresses of person(s) responsible for the security of student records;
  3. Location of student records, by category, in the building;
  4. Means of securing student records; and
  5. Procedures for access and disclosure.

The responsible authority shall review these plans for compliance with law, this policy and the various administrative policies of the school.

D. Recordkeeping

1. The Director shall for each request for and each disclosure of personally identifiable information from the education records of a student, maintain a record kept with the education records of the student which indicates:
  - a. The parties who have requested or obtained personally identifiable information from the education records of the student;
  - b. The legitimate interests these parties had in requesting or obtaining the information;
  - c. The date of the request; and
  - d. Whether the request was granted and, if it was, the date access was permitted or the disclosure was made.
2. Paragraph IX.D.1 of this Section does not apply to requests by or

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disclosures to a parent of a student or an eligible student, disclosures pursuant to the written consent of a parent of a student or an eligible student when the consent is specific with respect to the party or parties to whom the disclosure is to be made, requests by or disclosures to school officials under paragraph IV.C.1 or to requests for or disclosures of directory information under Section V.

3. The record of requests and disclosures may be inspected:
  - a. By the parent of the student or the eligible student.
  - b. By the responsible authority and the Director's designee who is responsible for the custody of the records.
  - c. By the parties authorized by law to audit the recordkeeping procedures of the school.

**X. RIGHT TO INSPECT AND REVIEW EDUCATION RECORDS**

- A. The school shall permit the parent of a student or an eligible student who is or has been in attendance in the school to inspect and review the education records of the student except those records that are made confidential by state or federal law. The school shall comply with a request immediately if possible, or within five business days of the date of the request. If the school cannot comply with the request within that time, the responsible authority shall so inform the requester and may have an additional five business days within which to comply.
- B. The right to inspect and review education records under paragraph IX.A of this Section includes:
  1. The right to a response from the school to reasonable requests for explanations and interpretations of the records; and
  2. The right to obtain copies of the records from the school where failure of the school to provide the copies would effectively prevent a parent or eligible student from exercising the right to inspect and review the education records.

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3. Parents or eligible students shall submit to the school a written request to inspect educational records which identifies as precisely as possible the record or records he or she wishes to inspect.
4. If a student's educational records are maintained in more than one location, the responsible authority may collect copies of records or the records themselves from the various locations so they may be inspected at one site. However, if the parent or eligible student wishes to inspect these records where they are maintained, the school shall attempt to accommodate those wishes. The parent or eligible student shall be notified of the time and place when the records may be inspected.
5. If the education records of a student contain information on more than one student, the parent or eligible student may inspect and review or be informed of only the specific information that pertains to that student.
6. The school may presume that either parent of the student has authority to inspect and review the education records of the student unless the school has been provided with evidence that there is a legally binding instrument, or a state law or court order governing such matters as divorce, separation or custody, which provides to the contrary.
7. Fees of Copies of Records:
  - a. Copies of records shall be reproduced at a cost of 15 cents per page.
  - b. The cost of providing copies shall be borne by the parent or eligible student.
  - c. The responsible authority may waive this fee in whole or in part if he determines that failure to do so would effectively prevent the parent or eligible student from exercising the right to inspect and review those records.
  - d. The school reserves the right to make a charge for copies such as transcripts it forwards to potential employers or admissions purposes. The fee for such copies and other copies forwarded to third parties with prior consent as a

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convenience will be approximately 15 cents to 35 cents (actual search, retrieval and copying costs) plus postage if that is involved.

**XI. REQUEST TO AMEND RECORDS: PROCEDURES TO CHALLENGE DATA**

A. Request to Amend Education Records:

1. The parent of a student or an eligible student who believes that information contained in the education records of the student is inaccurate, misleading, incomplete or violates the privacy or other rights of the student may request that the school amend them.
2. The request shall be in writing, shall identify the item the requestor believes is inaccurate, misleading, incomplete or in violation of the privacy or other rights of the student, shall state the reasons for this belief, and shall specify the correction the requestor wishes the school to make. The request shall be signed and dated by the requestor.
3. The responsible authority shall decide whether to amend the education records of the student in accordance with the request within a reasonable period of time of receipt of the request, not to exceed thirty (30) days.
4. If the responsible authority decides to amend the education records, the school shall attempt to notify past recipients of the data, including recipients named by the requestor.
5. If the responsible authority decides to refuse to amend the education records of the student in accordance with the request, he shall so inform the parent of the student or the eligible student of the refusal, and advise the parent or the eligible student of the right to a hearing under paragraph XI.B.

B. Right to Hearing

1. If the responsible authority refuses to amend the education records of a student, the school shall, on request, provide an opportunity for a hearing in order to challenge the content of a student's education records to insure that information in the student's education records is not inaccurate, misleading, incomplete or otherwise in violation of the privacy or other rights of students.

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The hearing shall be conducted in accordance with Paragraph XI.C.

2. If, as a result of the hearing, the school decides that the information is inaccurate, misleading, incomplete or otherwise in violation of the privacy or other rights of students, it shall amend the student's education records accordingly, so inform the parent of the student or the eligible student in writing, and attempt to so notify past recipients of the data.
3. If, as a result of the hearing, the school decides that the information is not inaccurate, misleading, incomplete or otherwise in violation of the privacy or other rights of students, it shall inform the parent or eligible student of the right to place in the education records of the student a statement commenting upon the information in the education records and/or setting forth any reasons for disagreeing with the decision of the agency or institution.
4. Any explanation placed in the education records of the student under Paragraph XI.B.3 of this Section shall:
  - a. Be maintained by the school as part of the education records of the student as long as the record or contested portion thereof is maintained by the school; and
  - b. If the student's education records or the contested portion thereof is disclosed by the school to any party, the explanation shall also be disclosed to the party.

C. Conduct of Hearing

1. The hearing shall be held within a reasonable period of time after the school has received the request, not to exceed forty-five (45) days, and the parent of the student or the eligible student shall be given notice of the date, place and time reasonably in advance of the hearing.
2. The hearing may be conducted by any party approved by the school board, including an official or employee of the school who does not have a direct interest in the outcome of the hearing. The school attorney shall be in attendance to present the school's

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position and advise the designated hearing officer on legal and evidentiary matters.

3. The parent of the student or eligible student shall be afforded a full and fair opportunity for hearing to present evidence relevant to the issues raised under Paragraph XI.A and XI.B herein and may be assisted by individuals of his or her choice at his or her own expense, including an attorney.
4. The designated hearing officer shall make a decision in writing within a reasonable period of time after the conclusion of the hearing; the decision shall be based solely on evidence presented at the hearing and shall include a summary of evidence and reasons for the decision.
5. The decision of the designated hearing officer shall be served upon each party and shall be the final decision of the school.

D. Appeal:

The final decision of the designated hearing officer may be appealed in accordance with the applicable provisions of the state Administrative Procedure Act, Minn. Stat., C. 15, relating to contested cases.

XII. COMPLAINTS FOR NON-COMPLIANCE

Complaints regarding alleged violations of rights accorded parents and eligible students by 20 U.S.C. Sec. 1232g shall be submitted in writing to Family Educational Rights and Privacy Act Office, Department of Health, Education and Welfare, The Hubert H. Humphrey Building, Room 526F, Washington, D.C. 20201.

XIII. WAIVER

A parent or eligible student may waive any of his or her rights provided herein pursuant to 30 U.S.C. Sec. 1232g. A waiver shall not be valid unless in writing and signed by the parent or eligible student. The school may not require such a waiver.

XIV. ANNUAL NOTIFICATION OF RIGHTS

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- A. The school shall give parents of students in attendance or eligible students in attendance annual notice by such means as are reasonably likely to inform them of the following:
    - 1. Their rights under 20 U.S.C. Sec. 1232g, and 45 C.F.R., Part 99; the policy adopted under 45 C.F.R. Sec. 99.5 and the Minnesota Government Data Practices Act; the notice shall also inform parents of students or eligible students of the locations where copies of the policy may be obtained; and
    - 2. The right to file complaints under 45 C.F.R. Sec. 99.63 concerning alleged failures by the School to comply with the requirements of 20 U.S.C. Sec. 1232g.
  - B. The school shall provide for the need to effectively notify parents of students identified as having a primary or home language other than English.
- XV. **DESTRUCTION AND RETENTION OF RECORDS**  
The destruction and retention of records by the school shall be controlled by state and federal law.
- X. Copies of this policy may be obtained by parents and eligible students from the school office or the school website.

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