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I. STUDENT EDUCATION RECORD

Student education records are those records that are directly related to a student and maintained by the district, or by a party acting for the district. However, this does not include the following:

- Records of instructional, supervisory and administrative personnel and educational personnel ancillary to those persons that are kept in the sole possession of the maker of the record, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record;
- Records of the law enforcement officers assigned to the district subject to the provisions of Oregon Administrative Rule (OAR) 581-021-0225;
- Records relating to an individual who is employed by the district that are made and maintained in the normal course of business, that relate exclusively to the individual in that individual's capacity as an employee and that are not available for use for any other purpose. Records relating to an individual in attendance at the district who is employed as a result of his/her status as a student are education records and are not excepted under this section;
- Records on a student who is 18 years of age or older, or is attending an institution of post-secondary education, that are:
  - Made or maintained by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional acting in his/her professional capacity or assisting in a paraprofessional capacity.
  - Made, maintained or used only in connection with treatment. For purposes of this definition, "treatment" does not include remedial educational activities or activities that are part of the program of instruction at the district.
  - Disclosed only to individuals providing the treatment. For purposes of this definition, "treatment" does not include remedial educational activities or activities that are part of the program of instruction at the district.
- Records that only contain information relating to activities in which an individual engaged after he/she is no longer a student at the district.
- Medical or nursing records which are made or maintained separately and solely by a licensed health care professional and which are not used for education purposes or planning.

The district shall keep and maintain a permanent record on each student which includes the:

1. Name and address of educational agency or institution;
2. Full legal name of the student;

3. Student birth date and place of birth;
4. Name of parents/guardians;
5. Date of entry in school;
6. Name of school previously attended;
7. Courses of study and marks received;
8. Data documenting a student's progress toward achievement of state standards, and must include a student's Oregon State Assessment results;
9. Credits earned;
10. Attendance;
11. Date of withdrawal from school;
12. Such additional information as the district may prescribe.

The district may also request the social security number of the Student and will include the social security number on the permanent record only if the eligible student or parent complies with the request. The request shall include notification to the eligible student or the student's parent(s) that the provision of the social security number is voluntary and notification of the purpose for which the social security number will be used.

The district shall retain permanent records in a minimum one-hour fire-safe place in the district, or keep a duplicate copy of the permanent records in a safe depository in another district location.

## II. RIGHTS OF PARENTS AND ELIGIBLE STUDENTS

The district shall annually notify parents and eligible students through the district student/parent handbook or any other means that are reasonable likely to inform the parents or eligible students of their rights. This notification shall state that the parent(s) or eligible student has a right to:

- Inspect and review the student's education records;
- Request the amendment of the student's education records to ensure that they are not inaccurate, misleading or otherwise in violation of the student's privacy or other rights;
- Consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that the applicable state or federal law authorizes disclosure without consent;
- Pursuant to OAR 581-21-410, file with the United States Department of Education a complaint under 34 CFR 99.64 concerning alleged failures by the district to comply with the requirements of federal law; and
- Obtain a copy of the district policy with regard to student education records.

The notification shall also inform parents or eligible students that the district forwards education records requested under OAR 581-021-0250 (1), (m) and (p) within 10 days of receiving the request. The

notification shall also indicate where copies of the district policy are located and how copies may be obtained.

If the eligible student or the student's parent(s) has a primary or home language other than English, the district shall provide effective notice.

These rights shall be given to either parent unless the district has been provided with specific written evidence that there is a court order, state statute or legally binding document relating to such matters as divorce, separation or custody that specifically revokes these rights.

When a student becomes an eligible student, which is defined as a student who has reached 18 years of age or is attending only an institution of post secondary education and is not enrolled in secondary school, the rights accorded to, and the consent required of, the parents transfer from the parents to the student. Nothing prevents the district from giving students rights in addition to those given to parents.

For the purposes of this section, "parent" means a natural parent, a guardian, an individual authorized in writing to act as a parent in the absence of a parent or guardian, or a surrogate parent appointed to represent a student with disabilities.

### III. PARENT'S OR ELIGIBLE STUDENT'S RIGHT TO INSPECT AND REVIEW

The district shall permit an eligible student or student's parent(s) or a representative of a parent or eligible student, if authorized in writing by the eligible student or student's parent(s), to inspect and review the education records of the student, unless the education records of a student contain information on more than one student. In that case the eligible student or student's parent(s) may inspect, review or be informed of only the specific information about the student.

The parent(s) or eligible student shall comply with the following procedure to inspect and review a student's education record;

- Provide a written, dated request to inspect a student's education record;
- State the specific reason for requesting the inspection.

The written request will be permanently added to the student's education record.

The district shall comply with a request for access to a student's education record within a reasonable period of time, but in no case more than 45 days after it has received the request.

The district shall respond to reasonable requests for explanations and interpretations of the student's education record.

The district shall not destroy any education record if there is an outstanding request to inspect and review the education record.

While the district is not required to give an eligible student or student's parent(s) access to treatment records under the definition of "education records" in OAR 581-021-0220 (6)(b)(D), the eligible student or student's parent(s) may, at his/her expense, have those records reviewed by a physician or other appropriate professional of his/her choice.

If an eligible student or student's parent(s) so requests, the district shall give the eligible student or student's parent(s) a copy of the student's education record. The district may recover a fee for providing a copy of the record, but only for the actual costs of reproducing the record, unless the imposition of the fee

effectively prevents a parent and eligible student from exercising the right to inspect and review the student's education records. The district shall not provide the eligible student or student's parent(s) with a copy of test protocols, test questions and answers and other documents described in Oregon Revised Statutes (ORS 192.501 (4)).

The district may deny a request for a copy or copies of the education record when the district believes that a legitimate cause exists for such a denial, including but not limited to, a request to copy the education record that would require the education record to be copied off district property or copied by an individual other than district personnel.

Fees for copies of education records may be charged. Any such fees will be established by the superintendent to reasonably reimburse the district for actual costs of making copies of the education records.

The district will maintain a list of the types and locations of education records maintained by the district and the titles and addresses of officials responsible for the records.

All student education records will be maintained at the school building at which the student is in attendance. The principal or his/her designee shall be the person responsible for maintaining and releasing the education records.

#### IV. RELEASE OF PERSONALLY IDENTIFIABLE INFORMATION

Personally identifiable information shall not be released without prior written consent of the eligible student or student's parent(s) except in the following cases:

- The disclosure is to other school officials, including teachers, within the district who have a legitimate educational interest.

As used in this section, "school officials" means licensed staff members, school counselors, school and district administrators, or other licensed or non-licensed staff. "School officials" may include contractors, consultants, volunteers, or other parties who whom the district has outsourced institutional services or functions, provided that the outside party performs institutional services or functions for which the district would otherwise use employees, and is under the direct control of the district with respect to the use and maintenance of the information disclosed. The district will use reasonable methods to ensure that school officials obtain access to only those educational records in which they have a legitimate educational interest

As used in this section, "legitimate educational interest" means an interest of a school official that arises from a need to fulfill his or her professional responsibility to the district.

- The disclosure is to officials of another school within the district;
- The disclosure is to authorized representatives of:
  - The Comptroller General of the United States;
  - The secretary of the United States Department of Education;
  - State and local educational authorities; or
  - The Oregon Secretary of State's Audit Division
- The disclosure is in connection with financial aid for which the student has applied or which the student has received, if the information is necessary for such purposes as to:

- Determine eligibility for the aid;
  - Determine the amount of the aid;
  - Determine the conditions for the aid; or
  - Enforce the terms and condition of the aid.
- The disclosure is to organizations conducting studies for, or on behalf of, the district to:
    - Develop, validate or administer predictive tests;
    - Administer student aid programs; or
    - Improve instruction

The district may disclose information under this section only if:

- The study is conducted in a manner that does not permit personal identification of parents or students by individuals other than representatives of the organization; and
- The information is destroyed when no longer needed for the purposes for which the study was conducted.

For purposes of this section, the term "organization" includes, but is not limited to, federal, state and local agencies, and independent organizations.

- The disclosure is to accrediting organizations to carry out their accrediting functions;
- The disclosure is to comply with a judicial order or lawfully issued subpoena. The district may disclose information under this section only if the district makes a reasonable effort to notify the eligible student or student's parent(s) of the order or subpoena in advance of compliance;
- The disclosure is to the parents of a dependent student, as defined in Section 152 of the Internal Revenue Code of 1986;
- The disclosure is in connection with a health or safety emergency. The district shall disclose personally identifiable information from an education record to law enforcement, child protective services and health care professionals and other appropriate parties in connection with a health and safety emergency if knowledge of the information is necessary to protect the health and safety of the student or other individuals. As used in this section a "health or safety emergency" includes, but is not limited to, law enforcement efforts to locate a child who may be a victim of kidnap, abduction or custodial interference and law enforcement or child protective services efforts to respond to a report of child abuse or neglect pursuant to applicable state law.
- The disclosure is information the district has designated as "directory information",
- The disclosure is to the parent(s) of a student who is not an eligible student or to an eligible student;
- The disclosure is to officials of another school, school system, institution of post-secondary education, an education service district (ESD), state regional program or other educational agency that has requested the records and in which the student seeks or intends to enroll or is enrolled or in which the student receives services. The term "receives services" includes, but is not limited to, an evaluation or reevaluation for purposes of determining whether a student has a disability;
- The disclosure is to the Board during an executive session pursuant to ORS 332.061.

## V. RECORD KEEPING - REQUIREMENTS

The district shall maintain a record of each request for access to and each disclosure of personally identifiable information from the education records of each student. Exceptions to the record keeping requirements shall include the parent, eligible student, school official or his/her assistant responsible for custody of the records and parties authorized by state and federal law for auditing purposes. The district shall maintain the record with the education records of the student as long as the records are maintained. For each request or disclosure the record must include:

- The party or parties who have requested or received personally identifiable information from the education records; and
- The legitimate interests the parties had in requesting or obtaining the information.

The following parties may inspect the record of request for access and disclosure to a student's personally identifiable information:

- The parent(s) or eligible student;
- The school official or his/her assistants who are responsible for the custody of the records;
- Those parties authorized by state or federal law for purposes of auditing the record keeping procedures of the district.

## VI. REQUEST FOR AMENDMENT OF STUDENT'S EDUCATION RECORD

If an eligible student or student's parent(s) believes the education records relating to the student contain information that is inaccurate, misleading or in violation of the student's rights of privacy or other rights, he/she may ask the building level principal where the record is maintained to amend the record.

The principal shall decide, after consulting with the necessary staff, whether to amend the record as requested within a reasonable time after the request to amend has been made.

The request to amend the student's education record shall become a permanent part of the student's education record.

If the principal decides not to amend the record as requested, the eligible student or the student's parent(s) shall be informed of the decision and of his/her right to appeal the decision by requesting a hearing.

## VII. HEARING RIGHTS OF PARENTS OR ELIGIBLE STUDENTS

If the building level principal decides not to amend the education record of a student as requested by the eligible student or the student's parent(s), the eligible student or student's parent(s) may request a formal hearing for the purpose of challenging information in the education record as inaccurate, misleading or in violation of the privacy or other rights of the student. The superintendent or his/her designee shall be the hearing's officer. The hearing officer will establish a date, time and location for the hearing. The hearing will be held within a reasonable time of receiving the written or verbal request for the hearing.

The hearings officer will convene and preside over a hearing panel consisting of: (1) the principal or his/her designee, (2) a member chosen by the eligible student or student's parent(s); and (3) a

disinterested, qualified third party appointed by the superintendent. The hearing shall be private. Persons other than the student, parent, witnesses and counsel shall not be admitted. The hearing's officer shall preside over the panel. The panel will hear evidence from the school staff and the eligible student or student's parent(s) to determine the point(s) of disagreement concerning the records. Confidential conversations between a licensed employee or district counselor and a student shall not be part of the records hearing procedure. The eligible student or student's parent(s) has the right to insert written comments or explanations into the record regarding the disputed material. Such inserts shall remain in the education record as long as the education record or contested portion is maintained and exists. The panel will make a determination based solely on the evidence presented at the hearing and will include a summary of the evidence and the reason for the decision. The findings of the panel shall be rendered in writing within a reasonable time following the close of the hearing and submitted to all parties.

If, as a result of the hearing, the panel decides that the information in the education record is not inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, it shall inform the eligible student or the student's parent(s) of the right to place a statement in the record commenting on the contested information in the record or stating why he/she disagrees with the decision of the panel. If, as a result of the hearing, the panel decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, it shall:

- Amend the record accordingly; and
- Inform the eligible student or the student's parent(s) of the amendment in writing.

#### VIII. DUTIES AND RESPONSIBILITIES WHEN REQUESTING EDUCATION RECORDS

The district shall, within 10 days of a student seeking initial enrollment in or services from the district, notify the public or private school, ESD, institution, agency or youth care center in which the student was formerly enrolled and shall request the student's education records.

#### IX. DUTIES AND RESPONSIBILITIES WHEN TRANSFERRING EDUCATION RECORDS

The district shall, subject to ORS 339.260, transfer originals of all requested student education records, including any ESD records, relating to the particular student to the new educational agency when a request to transfer the education records is made to the district.

Upon notification from the new attending school that a student has enrolled and that the student's records are being requested the school is authorized to send the Student Records. If the new attending school also sends a request to transfer the Student Special Education Records for a student, send a copy of that request, along with the special education files that is kept at the school, to the Special Programs Department in the District Office.

Occasionally, the new attending school will send a request to send "all student records" for the student. Even if this request is signed by the parents/guardians, treat it as a request to transfer Student Records only.

The transfer shall be made no later than 10 days after receipt of the request. A copy of the education records to be transferred shall be retained by the school in accordance with the following schedule:

- The student's permanent records as defined in subsection (1)(l) of OAR 581-021-0250, shall be retained permanently;
- All records that show compliance with federal program requirements shall be retained for three years following the school year in which the records were created;

- All other records except minor referrals and supporting materials as described below shall be retained for five years following the school year in which the records were created;
- Minor behavior referrals from staff, records of conversations, parent notes regarding student behavior, written behavioral agreements between the student and school, detention records, bus citations and other written descriptions of minor behavioral infractions which will not result in the identification of a student for special education services or the suspension or expulsion of the student shall be retained until the school year ends.

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Legal References:

FERPA 20 USC § 1232g

Privacy Act 5 USC § 552a

34 CRF, Part 99

OAR 581-021-0220

OAR 581-021-0225

OAR 581-021-0250

OAR 581-021-0410

ORS 192.501

ORS 326.565

ORS 326.575

ORS 326.580

ORS 339.260

Cross References:

Policy JOB      Personally Identifiable Information

Policy JO        Education Records

Policy JOA       Directory Information

Reviewed: 9/13/10, 2/13/12

Approved: 9/27/10, 2/13/12

