

## STUDENT EDUCATIONAL RECORDS ADMINISTRATIVE PROCEDURE

### I. INTRODUCTION

These procedures have been adopted to implement federal and state legislation establishing guidelines governing the manner in which student records are maintained and supervised. The purpose of the legislation is to ensure students and parents of students access to their official records, to guarantee that these records are used only for legitimate educational purposes, and to ensure that the records are not released without the written permission of the student or parent of the student except as permitted by law. These procedures do **not** contain all the information contained in the federal or state legislation, but do adopt and incorporate such laws.

### II. DEFINITIONS

The following definitions apply to terms used in this policy.

- A. “Act” means the Family Educational Rights and Privacy Act (20 USC § 1232g).
- B. “Directory information” means the following information contained in an education record of a student: name, the student’s participation in officially recognized activities and sports, weight and height of student athletes, grade level in school of participants in extracurricular activities, date of attendance at local school unit schools and honors and awards received.
- C. “Eligible student” means a student who has attained eighteen years of age, 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 or is attending an institution of post-secondary education.
- D. “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.

- E. “Record” means any information or data recorded in any medium including, but not limited to, handwriting, print, computer media, video or audio tape, microfilm and microfiche, but excluding records of instructional, supervisory and administrative personnel and educational personnel ancillary to those persons 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 maker of the record.
- F. “School” means MSAD#8 and each school within the system.
- G. “Student” includes any individual with respect to whom the local school unit maintains education records.

### III. ANNUAL NOTIFICATION OF RIGHTS

Each year parents of students attending school or eligible students attending school will be provided with a summary of their rights through any of the following means:

- A. A letter to each parent or eligible student within the school system; and
- B. Publication of the policy summary in a school newspaper, newsletter or handbook distributed to each parent or eligible student.

A model copy of that summary is attached to this policy as JRA-E. That summary shall also inform the parents of locations where copies of the Board’s policy statement and administrative procedure may be obtained.

A copy of this procedure, JRA-R, and the policy statement that is the basis for this procedure, JRA, shall be posted in each school.

### IV. INSPECTION AND REVIEW OF EDUCATION RECORDS

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

- A. The parent or eligible student must request in writing to review the records through the Guidance Counselor.
- B. The school will comply with the request within a reasonable period of time, but in no case more than 45 days after it received the request, and will comply before any meeting regarding an Individualized Education Program (IEP) or any due process hearing relating to the identification, evaluation or placement of the student.

- C. The School Secretary will list the types and locations of all records, the names and titles of officials responsible for those records and the names of non-school personnel who have received copies or reviewed the education records.
- D. The school may deny a request for access to or a copy of the student's record 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.

## V. DISCLOSURE OF EDUCATION RECORDS

- A. The school will not disclose any personally identifiable information from the education records of a student without the prior written consent of the parent or eligible student. The written consent shall include a specification of the records that 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. Exceptions to these disclosure requirements are as follows:
  - 1. As provided by 20-A MRSA § 6001-B, when a student transfers from the local school unit to another school unit in Maine or any other state, a copy of all his/her education records, including special education records, disciplinary records, attendance records, and health records other than confidential health records for which consent for dissemination has not been obtained, will be sent to the receiving school unit upon written request of the Superintendent or designee of that unit; there is no requirement for written consent by the parent/guardian or eligible student. Confidential health records may be provided only if the Superintendent/designee of the school unit from which the student is transferring receives the authorization or consent necessary for the dissemination of information contained in records pertaining to HIV infection status, alcohol and other drug abuse treatment, health care and treatment, and mental health treatment.
  - 2. Personally identifiable information may be disclosed without written consent if the disclosure is to:
    - a. State and local educational authorities, the Comptroller General of the United States, or the Secretary of the U.S. Department of Education (including those acting for the secretary ) in connection with the audit & evaluation of federal and state supported educational programs or for enforcement of or compliance with federal legal requirements, and to state and local educational authorities as required by state statute and permitted by federal law;

- b. School administrators, board members, officials, teachers and other school personnel; contracted providers of educational services for the student and lawyers within the school unit who have legitimate educational interests;
- c. Officials of another school, school system or institution of post-secondary education in which the student seeks or intends to enroll;
- d. Institutions to which the student has applied for or has received financial aid if the information is necessary to determine the eligibility, amount or conditions of the aid or to enforce the terms or conditions of the aid;
- e. Organizations conducting studies for, or on behalf of, educational agencies or institutions, including but not limited to studies to develop, validate or administer predictive tests;
- f. Accrediting organizations for the purpose of carrying out their accrediting functions;
- g. Parents of a dependent student, as defined in § 152 of the Internal Revenue Code of 1954;
- h. Those as directed by a judicial order or lawfully issued subpoena, provided that reasonable effort is made to notify the parent of the student or the eligible student of the order or subpoena prior to compliance herewith, unless the subpoena or judicial order directs that the disclosure not occur;
- i. A court of law, if relevant to an action brought by the parents of the child against the school unit, or brought by the school unit against the child or child's parents;
- j. Appropriate parties in a health or safety emergency provided that knowledge of the information is necessary to protect the health or safety of the student or other individuals. This disclosure may include the release of appropriate information to school officials in other school units about disciplinary action taken against a student for conduct that posed a significant risk to the safety or well-being of that student or other members of the school community, if the officials in the other school unit have a legitimate educational interest in the behaviors of the student;

- k. Criminal justice agencies or other agencies that by court order or agreement are responsible for the juvenile in circumstances as described in 20-A MRSA § 6001(3); and
  - l. Other circumstances specifically permitted by law.
3. Directory information may be disclosed without parental consent about former students.
  4. The local school unit reserves the right to make public at its discretion personally identifiable information from the education records of a student if that information has been designated as directory information as that term is defined under subparagraph B in section II of this policy, unless the parent of the student or eligible student informs the school in writing within 10 days of the first student day of the school year or within 10 days of enrollment that such personally identifiable information is not to be designated as directory information with respect to that student.
  5. The school unit will provide military recruiters and institutions of higher learning with the names, addresses and telephone numbers of high school students, upon their request, unless the student's parent/guardian or eligible student notifies the school unit in writing that he/she does not want such information released. Such information will not be disclosed if the student's parent or eligible student notifies the school unit, in writing, that such information may not be released without his/her written consent.
- B. All disclosures of information under this section will comply with regulations and guidelines provided by the Federal Government and the Maine Department of Education.
- C. The school will maintain a record of disclosures of personally identifiable information from the education records of a student and will permit a parent or eligible student to inspect that record, except that such record shall not include disclosures to the parent of a student or an eligible student, disclosures pursuant to written consent, disclosures to school officials or disclosures of directory information.

## VI. REQUEST TO AMEND EDUCATION RECORDS

- A. All parents of students/eligible students may seek correction of education records of the student through a request to amend the record on the grounds that it is inaccurate, misleading or in violation of the privacy or other rights of the student. The school shall, within 15 days of receipt of the request, either amend the information in accordance with the parent's/eligible student's request or inform the parent/eligible student of its refusal to amend the information and advise the parent/eligible student of the opportunity for a hearing.
- B. If the request is denied, the parent or the eligible student shall be entitled to a hearing upon request. The hearing shall be held within a reasonable period of time from the time the school receives the request, and the parent or the eligible student shall be given advance notice of the date, place and time of the hearing. The Superintendent may designate an individual to conduct the hearing. The individual may be an employee of the school unit but may not have a direct interest in the outcome of the hearing. The parent or the 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. The school 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.
- C. If, as a result of the hearing, the school decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, it shall amend the education records of the student accordingly and so inform the parent or the eligible student in writing.
- D. If, as a result of the hearing, the school decides that the information is not inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, it shall inform the parent or eligible student of the right to place in the education records of the student a statement commenting upon the contested information in the education records and/or setting forth any reasons for disagreeing with the decision of the school.
- E. Any explanation placed in the education record of the student under the preceding paragraph shall be maintained by the school as part of the education records of the student as long as the record or contested portion is maintained by the school, and if the education records of the student or the contested portion is disclosed by the school to any party, the explanation shall also be disclosed to that party.

## VII. STUDENT RIGHTS

When a student becomes an eligible student, the rights accorded to and the consent required of the parent of the student shall thereafter transfer to the eligible student.

## VIII. LIMITATIONS ON WAIVERS

A parent of a student/eligible student may waive any of his/her rights regarding confidentiality of educational records as set forth in this policy and in the Act, but such a waiver shall be in writing and signed by the parent or student as appropriate. The school may not require that a parent/ eligible student waive his/her rights.

A waiver under this section may be revoked with respect to any actions occurring after the revocation. A revocation under this paragraph must be in writing. If a parent executes a waiver under this section, that waiver may be revoked by the student any time after he/she becomes an eligible student.

## IX. FEES

The school shall provide copies of education records to parents/eligible students upon request. The cost of producing copies of the record, if desired, to the parent/ eligible student may be ten cents per page copied, plus postage. This fee, however, will not prohibit a parent's/eligible student's opportunity for access to the records if they are unable to pay for such copies. There will be no charge to search for or to retrieve the education records of a student.

## X. LIMITATION OF DESTRUCTION OF EDUCATION RECORDS

The school may destroy parts of an education record of a student when they are no longer deemed useful, subject to the following exceptions:

- A. The school may not destroy any education record if there is any outstanding request to inspect or review such records.
- B. The record of access maintained shall be retained for as long as the education record to which it pertains is maintained.
- C. The school 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 shall be destroyed at the request of the parents and may be turned over to parents or eligible student upon their request.

- D. A permanent record of a special education student's name, address, phone number, grades, attendance record, classes attended and grade and year completed shall be maintained without time limitations.
- E. High school transcripts of all students shall be maintained permanently.

XI. COMPLAINT PROCEDURE

The Secretary of the U. S. Department of Education maintains an office that will investigate, process and review complaints that may be filed concerning alleged violations of the provision of the Act. Complaints regarding violations of rights accorded parents and eligible students may be submitted in writing to the following address: Family Policy Compliance Office  
Department of Education  
400 Maryland Avenue, S.W.  
Washington, D.C. 20202

Legal Reference: 20 USC §§ 1232g, 7908  
34 CFR Part 99  
20-A MRSA § 6001  
Ch. 101 § 15 (Me. Dept. of Ed. Rule)  
Ch. 125 § 12.01 (Me. Dept. of Ed. Rule)

Adopted: 12-15-08

*This procedure implements a required policy.*

*Reviewed 12/03*