JRA-R - Student Education Records and Information Administrative Procedure

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This administrative procedure is intended to assist administrators and school staff in complying with the requirements of federal and state statutes and regulations concerning student education records and information, including special education requirements.

A. Definitions

The following definitions apply to terms used in this procedure.

1. "Act" means the federal Family Educational Rights and Privacy Act (20 U.S.C. §1232g).

2. “Directory information” means the following information contained in an education record of a student: name, participation and grade level of students in officially recognized activities and sports, height and weight of student athletes, dates of attendance in the school unit, honors and awards received, and photographs and videos relating to student participation in school activities open to the public (except photographs and videos on the Internet).

3. "Eligible student" means a student who has attained 18 years of age who has not been judged by a court of competent jurisdiction to be so severely impaired that the student is unable to make decisions or exercise judgment on his/her own behalf.

4. When a student attains the age of 18, all rights accorded to parents concerning education records transfer to the eligible student, except that the School Department may continue to disclose education records to a parent without prior written consent if the student qualifies as a dependent under the Internal Revenue Code.

5. "Parent" means parent, regardless of divorce or separation, a legal guardian, or individual acting as a parent or guardian provided that there shall be a presumption that a parent has the authority to exercise the rights inherent in the Act, unless there is evidence of a state law or court order governing such matters as divorce, separation or custody or a legally binding instrument that specifically revokes such rights.

6. "Education record" means information or data that directly relates to a student and is maintained by the school unit in any medium, including but not limited to handwriting, print, e-mail or other computer media, video or audio tape, microfilm and microfiche. Records of instructional, supervisory and administrative personnel and personnel who support these individuals, which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a temporary substitute for the person who made the record are excluded from this definition, as are grades on peer-graded papers before they are collected and recorded by a teacher.

7. "Student" includes any individual with respect to whom the School Department maintains education records.

B. Annual Notification of Rights

Parents and eligible students shall be provided with notice of their rights under FERPA and other applicable federal and state laws and regulations concerning education records at the beginning of each school year or upon enrollment if a student enrolls after the start of the school year. The School Department may provide notice through any of the following means:

1. Mailing to students' homes;

2. Distribution to students to take home;

3. Publication in student handbooks;

4. Publication in newsletters or other materials distributed to each parent/eligible student.

C. Access to Policy and Administrative Procedure

The School Department's policy on Student Education Records and Information shall be posted in each school. In addition, school administrators shall provide copies of this administrative procedure to parents/eligible students upon request or when a request to inspect or amend records is made.

D. Inspection and Review of Education Records

Parents/eligible students may review and inspect their educational records by the following procedure:

1. The parent/eligible student must make a written request to the Superintendent or building administrator to review the records.

2. The Superintendent or building administrator will comply with the request without unnecessary delay and in a reasonable period of time, but in no case more than 45 days after it received the request, and will comply before any IEP Team meeting regarding an Individualized Education Program or any due process hearing relating to the identification, evaluation or placement of the student.

3. The Superintendent or building administrator may deny a request for access to or copies of the student's education records if there is reasonable doubt as to the legality of the parent-child relationship. Access will be withheld until a determination of legal right to access can be established.

4. All records shall be reviewed in the presence of a school official.

Parents/eligible students may also request to review the following:

1. The School Department’s list of types and locations of education records and titles of officials responsible for the records.

2. The School Department’s record of disclosures of personally identifiable information (see Section F).

E. Requests to Amend Education Records

Parents/eligible students may ask the School Department to amend education records they believe are inaccurate, misleading or in violation of the student’s privacy rights as follows:

1. The parent/eligible student must make a written request to the Superintendent or building administrator to amend the education record. The request must clearly identify the part of the record they want changed, and specify why it is inaccurate or misleading.

2. The Superintendent or building administrator shall, within a reasonable period of time after receipt of the request, either amend the record in accordance with the request or inform the parent/eligible student of the School Department’s refusal to amend the record and inform the parent/eligible student of their right to request a hearing.

3. If the parent/eligible student requests a hearing, it shall be held within a reasonable period of time from the School Department’s receipt of the written request. The parent/eligible student shall be given advance notice of the date, place and time of the hearing. The Superintendent shall designate an individual to conduct the hearing. This individual may be an employee of the School Department so long as he/she does not have a direct interest in the outcome of the hearing. The parent/eligible student shall be afforded a full and fair opportunity to present evidence relevant to the issues raised and may be assisted or represented by individuals of his/her choice at his/her own expense, including an attorney.

4. The School Department shall make its decision in writing within a reasonable period of time. The decision of the school shall include a summary of the evidence and the reasons for the decision.

5. If, as a result of the hearing, the School Department decides that the information is inaccurate, misleading or otherwise in violation of the privacy rights of the student, it shall amend the education records of the student accordingly and so inform the parent/eligible student in writing.

6. If, as a result of the hearing, the School Department decides that the information is not inaccurate, misleading or otherwise in violation of the privacy rights of the student, it shall inform the parent/eligible student of their right to include a statement in the student's education record about the contested information and/or setting forth any reasons for disagreeing with the decision of the School Department.

7. Any statement placed in the student's education record under the preceding paragraph shall be maintained as long as the record or contested portion is maintained by the School Department. If the education records of the student or the contested portion is disclosed by the School Department to any party, the explanation shall also be disclosed.

F. Disclosure of Education Records

All disclosures of education records will be made in compliance with federal and state statutes and regulations. The School Department will not disclose any personally identifiable information from the education records of a student without the prior written consent of the parent/eligible student unless such disclosure is otherwise allowed by federal and/or state statutes or regulations. The written consent shall include a specification of the records which may be disclosed, the purpose(s) of the disclosure(s), and the identity of the party or parties to whom the disclosure(s) may be made.

There are several exceptions to the requirement to obtain prior written consent before disclosing education records as follows:

1. Directory Information. The School Department may make directory information (as described in Section A) public at its discretion unless a parent/eligible student has notified the Building Administrator in writing by September 15th or within thirty (30) days of enrollment, whichever is later. (Please reference JRA-E2 and JRA-E3 forms.)

The School Department may disclose directory information about former students without the consent of the parent/eligible student.

2. Military Recruiters/Institutions of Higher Education. Military recruiters and institutions of higher education are entitled to receive the names, addresses and telephone numbers of secondary students and the School Department must comply with any such request, provided that parents have been notified of their right to make a written request that this information not be released without prior written consent. Parents/eligible students who do not want the School Department to disclose this information must notify the Building Administrator in writing by September 15th or within thirty (30) days of enrollment, whichever is later. (Please reference JRA-E2 and JRA-E3 forms.)

3. School Officials with Legitimate Educational Interests. Education records may be disclosed to school officials with a "legitimate educational interest." A school official has a legitimate educational interest if he/she needs to review an education record in order to fulfill his/her professional responsibility. School officials include persons employed by the School Department as an administrator, supervisor, instructor or support staff member (including health or medical staff and the school unit's designated law enforcement unit personnel, if

any); members of the School Board; persons or companies with whom the School Department has contracted to provide specific services (such as attorneys, auditors, medical consultants, evaluators or therapists); and volunteers who are under the direct control of the School Department with regard to education records.

4. Other School Units. Under Maine law (20-A M.R.S.A. § 6001-B), the School Department is required to send a student's education records to a school unit to which a student applies for transfer, including disciplinary records, attendance records, special education records and health records. Consent is not required for the transfer of these records, except for confidential health records.

At the request of the Superintendent of the school unit where a student seeks admission, the student's current or former school administrators shall provide, in a timely fashion, an oral or written report to the Superintendent indicating whether the student has been expelled or suspended or is the subject of an expulsion or suspension proceeding.

5. Health or Safety Emergency. In accordance with federal regulations, the School Department may disclose education records in a health or safety emergency to any person whose knowledge of the information is necessary to protect the health or safety of the student or other individuals without prior written consent.

6. Other Entities/Individuals. Education records may be disclosed to other governmental entities and individuals as specifically permitted by FERPA and the accompanying regulations.

7. Information on the Internet. Under Maine law (20-A M.R.S.A. § 6001), the School Department shall not publish on the Internet any information that identifies a student, including but not limited the student's full name, photograph, personal biography, e-mail address, home address, date of birth, social security number and parents' names, without written parental consent.

G. Request/Disclosure Record

1. The School Department will maintain a record of requests and disclosures of personally identifiable information from the education records of a student.
2. Such records do not include disclosures to the parents/eligible student; disclosures made pursuant to written consent of the parents/eligible student; disclosures to school officials; disclosures of directory information; records released pursuant to a subpoena that specifies that the request/disclosure remain confidential; or disclosures to the person who provided or created the record.
3. The record will include the party requesting the information and the "legitimate interest" the party has in the information. In the case of state and local educational authorities, and federal officials and agencies identified in the FERPA regulations, the record must specify that the records may be subject to further disclosure by these authorities, officials and agencies without consent.
4. When disclosures are made under the exception for health or safety emergencies, the record must include the "articulable and significant threat to the health or safety of a

student or other individuals that formed the basis of the disclosure" and the parties to whom the information was disclosed.

H. Waiver of Confidentiality Rights

A parent/eligible student may waive any of his/her rights regarding confidentiality of education records, but any such a waiver must be in writing and signed by the parent/eligible student. The school may not require that a parent/eligible student waive his or her rights. Any waiver may be revoked, but such revocation shall not apply to any actions taken by the School Department prior to the revocation being received. If a parent executes a waiver, that waiver may be revoked by the student any time after he/she becomes an eligible student.

I. Fees for Copying Records

There shall be no charge to search for or retrieve education records of a student. The School Department shall provide copies of education records to parents/eligible students upon request. The cost of producing copies of the record to parents/eligible student will be ***$0.15 cents per page copied, plus postage.*** Parents/eligible students who are unable to pay such fees will not be denied access to education records. This fee, however, will not prohibit a parent/eligible student the opportunity to access records if they are unable to pay for copies.

J. Maintenance and Destruction of Education Records

The School Department shall maintain education records as required by federal and state statutes and regulations.

1. Records shall be maintained in paper and/or electronic form by personnel who are knowledgeable about the applicable confidentiality and record retention requirements. All records shall be safeguarded from unauthorized access. Student records must be kept in fireproof storage at the school or a duplicate set must be kept off-site.

2. The School Department shall not destroy any education record if there is any outstanding request to inspect or review such records.

3. Records of access to education records shall be retained as long as the records themselves.

4. The School Department shall inform parents of students with disabilities when education records are no longer needed to provide educational services to the student or to demonstrate that the school has provided the student with a free appropriate public education as required by law. At that point, the records may be turned over to parents/eligible student upon their request, or destroyed in accordance with the parent's request or School Department procedures.

K. Complaints

The United States Department of Education maintains an office that handles complaints about alleged violations of FERPA by local school units. Complaints regarding violations of rights accorded parents/eligible students may be submitted in writing to:

Family Policy Compliance Office

Department of Education

400 Maryland Avenue, S.W.

Washington, D.C. 20202

Legal Reference: 20 U.S.C. § 1232g; 34 C.F.R. Part 99 (as amended)

20 U.S.C. § 7908

20-A M.R.S.A. § 6001, 6001-B

Maine Department of Education Rules, Chapters 101 and 125

Maine State Archives, Rules for Disposition of Local Governmental

Records

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