

Section 3 Confidentiality of Personally Identifiable Information

A. Confidentiality

1. The school student records of a child with disabilities shall be maintained confidentially in accordance with the requirements of the *Individuals with Disabilities Education Act*, the *Family Educational Rights and Privacy Act*, the *Illinois School Student Records Act*, the *Illinois School Code*, the *Illinois Mental Health and Developmental Disabilities Confidentiality Act*, and their respective implementing regulations.
2. The School District shall designate an Official Records Custodian to take all reasonable measures to comply with the confidentiality requirements of each of the above statutes.
3. The Official Records Custodian shall assume responsibility for the following:
 - a. Respond to any request for inspection and review of school student records, including a request for a copy of school student records;
 - b. Respond to any request for an explanation or interpretation of a school student record;
 - c. Respond to any request to amend or destroy a school student record;
 - d. Respond to any request to disclose or release personally identifiable information and/or school student records;
 - e. Keep a record of parties obtaining access to school student records including the name of the party, the date access took place, and the purpose of the authorized use;
 - f. Maintain, for public inspection, a current listing of the names and positions of the employees who may have access to personally identifiable information;

- (6) The right to copy any school student record or information contained therein which is proposed to be destroyed or deleted and the school's schedule for reviewing and destroying such information;
 - (7) The categories of information the school has designated as "directory information" and the right of the Parent(s) to prohibit the release of such information.
- b. Notice will be delivered by the means most likely to reach the Parent(s) or the child at the age of majority, including, but not limited to, direct mail, parent-teacher conferences, delivery by the child to the Parent, or incorporated in a "parent-student" handbook or other informational brochure for children and Parent(s) disseminated by the school.

B. Type of Records Subject to Disclosure

- 1. School student records available for review by Parent(s) or authorized persons are those writings or other recorded information concerning a child and by which a child may be individually identified, maintained by a school or at its direction or by an employee of a school, regardless of how or where the information is stored. The following are not school student records and are not subject to disclosure.
 - a. Writings or other recorded information maintained by an employee of the School District or other person at the direction of the School District for his/her exclusive use, provided that all such writings and other recorded information are destroyed not later than the student's graduation or permanent withdrawal from the school, and provided further that no such records or recorded information may be released or disclosed to any person except a person designated by the school as a substitute unless they are first incorporated in a school student record and made subject to all of the provisions of federal and State law.
 - b. Information maintained by law enforcement professionals working in the school, including video or other electronic recordings created and maintained

by law enforcement professionals working in the School District for security or safety reasons or purposes, if the information was created at least in part for law enforcement or security or safety reasons or purposes;

- c. Electronic recordings made on school buses; and
- d. Any information received by the courts or law enforcement agencies pursuant to Section 22-20 of the School Code and Sections 1-7 and 5-905 of the Juvenile Court Act.

- 2. The content of a video or other electronic recording may become part of a student's school record to the extent school officials use and maintain such recordings for a particular reason (e.g., disciplinary action, compliance with a child's IEP) regarding that specific student.

C. Inspection and Review of School Student Records

- 1. The School District shall permit Parent(s) and any other authorized persons the opportunity to inspect, review, and copy all school student records.
- 2. The Official Records Custodian shall respond to and grant any written request to inspect and to copy school student records to a Parent(s) or authorized representative within 10 business days after the date of receipt of such written request by the Official Records Custodian. The time for response under this Section may be extended by the School District by not more than 5 business days from the original due date for any of the following reasons:
 - a. the requested records are stored in whole or in part at other locations than the office having charge of the requested records;
 - b. the request requires the collection of a substantial number of specified records;
 - c. the request is couched in categorical terms and requires an extensive search for the records responsive to it;

- d. the requested records have not be located in the course of routine search and additional efforts are being made to locate them;
 - e. the request for records cannot be complied with by the School District within the time limits prescribed by subsection (c) of this section without unduly burdening or interfering with the operations of the school district; or
 - f. there is a need for consultation, which shall be conducted with all practicable speed, with another public body or school district or among 2 or more components of a public body or school district having a substantial interest in the determination of in the subject matter of the request.
3. If requested by an authorized person, the Official Records Custodian shall provide a copy of the school student record if he/she determines that the Parent(s) will be effectively prevented from exercising his/her right to inspect and review school student records at the location where such records are normally maintained (or at any other location where the School District offers to produce such records). The School District may charge a reasonable fee for copies of records. The School District shall not charge a fee when the Official Records Custodian determines that, a Parent(s) is unable to bear the cost of such copying.

D. Release of Personally Identifiable Information

1. The School District shall obtain informed written parental consent or informed written consent from the child at age of majority before permitting personally identifiable information to be released or used except as otherwise authorized by law.
2. The School District may not release, transfer, disclose or otherwise disseminate information maintained in the school student record, except as follows and as provided by law:
 - a. To a Parent(s) or child or person specifically designated as a representative by a Parent, or;

- b. To an employee or official of the school or School District or ISBE with current demonstrable educational or administrative interest in the student, in furtherance of such interest.
- c. To the official records custodian of another school within Illinois or an official with similar responsibilities of a school outside Illinois, in which the child has enrolled, or intends to enroll, upon the request of such official or student.
- d. To any person for the purpose of research, statistical reporting or planning, provided that no child or Parent(s) can be identified from the information released and the person to whom the information is released signs an affidavit agreeing to comply with all applicable statutes and rules pertaining to school student records.
- e. Pursuant to a court order, provided that the Parent(s) shall be given prompt written notice upon receipt of such order of the terms of the order, the nature and substance of the information proposed to be released in compliance with such order and an opportunity to inspect and copy the school student records and to challenge their contents.
- f. To any person as specifically required by State or federal law.
- g. To juvenile authorities when necessary for the discharge of their official duties who request information prior to adjudication of the child and who certify in writing that the information will not be disclosed to any other party except as provided under law or order of the court. For purposes of this Section, a juvenile authority means:
 - (1) A judge of the circuit court and members of the staff of the court designated by the judge;
 - (2) Parties to the proceedings under the Juvenile Court Act of 1987 and their attorneys;

- (3) Probation officers and court-appointed advocates for the juvenile authorized by the judge hearing the case;
 - (4) Any individual, public or private agency having custody of the child pursuant to court order;
 - (5) Any individual, public or private agency providing education, medical or mental health service to the child when the requested information is needed to determine the appropriate service or treatment for the minor;
 - (6) Any potential placement provider when such release is authorized by the court for the limited purpose of determining the appropriateness of the potential placement;
 - (7) Law enforcement officers and prosecutors;
 - (8) Adult and juvenile prisoner review boards;
 - (9) Authorized military personnel; or
 - (10) Individuals authorized by court.
- h. Subject to regulations of ISBE, in connection with an emergency, to appropriate persons if the knowledge of such information is necessary to protect the health or safety of the child or other persons.
 - i. To any person, with the prior specific-dated informed written consent of the Parent(s) designating the person to whom the records may be released, provided that at the time any such consent is requested or obtained, the Parent(s) shall be advised in writing that he has the right to inspect and copy such records, to challenge their contents, and to limit any such consent to designated records or designated portions of the information contained therein, as provided by law and as described herein.

E. Transfer of Records

1. The School District shall forward, within 10 days of receipt of notice of the student's transfer to any other private or public elementary or secondary school located in this or any other state, a copy of the student's unofficial record of the student's grades to the school to which the child is transferring. The School District at the same time shall forward to the school to which the child is transferring the remainder of the student's school student record and a Certification of Good Standing form. "In good standing" means that the student's medical records are up-to-date and complete and the child is not currently subject to suspension or expulsion.
 - a. Written notice as required by State and federal law must be provided to the Parent(s) regarding the nature and substance of the information being released/transferred.

F. Amendment of School Student Records

1. A Parent(s) who believes that information in the school student records is inaccurate or misleading or violates the privacy or other rights of the student, exclusive of grades of the child and references to expulsions or out-of-school suspensions, may if the challenge is made at the time the student's records are forwarded to another school into which the child is transferring, challenge the specific entry in question.
2. The request for a hearing must be submitted in writing and contain notice of the specific entry or entries to be challenged and the root of the challenge.
3. The school principal, or principal's designee, upon receiving a written request from a Parent(s), shall hold an informal conference with the Parent(s) within 15 school days from the date of receipt of the request. The school principal, or principal's designee, will amend or delete information he/she determines to be inaccurate, irrelevant or improper. If the school principal, or principal's designee, refuses to amend the information, he or she shall inform the Parent(s) of the refusal and advise the Parent(s) of his/her right to proceed with a hearing.

4. If the dispute is not resolved by the informal conference, formal procedures shall be initiated:
 - a. A hearing officer, who shall not be employed in the attendance center where the child is enrolled, shall be appointed by the School District.
 - b. The hearing officer shall conduct a hearing within a reasonable time, but no later than 15 days after the informal conference, unless the Parent(s) and school officials agree upon an extension of time. The hearing officer shall notify the Parent(s) and the school officials of the time and place of the hearing.
 - c. A verbatim record of the hearing shall be made by a tape recorder or a court reporter.
5. The written decision of the hearing officer shall, no later than 10 days after the conclusion of the hearing, be transmitted to the Parent(s) and the School District. It shall be based solely on the information presented at the hearing and shall be one of the following:
 - a. To retain the challenged contents of the student record;
 - b. To remove the challenged contents of the student record; or
 - c. To change, clarify or add to the challenged contents of the student record.
6. Any party shall have the right to appeal the decision of the local hearing officer to the Regional Superintendent within 20 school days after such decision is transmitted. If the Parent(s) appeals, the Parent(s) shall so inform the school and within 10 school days, the School District shall forward a transcript of the hearing, a copy of the record entry in question and any other pertinent materials to the Regional Superintendent. The School District may initiate an appeal by the same procedures. Upon receipt of such documents, the Regional Superintendent shall examine the documents and records to determine whether the School District's proposed action in regard to the student's record is in compliance with the Illinois School Student Records Act, make findings and issue a written decision to the

Parent(s) and the School District within 20 school days of the receipt of the appeal documents. If the subject of the appeal involves the accuracy, relevance, or propriety of any entry in special education records, the Regional Superintendent should seek advice from special education personnel:

- a. Who were not authors of the entry; and
 - b. Whose special education skills are relevant to the subject(s) of the entry in question.
7. The School District shall implement the decision of the Regional Superintendent.
 8. If, as a result of the hearing, it is determined that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, the School District shall amend the information and inform the Parent(s) in writing.
 9. If, as a result of the hearing, it is determined that the information is not inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, the School District shall inform the Parent(s) of his/her right to place in the record a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the School District.
 10. The School District shall ensure that a statement placed in an education record as described above:
 - a. Is maintained by the School District as part of the record of the child as long as the record or contested portion is maintained by the School District; and
 - b. Is disclosed by the School District to any party to whom the records of the child are disclosed.

G. Retention and Destruction of Records

1. The School District maintains two types of school student records: permanent and temporary.
 - a. The permanent record shall include:

- (1) Basic identifying information;
 - (2) Academic transcripts;
 - (3) Attendance record;
 - (4) Accident and health reports;
 - (5) Scores received on all State assessment tests administered at the high school level; and
 - (6) Information pertaining to release of this record.
- b. The permanent record may also include:
- (1) Honors and awards; and
 - (2) Information concerning participation in school-sponsored activities and athletics.
- c. No other information shall be placed in the permanent record. The permanent record shall be maintained for at least 60 years after the child graduated, withdrew, or transferred.
- d. The temporary record shall include:
- (1) Disciplinary information, specifically including information regarding an expulsion, suspension, or other punishment for misconduct involving drugs, weapons, or bodily harm to another;
 - (2) Achievement test results, including scores on the State assessment tests administered in grades K-8;
 - (3) Any DCFS final reports finding that a student is an indicated victim of physical or sexual abuse;
 - (4) The completed home language survey;
 - (5) Any biometric information that is collected;

- (6) Health-related information;
 - (7) Accident reports; and
 - (8) Information pertaining to release of this record.
- e. The temporary record may include:
- (1) Family background information;
 - (2) Intelligence and aptitude test scores;
 - (3) Psychological evaluation reports;
 - (4) Elementary and secondary level achievement test results;
 - (5) Participation in extracurricular activities;
 - (6) Honors and awards;
 - (7) Teacher anecdotal records;
 - (8) Special education records;
 - (9) Section 504-related records;
 - (10) Verified reports or information from non-educational persons, agencies or organizations;
 - (11) Other verified information of clear relevance to the student's education, and
 - (12) Other disciplinary information.
- f. Information in the temporary record will indicate authorship and date.
- g. The School District will maintain the student's temporary record for at least 5 years after the child transfers, graduates, or permanently withdraws.

2. The School District's destruction of school student records, shall be pursuant to prior notice to the Parent(s) and in accordance with federal and State law, including the Local Records Act.

LEGAL REF.: 20 U.S.C. §§ 1232g (Family Educational Rights and Privacy Act), 20 U.S.C. §§ 1412 (State eligibility), 1413 (local educational agency eligibility).

34 C.F.R. §§ 300.123, 300.610-627, 300.740.

34 C.F.R. Part 99.

105 ILCS 10/1 *et seq.*; 740 ILCS 110/1 *et seq.*; 50 ILCS 205/1 *et seq.*

23 Ill. Admin. Code Subpart K and §§ 226.50 (requirements for FAPE), 226.75 (definitions), 226.220 (factors in development of the IEP), 226.740 (records; confidentiality).

23 Ill. Admin. Code Part 375 (student records).

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