

MOUNT PLEASANT COTTAGE SCHOOL UNION FREE SCHOOL DISTRICT**SUBJECT: ACCESS TO STUDENT RECORDS****Definitions**Education Records

The term "education records" is defined as all records, files, documents and other materials containing information directly related to a student and maintained by the education agency or institution, or by a person acting for such agency or institution. This includes all records regardless of medium, including, but not limited to, handwriting, videotape or audiotape, electronic or computer files, film, print, microfilm, and microfiche.

In addition, for students who attend a public school district, all records pertaining to services provided under the Individuals with Disabilities Education Act (IDEA) are considered "education records" under FERPA. As such, they are subject to the confidentiality provisions of both Acts.

The definition of education Records does not include the following:

- 1) Personal notes made by teachers or other staff, if these notes are:
 - a. Kept in the sole possession of the maker;
 - b. Not accessible or revealed to any other person except a temporary substitute; and
 - c. Used only as a memory aid.
- 2) Records created or received by an educational agency or institution after an individual is no longer a student in attendance and that **are not directly related** to the individual's attendance as a student.
- 3) Grades on peer-graded papers before they are collected and recorded by a teacher.

Attendance

"Attendance" includes, but is not limited to:

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

(Continued)

Students

SUBJECT: ACCESS TO STUDENT RECORDS (Cont'd.)Personally Identifiable Information

The term "personally identifiable information" includes, but is not limited to:

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

Directory Information

"Directory information" is information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed.

Disclosure of Records

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

(Continued)

SUBJECT: ACCESS TO STUDENT RECORDS (Cont'd.)**Parent/Guardian or Eligible Student Access Rights**

- 1) The School District, hereinafter referred to as "the District," shall, upon request of a parent/guardian or eligible student (which is defined under FERPA as a student who is eighteen [18] years of age or older or who is attending an institution of post-secondary education), permit the parent/guardian to inspect, review, or copy any education record relating to the child or children of that parent/guardian when such record is collected, maintained, or used by the District. The District shall fulfill the request within forty-five (45) days after the request is received. All references to parent/guardian in this regulation will also include "eligible" student even if it is not stated.
- 2) The right to inspect, review, or copy education records includes:
 - a. The right of a parent/guardian to request of and receive from the District a reasonable explanation of information contained in the education records of the child;
 - b. The right of a parent/guardian to be provided, on request, with a copy of all or part of the education records of the child; and
 - c. The right of a parent/guardian to designate a representative who will inspect, review, or copy the records.
- 3) If a parent/guardian requests copies of education records from the District, the District may charge the parent/guardian a reasonable cost which will not exceed the actual expense of the duplication. However, no cost shall be charged to a parent/guardian for inspecting and reviewing the record or records. No cost shall be charged to a parent/guardian for the search for or retrieval of records.
- 4) A parent/guardian shall have the right to request a list of the types and the location of the child's educational records collected, maintained, or utilized by the District.
- 5) At the discretion of the District and for verification and record keeping purposes only, the District may require all parents/guardians to put into writing:
 - a. Their oral requests to inspect, review, copy or receive copies of education records;
 - b. Their oral designations of a representative; and
 - c. Their oral requests for a list of the types and location of records.

(Continued)

Students

SUBJECT: ACCESS TO STUDENT RECORDS (Cont'd.)

6) Student access rights

Whenever a student has attained eighteen (18) years of age or is attending an institution of post-secondary education, the rights accorded to and the consent required of the parent/guardian of the student shall thereafter only be accorded to and required of the student (except as otherwise provided below).

Access Recordkeeping

- 1) The District shall keep a record of parties who have obtained access to the education records of a student. The access record shall include the name of the party, the date of access, and the purpose for which the party was allowed to use the records.
- 2) The District shall maintain, for public inspection, a current list of the names and positions of those employees who are authorized by the District to have access to personally identifiable information.

Maintenance of Records

The District shall designate an employee of the District as the official who shall be responsible for insuring that the education records confidentiality policies and procedures are enforced and administered. This official shall:

- 1) Notify parents/guardians of the policies and procedures regarding student education records and their rights regarding access.
- 2) Develop the plan for education records, including safeguards which protect the confidentiality of personally identifiable information at the point of collection, storage, release, and destruction.
- 3) Provide in-service training to all staff in the implementation of Federal and State record access and confidentiality policies.
- 4) Maintain the current listing of employees who are authorized to have access to personally identifiable information.

(Continued)

Students

SUBJECT: ACCESS TO STUDENT RECORDS (Cont'd.)**Consent for the Release of Information**

Under the Family Educational Rights and Privacy Act (FERPA), unless otherwise exempted in accordance with law and regulation, the District may release personally identifiable information contained in student records only if it has received a "signed and dated written consent" from a parent/guardian or eligible student. Signed and dated written consent may include a record and signature in electronic form provided that such signature:

- 1) Identifies and authenticates a particular person as the source of the electronic consent; and
- 2) Indicates such person's approval of the information contained in the electronic consent.

Exceptions

Without the consent of a parent/guardian or eligible student, a district may release a student's information or records when it is:

- 1) Directory Information
 - a. Directory information is information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed.
 - b. The District shall publish an annual public notice informing parents or eligible students (i.e., a student eighteen (18) years of age or older or who is attending an institution of post-secondary education) of the District's definition of directory information, the parent/eligible student's right to refuse the release of student directory information and indication of the time period for their response.
 - c. Following such public notice and a reasonable response period, the District may release such information to an outside group without individual consent.
 - d. The District shall limit disclosure of its designated directory information as otherwise specified in its public notice to parents and eligible students.

Directory information includes, but is not limited to, the student's name; address; telephone listing; electronic mail address; photograph; date and place of birth; major field of study; grade level; enrollment status (e.g., undergraduate or graduate, full-time or part-time); dates of attendance; participation in officially recognized activities and sports; weight and height of members of athletic teams; degrees, honors and awards received; and the most recent educational agency or institution attended.

(Continued)

Students

SUBJECT: ACCESS TO STUDENT RECORDS (Cont'd.)

Directory information also includes a student ID number, user ID, or other unique personal identifier used by the student for purposes of accessing or communicating in electronic systems, or that is displayed on a student ID card or badge, but only if the identifier cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user's identity, such as a personal identification number (PIN), password, or other factor known or possessed only by the authorized user.

Directory information does **not** include a student's:

- a. Social security number; or
- b. Student identification (ID) number, except as provided below.

"Limited Directory Information Disclosure" means that the District may limit disclosure of its designated directory information to specific parties, for specific purposes, or both. The intent is to allow schools the option to implement policies that allow for the disclosure of student information for uses such as yearbooks, but restrict disclosure for more potentially dangerous purposes.

2) To School Officials who have a Legitimate Educational Interest

To other school officials, including teachers, within the educational agency or institution whom the school has determined to have legitimate educational interests. An educational interest includes the behavior of a student and disciplinary action taken against such student for conduct that posed a significant risk to the safety or well-being of the student, other students or other members of the school community. A "school official" includes:

- a. An administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel) or a person serving on the school board;
- b. Contractors, consultants, volunteers or other parties outside of the school who performs an institutional service or function for which the school would otherwise use its own employees and who are under the direct control of the school with respect to the use and maintenance of PII from education records, such as an attorney, auditor, medical consultant, or therapist;
- c. A parent or student volunteering to serve on an official committee, such as a disciplinary or grievance committee; or

(Continued)

Students

SUBJECT: ACCESS TO STUDENT RECORDS (Cont'd.)

- d. A parent, student, or other volunteer assisting another school official in performing his or her task.

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 responsibility.

- 3) To Another Educational Institution

The District may disclose any and all educational records, including disciplinary records and records that were created as a result of a student receiving special education services under Part B of IDEA, to another school or postsecondary institution at which the student seeks or intends to enroll, or after the student has enrolled or transferred, so long as the disclosure is for purposes related to the student's enrollment or transfer. Parental consent is not required for transferring education records if the school's annual FERPA notification indicates that such disclosures may be made. In the absence of information about disclosures in the annual FERPA notification, school officials must make a reasonable attempt to notify the parent about the disclosure, unless the parent initiated the disclosure. Additionally, upon request, schools must provide a copy of the information disclosed and an opportunity for a hearing.

- 4) For Health and Safety Emergency Reasons

School districts must balance the need to protect students' personally identifiable information with the need to address issues of school safety and emergency preparedness. Under FERPA, if an educational agency or institution determines that there is an articulable and significant threat to the health or safety of a student or other individuals, it may disclose information from education records, without consent, to any person whose knowledge of the information is necessary to protect the health and safety of the student or other individuals during the period of the health or safety emergency. School districts may release information from records to appropriate parties including, but not limited to, parents, law enforcement officials and medical personnel. A school district's determination that there is an articulable and significant threat to the health or safety of a student or other individuals shall be based upon a totality of the circumstances, including the information available, at the time the determination is made. The school district must record the articulable and significant threat that formed the basis for the disclosure and maintain this record for as long as the student's education records are maintained.

(Continued)

SUBJECT: ACCESS TO STUDENT RECORDS (Cont'd.)5) To Juvenile Justice Systems

Information may be disclosed to state and local officials or authorities to whom information is specifically allowed to be reported or disclosed by a state statute that concerns the juvenile justice system and the system's ability to effectively serve, prior to adjudication, the student whose records were released. In such cases the official or authority must certify in writing that the information will not be disclosed to any other party, except as provided under law, without prior written consent.

6) To Foster Care Agencies

A district may release records to an agency caseworker or other representative of a state or local child welfare agency, who has the right to access a student's case plan, when the agency or organization is legally responsible, for the care and protection of the student. This does not give a child welfare agency the right to look into any non-foster care student's records, without parental consent, when there has been a mere allegation of abuse or neglect, absent an order or subpoena (see below).

7) Pursuant to Subpoena or Court Order

When a district receives a subpoena or court order for the release of records the District must make a reasonable effort to notify the parent/guardian or eligible student of the order or subpoena in advance of compliance. This allows the parent/guardian or eligible student to seek protective action against the subpoena or order before the release of the records.

Districts may disclose a student's records without first notifying parents/guardians or eligible students if the disclosure is:

- a. Based on a subpoena in which the court orders, for good cause shown, not to reveal to any person the existence or contents of the subpoena or any information furnished pursuant to the subpoena;
- b. Pursuant to a judicial order in cases where the parents are a party to a court proceeding involving child abuse or neglect or dependency matters, and the order is issued in the context of that proceeding; or
- c. Made to a court (with or without an order or subpoena) when a District is involved in a legal action against a parent or student and the records are relevant to the matter.

(Continued)

Students

SUBJECT: ACCESS TO STUDENT RECORDS (Cont'd.)8) For Financial Aid Purposes

Pertinent information may be released in connection with a student's application for, or receipt of, financial aid if the information is necessary to:

- a. Determine eligibility for the aid;
- b. Determine the amount of the aid;
- c. Determine the conditions for the aid; or
- d. Enforce the terms and conditions of the aid.

Financial aid is defined as a payment of funds provided to an individual (or a payment in kind of tangible or intangible property to the individual) that is conditioned on the individual's attendance at an educational agency or institution.

9) To an Accrediting Organizations

Disclosure of a student's records may be made to an organization in which that student seeks accreditation, in order to carry out their accrediting function.

10) To Parents of a Dependant Student

Even when a student turns eighteen (18) years of age or older, a District may disclose education records to that student's parents, without the student's consent, if the student is claimed as a dependent for federal income tax purposes by either parent.

11) For Audit/Evaluation Purposes

The audit or evaluation exception allows for the disclosure of PII from education records without consent to authorized representatives of the Comptroller General of the U.S., the Attorney General, the Secretary of Education, federal, state or local educational authorities ("FERPA permitted" entities). Under this exception, PII from education records must be used to audit or evaluate a federal or state supported education program, or to enforce or comply with federal legal requirements that relate to those education programs (audit, evaluation, or enforcement or compliance activity).

(Continued)

Students

SUBJECT: ACCESS TO STUDENT RECORDS (Cont'd.)

Disclosures may be made to the Secretary of Agriculture, or authorized representative from the Food and Nutrition Service or contractors acting on their behalf, for the purposes of conducting program monitoring, evaluations, and performance measurements of school food service programs if the results will be reported in an aggregate form that does not identify any individual.

The District may, from time to time, disclose PII from education records without consent to authorized representatives of the entities listed above. The District may also, from time to time, designate its own authorized representative who may access PII without consent in connection with an audit or evaluation of an education program within the District. As an example, the District might designate a university as its authorized representative in order to disclose, without consent, PII from education records on its former students to the university. The university could then disclose, without consent, transcript data on those former students attending the university to allow the District to evaluate how effectively the District prepared its students for success in postsecondary education.

12) For Conducting Studies

This exception allows for the disclosure of PII from education records without consent to organizations conducting studies for, or on behalf of, schools, school districts or postsecondary institutions. Studies can be for the purpose of developing, validating, or administering predictive tests; administering student aid programs; or improving instruction.

The District may, from time to time, disclose PII from education records without consent to such organizations conducting studies for the District, in accordance with its obligations under FERPA.

In addition, other entities outside of the District may, from time to time, disclose PII from education records that the District has previously shared with that entity, to organizations conducting studies on behalf of the District. For example, a State Education Agency (SEA) may disclose PII from education records provided by the District without consent to an organization for the purpose of conducting a study that compares program outcomes across school districts to further assess the effectiveness of such programs with the goal of providing the best instruction.

State Exception for Student Teacher Videotaped Instruction

Although not specifically listed in the enumerated exceptions to FERPA, New York State Regulations specify that schools are required to allow student teachers to videotape themselves providing instruction in a classroom to meet the instruction component for teaching certification. The

(Continued)

Students

SUBJECT: ACCESS TO STUDENT RECORDS (Cont'd.)

video must remain confidential and is not subject to viewing or disclosure to an individual or entity other than the student teacher applicant and personnel engaged in the determination of that student teacher's certification.

Amendment of Education RecordsRight to Request a Hearing

The District shall, on parent/guardian (or eligible student) request, provide the parent/guardian with an opportunity for a hearing to challenge information in education records if it is alleged that such information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child. The hearing shall be conducted according to the following provisions:

- 1) The hearing shall be held within a reasonable time after the District receives the request for a hearing from the parent/guardian.
- 2) The parent/guardian shall be notified in writing, of the date, place and time of the hearing reasonably in advance of the hearing.
- 3) The hearing shall be conducted by any individual, including a school district official, who does not have a direct interest in the outcome of the hearing.
- 4) The parent/guardian shall be afforded a full and fair opportunity to present evidence relevant to the issues.
- 5) The parent/guardian may, at the hearing, be assisted or represented by persons of his/her choice at his/her own expense; such persons may include legal counsel.

Decision after Hearing

The Hearing Officer shall render a written decision on the issues presented at the hearing within a reasonable time after the conclusion of the hearing. The decision shall be based solely upon evidence presented at the hearing and shall include a summary of the evidence and the reasons for the decision.

Decision to Amend

If, as a result of the hearing, the Hearing Officer decides that the information is inaccurate, misleading, or otherwise in violation of the privacy rights of the student, the District shall amend the education records accordingly and so inform the parent/guardian in writing.

(Continued)

SUBJECT: ACCESS TO STUDENT RECORDS (Cont'd.)Decision not to Amend

If, as a result of the hearing, the Hearing Officer decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy rights of the student, the District shall inform the parent/guardian of his/her right to place in the education record of the student a statement which sets forth the written comments of the parent/guardian regarding the information in the education records or reasons for disagreeing with the decision of the Hearing Officer or both written comments and reasons.

- 1) The statement of the parent/guardian shall be appended by the agency to the education records so long as the record or the contested portion thereof is maintained by the District.
- 2) If the education records of the students or the contested portion thereof are released by the District to any party, the statement of the parent/guardian shall also be released to the party.

Nothing in this section shall be interpreted to mean that the parent/guardian and the District may not, by mutual agreement, meet prior to either a parent/guardian request for a hearing or the hearing itself in order to discuss the concerns of the parent/guardian regarding the accuracy or inaccuracy of the records of the student.