

## CHAPTER 5.00 - STUDENTS

### 5.19 - Educational Records of Pupils and Adult Students

#### **POLICY:**

School Board Rules and procedures for maintaining student records shall be consistent with Florida Statutes, including the “Parents’ Bill of Rights”, State Board of Education rules, and federal laws relating to Family Educational Rights and Privacy Act and Privacy Rights of Parents and Students. The Superintendent shall be responsible for interpreting this rule and the school principal shall be responsible for controlling and supervising student records, following all rules on student records, and interpreting rules on student records to the school staff, students, and the community.

1. Procedures on student records shall be approved by the School Board and contained in the *Student Educational Records Manual*. Included shall be provisions of the Federal requirements relating to the surveying of students, the collecting of information from students for marketing purposes, and certain nonemergency medical examinations.
2. **Definitions**
  - a. Education records means records that are directly related to a student and that are maintained by the District or a party acting on behalf of the District, as defined in 20 USC Section 1232g(a)(4).
  - b. Eligible Student means a student who has reached 18 years of age or is attending a postsecondary institution, at any age.
  - c. Online educational service means computer software, mobile applications (apps), and web-based tools that students or parents are required to use and access through the internet and as part of a school activity or function.
  - d. Student means any individual who is or has been in attendance in a district school and regarding whom the District maintains education records.
  - e. Parent or parents, includes parents or guardians of students who are or have been in attendance at a school or institution.
  - f. Personally identifiable information or “PII” means information that can be used to distinguish or trace a student’s identity either directly or indirectly through linkages with other information, as defined in 34 CFR §99.3. PII includes, but is not limited to, direct identifiers (such as a student’s or other family member’s name), indirect identifiers (such as a student’s date of birth, place of birth, or mother’s maiden name), and other personal identifiers (such as a student’s social security number or Florida Education Identifier (FLEID) number. PII also includes 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.

## CHAPTER 5.00 - STUDENTS

- g. Therapeutic treatment plan means a plan that identifies the mental health diagnosis, or condition, the therapy or intervention goal(s), the type of school-based mental health intervention, and the school-based mental health services provider responsible for providing the mental health intervention or therapy.
  - h. Therapy progress notes means notes maintained by a school-based mental health services provider that summarize the focus and progress toward treatment goals(s) of each therapy or intervention session.
  - i. Third-party vendor or Third-party service provider means any entity, whether public or private, that provides services to the Board through a contract or agreement. The term does not include the Florida Department of Education or the Department's contractors and subcontractors.
- 3. Parents, as defined by law, and students shall be notified annually of their rights regarding education records.
- 4. The District shall not collect or retain information including biometric information restricted by §1002.222, F.S.
- 5. The District acknowledges important information relating to a minor child should not be withheld inadvertently or purposefully, from the parent, including information relating to the minor child's health, well-being, and education, while the minor child is in the custody of the school district.
- 6. Parents or eligible students have the right to access and review all school records related to the minor child including but not limited to, the right to access school safety and discipline incidents as reported pursuant to section 1006.07 (7) and (9), F.S.
- 7. The individual records of children enrolled in the Voluntary Prekindergarten Education Program shall be maintained as confidential records exempt from the public records law as required by Florida Statutes.
- 8. A school may release a student's education records to partners to an interagency agreement among the Department of Juvenile Justice, the school, law enforcement authorities and other signatory agencies as allowed by law.
- 9. Directory Information. The District shall make available, upon request, certain information known as directory information without prior permission of the parents or eligible student. The District shall charge fees for copies of designated directory information as provided in State law. 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.

## CHAPTER 5.00 - STUDENTS

The Board designates as student directory information: a student's name; photograph; address; telephone number, if it is a listed number; e-mail address; date and place of birth; participation in officially recognized activities and sports; height and weight, if a member of an athletic team; dates of attendance; grade level; enrollment status; date of graduation or program completion; awards received; and most recent educational agency or institution attended.

- a. An annual written notice shall be given to inform parents and eligible students of their rights of access, waiver of access, challenge and hearing, privacy, categories of personally identifiable student information designated as directory information data, and the location and availability of the District's policy on education records of students. Parents or eligible students may, by providing a written statement to the principal within two (2) weeks of the first day of the school year or entry into the school system request that all specific portions of directory information for that specific student not be released.
  - b. Directory information shall not be provided to any organization for profit-making purposes, unless the request is approved, in a non-discriminatory manner, by the Superintendent.
  - c. In accordance with Federal law, the District shall release the names, addresses, District-assigned e-mail addresses (if available), and telephone listings of students in grades ten through twelve (10-12) to a recruiting officer for any branch of the United States Armed Forces or an institution of higher education who requests such information. Such data shall not be released if the eligible student or student's parents submit a written request not to release such information. The recruiting officer is to sign a form indicating that any information received by the recruiting officer shall be used solely for the informing students about military service and shall not be released to any person other than individuals within the recruiting services of the Armed Forces. The Superintendent is authorized to charge mailing fees for providing this information to a recruiting officer. A secondary school student or parent of the student may request that the student's name, address, District assigned e-mail address (if available), and telephone listing not be released without parental consent.
10. Information contained in education records must be classified and retained in accordance with F.A.C. 6A-1.0955 and this policy as follows:
- a. Category A: Information for each student which must be kept current while the student is enrolled and retained permanently in the manner prescribed by Section 1001.52(2), F.S..
  - b. Category B: Information which is subject to periodic review and elimination when the information is no longer useful in the manner prescribed by Section 1001.52(3), F.S..

## CHAPTER 5.00 - STUDENTS

11. Where records are opened to parents or eligible students, schools shall make available a member of the professional staff to interpret the record and shall provide copies upon request and payment of the current District copy rate, which shall not exceed the maximum rate for copies of public records as set forth in F.S. Chapter 119. The copy rate will include the actual reproduction costs and will not include the labor costs for retrieval. The copy rate may be waived by the District.
12. School officials shall provide requesting parents or eligible students an opportunity for a hearing to challenge the content of their child's or eligible student's school records, to ensure that the records are not inaccurate, misleading, or otherwise in violation of the privacy or other rights of students, and to provide an opportunity for the correction or deletion of any such inaccurate, misleading, or otherwise inappropriate data contained therein.
  - a. Parent or eligible student may request in writing an informal meeting with the custodian of the record for the purpose of requesting the correction, deletion, or expunction of any inaccurate, misleading, or otherwise inappropriate data or material contained in the student record.
  - b. If the parties at the informal meeting agree to make deletions, to expunge material, or to add a statement of explanation or rebuttal to the file, such agreement shall be reduced to writing and signed by the parties, and the appropriate school officials shall take the necessary actions to implement the agreement. If an agreement is not reached, notification of the denial and of the right to a formal hearing shall be made in writing to the parent or eligible student with a copy to the Superintendent or designee.
  - c. Upon the request of a parent or eligible student, a formal hearing shall be held. The hearing shall be requested, in writing, within ten (10) days of the written notice of denial at the informal meeting, to the Superintendent or designee, who shall appoint a hearing officer. The hearing officer may be any official of the school system with no direct interest in the outcome of the hearing. The hearing officer shall convene and conduct the hearing and shall render a decision in writing to all concerned parties within ten (10) days of the conclusion of the hearing. Such hearing shall be held within a reasonable period of time but in no case shall be held more than thirty (30) days from the date of the written request.
  - d. The parents or eligible student, and officials of the school shall be afforded a full and fair opportunity to present evidence relevant to the issue(s) raised. The hearing shall be recorded and available to all parties. However, the record of such hearings are exempt from disclosure under F.S. Chapter 119.
  - e. If the decision of the hearing officer is that the records are not inaccurate, misleading, or otherwise in violation of privacy rights, the parent or eligible student shall be allowed to comment in writing on the information in the education record and set forth any reasons for disagreeing with the decision. This written response shall be filed in the education records of the student.

## CHAPTER 5.00 - STUDENTS

13. Student information that is confidential and exempt shall not be released except when authorized by §1002.221, F.S.
14. Disclosure of Personally Identifiable Information (PII)
  - A. Prior Written Consent
    1. Prior written consent of the parent or eligible student shall be obtained prior to disclosing PII of the student other than directory information. The written consent shall include: signature of the parent or eligible student; date; specification of records or information to be disclosed; purpose of the disclosure; and the party or class of parties to whom a disclosure is to be made.
    2. Disclosures of PII of the student will be made only on the condition that the party or parties to whom the information is disclosed shall not disclose the information to any other party without prior written consent of the parent or eligible student, as appropriate. PII of a student disclosed to an institution, agency, or organization may be used by its officers, employees, and agents, but only for the purpose for which the disclosure was made. The District presumes the parent or eligible student has the authority to grant permission for disclosure of PII of a student unless the District has been provided with evidence that there is a legally binding instrument or State law or court order governing such matters as divorce, separation, or custody which provides to the contrary.
  - B. Without Prior Written Consent
    1. PII or records of a student may be released to the following persons or organizations without the prior written consent of the eligible student or the student's parent:
      - a. Officials of schools, school systems, career centers, or public postsecondary educational institutions in which the student seeks or intends to enroll; and a copy of such records or reports shall be furnished to the parent or student upon request.
      - b. Other school officials, including teachers within the educational institution or agency, who have a legitimate educational interest in the information contained in the records.
    2. The United States Secretary of Education, the Director of the National Institute of Education, the Assistant Secretary for Education, the Comptroller General of the United States, or State or local educational authorities who are authorized to receive such information subject to the conditions set forth in applicable Federal statutes and regulations of the United States Department of Education, or in applicable State statutes and rules of the State Board of Education.

## CHAPTER 5.00 - STUDENTS

3. While the disclosure of PII without consent is allowed under the audit exception, it is recommended that whenever possible the administration either release de-identified information or remove the students' names and social security identification numbers to reduce the risk of unauthorized disclosure of PII.
4. Any entity receiving PII pursuant to a study, audit, evaluation or enforcement/compliance activity must comply with all FERPA regulations. Further, the entity must enter into a written agreement with the Board delineating its responsibilities in safeguarding the disclosed information. Specifically, the entity must demonstrate the existence of a sound data security plan or data stewardship program, and must also provide assurances that the PII will not be re-disclosed without prior authorization from the Board. Further, the entity conducting the study, audit, evaluation or enforcement/compliance activity is required to destroy the disclosed information once it is no longer needed or when the timeframe for the activity has ended, as specified in its written agreement with the Board.
15. Student records may be disclosed to a court of competent jurisdiction in compliance with an order of that court or the attorney of record in accordance with a lawfully issued subpoena, upon the condition that the student and the student's parents are notified of the order or subpoena in advance of compliance therewith by the educational institution or agency.
16. If the District initiates legal action (a lawsuit) against a parent, or if the parent initiates legal action against the District. In such circumstances, the District may disclose to the court, without a court order or subpoena, the education records of the student that are relevant for the District to proceed with legal action as the plaintiff or to defend itself.
17. Record of Disclosures. A record of any requests or disclosures of PII of a student shall be maintained except for disclosures to the parent or eligible student; disclosure of directory information; or to any other school officials with a legitimate educational interest. The record of requests for disclosure shall include the following: the parties who have requested or obtained personally identifiable student information, the legitimate interests of the persons requesting or obtaining the information, and date parental/eligible student consent was obtained.
18. Disclosures for Health or Safety Emergencies. In the event of a health or safety emergency, disclosure of PII of a student may be made by school officials. Such emergency situations shall be declared in writing to the Superintendent by a recognized legal official with authority to declare such emergency. The declaration of a health or safety emergency shall include the need for specific personally identifiable student information, the time requirements for the information, and the parties to whom the information is disclosed who are responsible for utilizing the information to deal with the emergency.

## CHAPTER 5.00 - STUDENTS

19. Transfer of Student Records. District, upon receiving a written request for another school, public or private, within or out of State, shall transfer within three (3) school days the records of the student.
  - A. The records to be transferred shall include:
    1. Category A and B (including disciplinary records with respect to suspension and expulsion) records as defined by Rule 6A-1.0955, F.A.C.
    2. Verified reports of serious or recurrent behavior patterns, including substantive and transient threat assessment evaluations and intervention services; and
    3. Psychological evaluations, including therapeutic treatment plans and therapy or progress notes created or maintained by School District or charter school staff, as appropriate.
    4. Non-threats as described in F.A.C. 6A-1.0955 must not be transferred with a student's educational record, unless one of the following conditions are met:
      - a. The parent of the student who was the subject of a non-threat finding requests that the record be retained in the student's file; or
      - b. The threat assessment team has made a determination that the non-threat finding must be retained in order to ensure the continued safety of the school community or to ensure the well-being of the student. Such determination and reasoning for maintaining the record must be documented with the non-threat finding. When this determination is made, the threat assessment team must re-evaluate the decision on an annual basis to determine if the record is no longer useful. The student's age and length of time since the original assessment must be considered in those evaluations.
20. Reporting of student database information shall comply with these safeguards.
  - a. Data reported to the Florida Department of Education shall not disclose a student's name or identity unless required by Florida Statutes;
  - b. Data shall not be stored in a single file or released in such a manner that a complete student profile can be reported unless specified by Florida Statutes; and
  - c. Data shall be protected from unauthorized use at all times.
21. Social security numbers may be collected from students
  - a. To be used as student identification numbers as allowed by §1008.386, F.S. until the Department of Education has issued a student identification number;
  - b. To facilitate the processing of student scholarships, college admission and other applications; and
  - c. For other purposes when consent of the parent or adult student is granted.

## CHAPTER 5.00 - STUDENTS

22. Required use of online educational services by students and parents. In order to protect a student's PII from potential misuse and in order to protect students from data mining or targeting for marketing or other commercial purposes, the Board requires the review and approval of any online educational service that students or their parents are required to use as part of a school activity (1) regardless of whether there is a written agreement governing student use, (2) whether or not the online educational service is free, and (3) even if the use of the online educational service is unique to specific classes or courses. The following requirements also apply to online educational services:
  - a. The Superintendent is responsible for reviewing the online educational service's terms of service and privacy policy for compliance with State and Federal privacy laws, including FERPA and its implementing regulations, the Children's Online Privacy Protection Act (COPPA), 15 U.S.C. 6501-6506, and F.S. 1002.22;
  - b. The Superintendent is responsible for the review and approval of online educational services that will be required for students to use;
  - c. Parents and eligible students will be notified via [ ] email [ ] any time they are required to use an online educational service that collects student PII;
  - d. If student PII will be collected by the online educational service, parents and eligible students will be provided notification regarding the information that will be collected, how it will be used, when and how it will be destroyed, and the terms of re-disclosure.
23. The Board will not utilize any online educational service that will share or sell a student's PII for commercial purposes without providing parents a means to either consent or disapprove.
24. If a student is required to use an online educational service, the Board will include on its website a description of the student PII that may be collected, how it will be used, when it will be destroyed and the terms of re-disclosure. The website will also include a link to the online educational service's terms of service and privacy policy, if publicly available.
25. Contracts or agreements with third-party vendors. All contracts or agreements executed by or on behalf of the Board with a third-party vendor or a third-party service provider must protect the privacy of education records and student PII contained therein. Any agreement that provides for the disclosure or use of student PII must:
  - a. require compliance with FERPA, its implementing regulations, and F.S. 1002.22;
  - b. where applicable, require compliance with COPPA, 15 U.S.C. 6501-6506, and its implementing regulations; ensure that only the student PII necessary for the service being provided will be disclosed to the third party;



## CHAPTER 5.00 - STUDENTS

- c. prohibit disclosure or re-disclosure of student PII unless one of the conditions set forth in F.A.C. 6A 1.0955(11)(b) has been met.
- d. Contracts or agreements with a third-party vendor or third-party service provider may permit the disclosure of student PII to the third party only where one or more of the following conditions has been met:
  - 1. the disclosure is authorized by FERPA and 34 CFR §99.31;
  - 2. the disclosure is authorized by the Board's directory information provisions set forth in this policy and implemented in accordance with FERPA and 34 CFR §99.37; or
  - 3. the disclosure is authorized by written consent of an eligible student or parent. Consent must include, at a minimum, an explanation of who the student PII would be disclosed to, how it would be used, and whether re-disclosure is permitted. Any re-disclosure must meet the requirements of F.A.C. Rule 6A-1.0955(11)(b) and this policy.

STATUTORY AUTHORITY: 1001.41, 1001.42, F.S.

LAW(S) IMPLEMENTED: 119.07(1), 119.071, 1001.43, 1001.52, 1002.22, 1002.221, 1002.222, 1002.72, 1003.25, 1008.386, 1014, et. Seq., F.S.; F.A.C. 6A-1.0955; 20 USC §1232 f, g, h, and i (34 CFR PART 99); P.L. 103-382 (34 CFR PAR 99); 20 USC 1400 et. seq., Individuals with Disabilities Act; Privacy Rights of Parents and Students – P.L. 90-247

HISTORY: Adopted: New 7/11/23  
Revision date(s):  
Formerly:  
Reviewed: