

POLICY 823 part 3

STUDENT PUBLIC RECORDS POLICY AND NOTICE

The District Administrator shall maintain and provide access to public records in accordance with applicable laws and the policies and procedures of the District. In addition, all officials, employees, and authorized agents of the District shall, to the extent appropriate to the particular record, safeguard the confidentiality of the personally identifiable information in their possession and in the records created or maintained by any school district authority.

Maintenance and Confidentiality of Student Records

Content of Records:

Student records include all records relating to an individual student other than:

- Notes or records maintained for personal use by teachers or other certified personnel which are not available to others
- Records necessary for and available only to persons involved in the psychological treatment of a student
- Records created or received by the District after an individual is no longer a student in attendance and that are not directly related to the individual's attendance as a student

1) Progress records maintained by the school include a statement of courses taken by the student, the student's grades, the student's immunization records, the student's extracurricular activities and the student's attendance record.

2) Behavioral records maintained by the school include psychological tests, personality evaluations, records of conversations, written statements relating specifically to an individual student's behavior, tests relating specifically to achievement or measurement of ability, the student's physical health records other than his/her immunization records, law enforcement agency records and any other student records which are not progress records.

- Law enforcement agency records include those records and other information obtained from a law enforcement agency relating to: (1) the use, possession or distribution of alcohol or a controlled substance by a student enrolled in the District, (2) the illegal possession of a dangerous weapon by a child, (3) an act for which a District student was taken into custody based on the law enforcement officer's belief that he/she violated or was violating any state or federal criminal laws, and (4) the act for which a juvenile enrolled in the District was adjudged delinquent. The law enforcement agency may provide such record information to the District on its own initiative or on the request of the District Administrator or designee, subject to the agency's official policy. The District may also enter into an interagency agreement with law enforcement and other appropriate agencies to provide for the routine disclosure of record information in accordance with state law provisions. If a law enforcement agency denies access to any of the aforementioned records, the District may file a petition with the court seeking

access to the records based on legitimate educational or safety interests in the records.

- Court records include those records received from a court clerk concerning a juvenile enrolled in the District who: (1) has had a petition filed with a court alleging that he/she has committed a delinquent act that would be a felony if committed by an adult, (2) has been adjudged delinquent, (3) has school attendance as a condition of his/her court dispositional order, or (4) has been found to have committed a delinquent act at the request of or for the benefit of a criminal gang that would be a felony if committed by an adult, and has been adjudged delinquent on that basis.
- Physical health records include basic health information about a student, including the student's immunization records, the student's emergency medical card, a log of first aid and medicine administered to the student, an athletic permit card, a record concerning the student's ability to participate in an education program, the results of any routine screening test such as for hearing, vision or scoliosis, and any follow-up to such test, and any other basic health information as determined by the State Superintendent of Public Instruction.
- Patient health care records include all records relating to the health of a student prepared by or under the supervision of a health care provider which are not included in the student "physical health records" definition above. Any record that is required to be treated as a patient health care record is subject to different disclosure and confidentiality requirements than other behavioral records.

3)Directory Data are those student records designated in the District's student directory data policy #347.

Confidentiality:

All student records are confidential, subject to: (1) the following exceptions, (2) any other disclosures of student records that may be mandated by state or federal law, and (3) any more specific restrictions on disclosure that are imposed by a state or federal law that protects specific records to a greater extent than provided under these procedures. A record of access to student public records must include the name of the party, how it was authorized (statute, court order, written consent) date access was given, and purpose.

Release of Student Records to Students and Parents or Guardians

a. A student or the parent or guardian of a minor student shall, upon request, be shown and provided with a copy of the student's progress records.

b. To the extent authorized by state and federal law, an adult student or the parent or guardian of a minor student shall, upon request, be shown the student's behavioral records in the presence of a person qualified to explain and interpret the records. Such a student or parent or guardian shall, upon request, be provided with a copy of the behavioral records.

c. To the extent authorized by state and federal law, a parent shall have access to a student's school records regardless of whether the parent has legal custody of the child, unless the parent has been denied periods of physical placement with the child as ordered by the court.

d. Personally identifiable information from an adult student's records may be disclosed to the student's parent (s) or guardian (s), without the adult student's written consent, if the adult student is a dependent of his/her parent (s) or guardian (s) under the Internal Revenue Code. However, disclosure under this paragraph shall not be made when an adult student has informed the school, in writing, that the information may not be disclosed.

Access to Student Records (Other than Patient Health Care Records) by School Officials

- a. School officials shall have access to a student's records only if they have a legitimate educational interest, including safety interest, in the record.
- b. Law enforcement agency record information received by the District may be made available to those school officials with legitimate educational interests, including safety interests, in the information. If law enforcement agency record information obtained by the District relates to a District student, the information may also be disclosed to those District employees who have been designated by the Board to receive that information for the purpose of providing treatment programs for District students. The information may not be used as the sole basis for suspending or expelling a student from school, or as the sole basis for taking any other disciplinary action against a student, except action under the District's athletic/activity code.
- c. Court records obtained by the District must be disclosed to District employees who work directly with the juvenile named in the records or who have been determined by the Board to have legitimate educational interests, including safety interests, in the information. An employee cannot further disclose the information, and the information cannot be used as the sole basis for suspending or expelling a student from school, or as the sole basis for taking any other disciplinary action against a student, except action under the District's athletic/activity code.
- d. Notwithstanding their confidential status, student records may be used in suspension and expulsion proceeding and by individualized education program teams under special education laws.

Release of Student Progress and Behavioral Records (Other Than Patient Health Care Records) to Others

- a. Student records shall be disclosed at the request or order of a court. The District will make a reasonable effort to notify a parent or guardian of a court order for disclosure of student records prior to complying with the order except when (1) a parent or guardian is a party to a court proceeding involving child abuse and neglect or dependency matters and the order is issued in the context of such a proceeding; (2)

the court order itself prohibits such notice; (3) or any applicable law prohibits disclosure of the order to the parent or guardian.

- b. If school attendance is a condition of a student's court dispositional order under state law, the District shall notify the court or, if the student is under the supervision of an agency, the agency that is responsible for supervising the student within five days after any violation of the condition by the student.
- c. The District may disclose student records to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of any individual. In making this determination, the District may take into account the totality of the circumstances pertaining to a threat to the health or safety of a student or other individuals. If the District determines that there is an articulable and significant threat to the health or safety of a student or other individuals, it may share student records to any person whose knowledge of the information is necessary to protect the health or safety of the student or other individuals. The District shall record the following information when it discloses student record information under this exception: (1) the articulable and significant threat to the health or safety of a student or other individuals that formed the basis for the disclosure; and (2) the parties to whom the District disclosed the information.
 - For any purpose concerning the juvenile justice system and the system's ability to effectively serve a student, prior to adjudication: The District shall disclose pertinent student records to an investigating law enforcement agency or district attorney if the person to whom the records are disclosed certifies in writing that the records concern the juvenile justice system and the system's ability to effectively serve the student, relate to an ongoing investigation or pending delinquency petition, and will not be disclosed to any other person except as otherwise authorized by law.
 - On request, the District may disclose student records that are pertinent to addressing a student's educational needs to a caseworker or other representative of the Department of Children and Families, a county department under sections 45.215, 46.22 or 46.23 of the state statutes, or a tribal organization, as defined in 25 USC 450b(L), that is legally responsible for the care and department, county department, or tribal organization to access the student's case plan.
 - Under conditions where the disclosure is permitted under both state and federal law, the District shall provide to the DPI, or another authorized federal, state, or local agency, or such an agency's authorized representative, any student record information that relates to an audit, evaluation, or any compliance or enforcement activity, that is associated with a federal or state-supported education program. In the case of disclosures to DPI, the District shall provide student records needed by the department to determine compliance with requirements under Chapter 115 to 121 of the state statutes. Student records may also be provided to the DPI for other purposes consistent with both state and federal law.

- Information from a student's immunization records shall be made available to state and local health officials to carry out immunization requirements. Summary student immunization data shall be reported. Individual student information for those students out of compliance with school immunization laws shall not be reported to the local health department or to the District Attorney without specific written parental consent for the reporting.
- Upon request and after obtaining written consent to the extent by federal law, the names of students who have withdrawn from school prior to graduation to participate in a program leading to high school graduation or an equivalency diploma shall be provided to the technical college district board in which the public school is located or, for verification of eligibility for public assistance, to the Department of Health Services, the Department of Children and Families or a county department under section 46.215, 46.22 or 46.23 of the state statutes.
- The District shall provide student records necessary for purposes of open enrollment in another public school district to the extent required by law. These records may include copies of any individualized education program (IEP) that has been developed for a student with a disability and the following student discipline-related records: (1) A copy of any expulsion findings and orders or records of any pending disciplinary proceedings involving the student; (2) A written explanation of the reasons for the expulsion or pending disciplinary proceedings; and (3) The length of the term of the expulsion or the possible outcomes of the pending proceedings.

Release of Patient Health Care Records

All student patient health care records shall remain confidential. They may be released only to persons specifically designated in state law or to other persons with the informed consent of the patient or a person authorized by the patient.

Student patient health care records maintained by the District may only be released without informed consent to a District employee or agent if any of the following apply:

- a. The employee or agent has responsibility for the preparation or storage of patient health care records.
- b. Access to patient health care records is necessary to comply with a requirement in federal or state law.

A record of access to patient health care records must include: the name of the party, date access was given, purpose for the access, the time of the release and identification of the specific records released. The record of requests for access and disclosures must be maintained with the pupil records of the student.

Any record that concerns the results of a test for the presence of HIV or antibody to HIV (the virus which causes acquired immunodeficiency syndrome-AIDS) shall

be confidential and may be disclosed only with the informed written consent of the test subject.

Release of Directory Data

Student directory data may be disclosed only as outlined in the District's student directory data policy #347

Transfer of Records

The District shall transfer to another school (including private schools, and post secondary institutions) or school district all student records relating to a specific student (including disciplinary and other behavioral records; and not including records treated as patient health care records or certain treatment records for which informed consent for disclosure has not been obtained) if it has received written notice:

- a. from an adult student or the parent or guardian of a minor student that the student intends to enroll in the other school or school district;
- b. from the other school or school district that the student has or is enrolling; or
- c. from a court that a student has been placed in a secured correctional facility, secured child caring institution or a secured group home.

The District forwards student records as requested so long as the disclosure is for purposes related to the student's enrollment or transfer.

Student records shall be transferred within five working days of receiving the request.

Maintenance, Disclosure and Destruction of Student Records

1. While students are attending school, their records will be maintained in the school of attendance. Patient health care records, and law enforcement agency shall be maintained separately from a student's other records.
2. A record of each request for access to and each disclosure of personally identifiable information from the education records of a student shall be maintained with such student's records, except when the request is from a party seeking directory data.

Parent/Guardian/Student Requests For Amendments of Student Records

A parent or guardian or adult student who believes that information contained in the student's records is inaccurate, misleading or otherwise in violation of the student's rights of privacy may request the District to amend the records. Such request shall be addressed in writing to the school official having custody of the records. Within a reasonable time after receiving the request, the person having custody of the records shall decide whether to amend the records in accordance with the request and inform the parent or guardian or adult student of the decision.

If the person having custody of the records refuses to amend the records, he/she shall inform the parent or guardian or adult student of the refusal and advise him/her of the right to file a complaint using procedures found in Board Policy #870.

An adult student, or the parent(s) or guardian(s) of a minor student, has the right to file a complaint with the U.S. Department of Education for alleged District noncompliance with federal Family Educational Rights and Privacy Act (FERPA) requirements.

Cross Reference #347 District Data Policy
Cross Reference 823, part 1