

## **STUDENT RECORDS/RELEASE OF INFORMATION/STUDENT DATA PRIVACY**

The confidentiality of student records and privacy rights of students and parents/guardians will be maintained in compliance with federal and state law as reflected in this policy.

### **A. DEFINITIONS**

1. Parent includes a parent, guardian or individual acting as a parent of a student in the absence of a parent/guardian. The custodian of the record may presume that either parent has the authority to exercise the right identified unless provided with evidence that there is a court order, which restrains the right of a parent or other person.
2. The Custodian of Records (the Custodian) is typically the Colorado Springs School District 11 (the District) employee holding that position in the District. However, as used throughout this policy, the Custodian can also include other employees in the District, who's responsibilities include the maintenance and keeping of student records.
3. Student includes any individual with respect to whom Colorado Springs School District 11 (the District) maintains education records.
4. Adult student is a student 18 years of age or older, or a younger student who has completed a high school education and is attending a post-secondary educational institution. An adult student is referred to in federal law as an "eligible student."
5. A parent/guardian is also entitled to access his/her child's education records, despite the lack of written consent from the eligible student, if the eligible student is a dependent for federal income tax purposes or the disclosure is in connection with a health or safety emergency.
6. Legitimate educational interest is defined as those situations that require decision-making that affects the student. Such decision-making may be, but is not limited to, areas such as academic achievement, health, placement, instructional programs, safety, and welfare, as determined by the District or the Colorado Springs School District 11 Board of Education (the Board).
7. Legitimate educational interest in the behavior of the student is defined as a direct need to know a student's discipline information, not shared by the general teaching, counseling, District or school staff, in order to address the education, safety, or welfare needs of the student, other students, personnel, or the District, as determined by the District or the Board.
8. School officials means those persons identified as administrators, teachers, nurses, counselors, social workers, security personnel, psychologists, legal officers, Board members, and others acting on behalf of the District.
9. Education records means those records, files, documents and other materials that contain information directly related to the student and are maintained by the

District or by a person acting for the District. Education records include discipline information, which is subject to the specific additional requirements specified herein. Student education records may contain, but not necessarily be limited to, the following information: identifying data; academic work completed; level of achievement (grades, standardized achievement test scores); attendance data; scores on standardized intelligence, aptitude and psychological tests; interest inventory results; health and medical information; family background information; teacher or counselor ratings and observations; reports of serious or recurrent behavior patterns and any Individualized Education Program (IEP).

Education records do not include:

- a Records of supervisory, administrative and educational personnel which are in the sole possession of the maker and are not available to other persons except a substitute. Nothing in this policy shall prevent administrators, teachers or staff from disclosing information derived from personal knowledge or observation and not derived from a student's education records.
  - b Records maintained by the security unit of the District that were created by the unit for the purpose of security and enforcement.
  - c Records made and maintained in the normal course of business which relate exclusively to an employee in that person's capacity as an employee and are not available or used for any other purpose.
  - d. Records that only contain information about an individual's status or activity after he or she is no longer a student in the District (see directory information below).
10. Directory information means information contained in a student's education record that would not generally be considered harmful or an invasion of privacy if disclosed. Directory information includes the student's name, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, the most recent previous education agency or institution attended by the student, photographs, video and audio recordings made during school hours, school events, and other similar information. Pursuant to C.R.S. 24-72-204(3)(a)(VI), the District will not disclose student telephone numbers or addresses without the consent of a parent/guardian or adult student (unless an exception exists as specified in section D below).
11. "Student personally identifiable information" or "PII" means information that, alone or in combination, personally identifies an individual student or the student's parent/guardian or family, and that is collected, maintained, generated, or inferred by the District, either directly or through a school service, or by a school service contract provider or school service on-demand provider.

PII contained in a student's education records includes:

- a. Names of student, student's parents/guardians or other family members;
  - b. Student's telephone number and address or the address of the student's family (address includes email address);
  - c. A personal identification such as the student's social security number or student registration number;
  - d. Personal characteristics or other information, which would make the student's identity easily traceable or which would make it possible to identify the student with reasonable certainty;
  - e. Records or information received from a source outside of the District where the recipient of such information knows or should know that the same information is maintained by the District as part of the education record of a student.
12. Discipline information means information that is maintained by the District concerning disciplinary action taken against the student. Discipline information includes conduct that posed a significant risk to the safety or well-being of:
- a. that student
  - b. other students, or
  - c. other members of the school community.
13. "Security breach" means the unauthorized disclosure of student education records or student PII by a third party.
14. "School service" does not include an internet website, online service, online application, or mobile application that is designed and marketed for use by individuals or entities generally, even if it is also marketed to a United States preschool, elementary school, or secondary school.
15. "School service contract provider" or "contract provider" means an entity, other than a public education entity or an institution of higher education, that enters into a formal, negotiated contract with a public education entity to provide a school service.
16. "School service on-demand provide" or "on-demand provider" means an entity, other than a public education entity, that provides a school service on occasion to a public education entity, subject to agreement by the public education entity, or an employee of the public education entity, to standard, non-negotiable terms and conditions of service established by the providing entity.

## **B. ACCESS TO RECORDS**

1. An adult student, and in the case of a student who is not an adult student, a parent/guardian of the student, has the right to inspect and review the student's

education records. If a student is an adult student, the student's parent/guardian will not have the right to inspect or review the student's education records without written permission from the adult student, and the adult student will have the rights otherwise applicable to a parent/guardian. (exception – see definition (A)(5) on page 1 of this policy).

2. Any parent/guardian of a non-adult student or any adult student desiring to inspect an education record will make such request known to the Custodian of Records at the particular location of the record. The Custodian of Records in the schools is the Principal or designee.
3. The custodian will make every effort to comply with requests to inspect records within a reasonable time but in no case will this exceed 45 calendar days. The custodian will make a good faith effort to make such records available within three working days, except in the case of extenuating circumstances.
4. The person requesting to inspect a record will be entitled to make reasonable requests for explanations and interpretations of the record and to obtain copies of the record. Such person will present evidence that he is entitled to the information requested. Staff shall use reasonable methods to authenticate the identity of parents/guardians, students, school officials, and any other party to whom they disclose student education records.

Fees for copies of records:

- a. Students and former students may be charged up to \$10.00 per copy of transcripts.
- b. Copies of records requested by another school receiving District records will be free.
- c. There will be no charge for last semester grades sent to colleges to complete their records.
- d. When multiple sets of records are requested, the same charges will apply to each set. In conjunction with Regulation KDB-R, the following fees may apply to requests for student records:
  - i) 25 cents per page. However, such a fee cannot impair a parent's/guardian's ability to participate in their special education child's education.
  - ii) \$10.00 per half hour of work to research, retrieve and prepare information. Time may be rounded up. The \$10/half-hour fee will not be charged during the first hour of time expended to respond. The \$10/half-hour fee will not be applied to parents/guardians requesting copies of their special education students' records.
  - iii) Postage may be charged.

- iv) Fees may be charged for costs of electronic files (i.e. compact discs/flash drives).

In the discretion of the Building Principal, or the District's Custodian of Records, the above fees may be waived or lessened.

- e. For all fees, if payment is made with a debit or credit card, an additional surcharge may apply.
- f. If a student is actively enrolled and identified as McKinney Vento, no fees may be charged.

### **C. DISCLOSURE WITH CONSENT**

Typically, when the District is required by law or policy to seek consent prior to disclosing PII from a student's education record, the parent/guardian or adult student shall be notified. Parent/ guardian or adult student consent shall only be valid for the specific instance for which it was given. Consent for a student to participate in any course, school activity, special education program or in any other school program shall not constitute the specific consent required by this policy.

### **D. DISCLOSURE WITHOUT CONSENT**

1. The District will not disclose education records or PII (as defined in Section A) from a student's education records without consent (preferably written) of the parent/guardian of a non-adult or the adult student except to those persons or entities that are entitled to receive such information under federal or state law as provided herein and in Board Policy GBGB.
2. The District may disclose student education records or PII contained therein without consent of the parent/guardian/adult student if the disclosure meets one of the following conditions:
  - a. Disclosure is to a teacher, counselor, or other school official within the school system who has direct contact with the student, when the request is for discipline information, or the PII contained therein, pursuant to this policy and Board Policy GBGB, and the school official has a legitimate educational interest in such information.
  - b. Disclosure is to a teacher, counselor, or other school official within the school system when the request is for information other than discipline information contained in a student's education records and the school official has a legitimate educational interest in such information.
  - c. Disclosure is to officials of another school, school system, or postsecondary institution that has requested the records, and to which the student seeks or intends to enroll.
  - d. Disclosure is to authorized federal and state official representatives for the purpose of audit and evaluation of federally-supported educational

programs or in connection with the enforcement or compliance with federal legal requirements, which relate to these programs. This includes authorized representatives of the Comptroller General of the United States, the Attorney General of the United States, the Secretary of the U.S. Department of Education, or state and local educational authorities.

- e. Disclosure is to officials requesting information in connection with financial aid for which a student has applied or which a student has received. A student's education records or PII relating to the student may be disclosed only for such purposes as:
  - (1) Determining the eligibility of the student for financial aid
  - (2) Determining the amount of financial aid
  - (3) Determining the conditions which will be imposed regarding the financial aid
  - (4) Enforcing the terms and conditions of the financial aid
- f. State and local officials or authorities to which such information is specifically allowed to be reported or disclosed pursuant to state statute or federal law.
- g. Accrediting institutions.
- h. Federal, state and local agencies and independent organizations conducting studies for or on behalf of educational agencies or institutions for the purpose of developing, validating or administering predictive tests, student aid programs and improving instruction provided that the studies are conducted in a manner which will not permit the personal identification of the students and their parents/guardians by Individuals other than the representatives of the organization. Such organizations are required to destroy records after they no longer are needed.
- i. In compliance with a judicial order or lawfully issued subpoena. The District shall make a reasonable effort to notify the parent/guardian or adult student prior to the order or subpoena in advance of compliance, unless the court order or subpoena prohibits such notification, or the parent/guardian is a party to a court proceeding involving child abuse and neglect or dependency matters and the court order is issued in the context of that proceeding.
- j. Appropriate parties in a health or safety emergency when such information is necessary to protect the health or safety of the student or other individuals.
- k. Law enforcement agencies when the student is under investigation by the agency and the agency shows that the information is necessary for the investigation.
- l. The disclosure is to an agency caseworker or other representative of a state or local child welfare agency or tribal organization who has the right to

access the student's case plan because such agency or organization is legally responsible, in accordance with applicable state or tribal law, for the care and protection of the student.

- m. Any other person as required or permitted by law.

The District may disclose group scholastic achievement data from which the individual cannot be identified without consent of the parent/guardian or adult student.

3. A school official may not disclose education records or PII regarding a student to any other school official where the school official having custody of the education records or PII knows or has reason to know that the other school official is likely to violate the provisions of this policy, or any applicable student confidentiality law.

## **E. OUTSOURCING AND DISCLOSURE TO THIRD PARTIES**

District employees shall ensure that student education records are disclosed to persons and organizations outside the District only as authorized by applicable law and Board policy. The term "organizations outside the District" includes school service on-demand providers and school service contract providers.

Any contract between the District and a school service contract provider shall include the provisions required by the Student Data Transparency and Security Act (the Act), including provisions that require the school service contract provider to safeguard the privacy and security of student PII and impose penalties on the school service contract provider for noncompliance with the contract.

In accordance with the Act, the District shall post the following on its website:

- a list of the school service contract providers that it contracts with and a copy of each contract; and
- to the extent practicable, a list of the school service on-demand providers that the District uses.

## **F. DISCLOSURE OF DIRECTORY INFORMATION**

1. The District may disclose directory information without consent of the parent/guardian or adult student. The parent/guardian or adult student has the right to refuse to permit the designation of any or all of the categories of information. To exercise this right, the parent/guardian or adult student annually will inform the District in writing.
2. Student telephone numbers and addresses are treated as PII under this policy and the Colorado Open Records Act and will not be disclosed pursuant to this section without the consent of the parent/guardian of a non-adult student or the adult student or as otherwise permitted by law.
3. Addresses and telephone numbers may be provided to any law enforcement agency of Colorado, any other state or the United States where a student is under investigation and the agency shows that such information is necessary to the investigation.

## **G. DISCLOSURE TO MILITARY RECRUITING OFFICERS**

Upon request, the District will release the name, address and home telephone number of each District eleventh and twelfth grade student to military recruiting officers who represent a branch of the United States armed forces, unless the student's parent/guardian or an adult student submitted a written request to the contrary to the student's school of attendance or the District's Records Management Center by the last school day each September (see JRA/JRC-E).

The following procedures are designed to alert parents/guardians and adult students to the District's obligation to supply information to military recruiting officers:

1. At the beginning of each school year, each secondary school will be provided written notice of the District's procedures for releasing information to military recruiters. Notification will be distributed each fall to the parent/guardian of each minor secondary student and to each adult secondary student then enrolled. Such notice will indicate that the student's name, address, and home telephone number will be released to any military recruiting officer who requests such information unless the parent/guardian or adult secondary student submits a written request to the contrary to the student's school of attendance or the District's Records Management Center by the last school day in September of that school year. Late enrollees who enroll before the last school day in September will also be provided such notice.

Secondary schools will make reasonable efforts to provide alternative forms of notice to accommodate parents/guardians of minor secondary students and adult secondary students, who are known to the District to be disabled or whose primary language is other than English, in a manner that is reasonably likely to inform them of the contents of this policy.

2. The Records Management Center will not release the name, address or home telephone number of any secondary student to any military recruiting officer if the student's parent/guardian or the adult student has, in accordance with this policy, requested that such information not be released.
3. If a timely-filed written request to the contrary, is not received by the last school day in September, a student's name, address, and home telephone number will be released to military recruiters who request such information. Such data will be released to military recruiters with the understanding that they will use such data only to advise secondary students about military service and that they will not use the data for any other purpose nor release it to any person or organization other than individuals within the recruiting services of the armed forces.

## **H. RECORD OF DISCLOSURE AT THE SCHOOLS**

1. The school will not disclose a student's education records or PII contained in the student's education records, except for directory information and except as indicated in Sections E, F and G above, to other individuals or parties without prior consent (preferably written) of the parent/guardian or adult student. When an education record is released that requires written consent, such consent will be signed and dated by the parent/guardian or adult student and will include:



- a. Specification of the ~~records to be disclosed~~
  - b. The purpose or purposes of the disclosure
  - c. The party or class of parties to whom the disclosure may be made
  - d. A statement limiting third party disclosure without parent/guardian or adult student consent
2. A record of disclosure will be maintained and kept with the education record of the student for each disclosure of discipline information made pursuant to this policy and Board Policy GBGB, other than for disclosure made to the parent or adult student.
  3. A record of all other disclosures will also be maintained and kept with the education record of the student for each request for and each disclosure of information from the student's education records or PII made, other than requests made by the parent/guardian or adult student, school officials as identified in Section E above (unless the disclosure is of discipline information) and disclosure of directory information. Such record will indicate:
    - a. Parties who requested or obtained PII from the record
    - b. The legitimate interest these parties had in requesting or obtaining the information
  4. The record of disclosure may be inspected by:
    - a. The parent/guardian of a non-adult student or adult student
    - b. School officials and designated persons responsible for the custody of the records and authorized auditors.

#### **I. DISCLOSURE TO THE COLORADO COMMISSION ON HIGHER EDUCATION (CCHE)**

On or before December 31 of each school year the District shall disclose to the CCHE the names and mailing addresses of those students enrolled in the eighth grade for use in mailing the notice of postsecondary education opportunities and higher education admission guidelines as required by state law.

#### **J. ANNUAL NOTIFICATION OF RIGHTS**

1. At the beginning of each academic year, the District will notify the parents/ guardians of non-adult students, as well as adult students, of their rights pursuant to this policy and applicable law. Copies of this policy and/or the information contained in the annual notice may be obtained from the Records Management Center any time during normal business hours, or by going to the District's web page ([d11.org/Administration/Board of Education/Policies/Section J/JRA-JRC and JRA-JRC-E](http://d11.org/Administration/Board%20of%20Education/Policies/Section%20J/JRA-JRC%20and%20JRA-JRC-E)).
2. The District will make reasonable efforts to provide alternative forms of notice of this information to accommodate parents/guardians of non-adult students or adult

students who are known to the District to be disabled or whose primary language is other than English in a manner that is reasonably likely to inform them of their rights.

3. Complaints regarding violations of rights accorded parents/guardians and adult students pursuant to the Family Educational Rights and Privacy Act may be submitted to the local office of civil rights of the Department of Education.

#### **K. PRIVACY AND SECURITY STANDARDS**

The security of student education records maintained by the District is a high priority. The District shall maintain an authentication and authorization process to track and periodically audit the security and safeguarding of student education records.

#### **L. SECURITY BREACH OR OTHER UNAUTHORIZED DISCLOSURE**

Employees who disclose student education records in a manner inconsistent with applicable law and Board policy may be subject to disciplinary action, up to and including termination from employment. Any discipline imposed shall be in accordance with applicable law and Board policy.

Employee concerns about a possible security breach shall be reported immediately to the District's Chief Information Officer (CIO). If the CIO is the person alleged to be responsible for the security breach, the staff member shall report the concern to the Superintendent or designee.

When the District determines that a school service contract provider has committed a material breach of its contract with the District, and that such material breach involves the misuse or unauthorized release of student PII, the District shall follow this policy's accompanying regulation in addressing the material breach.

Nothing in this policy or its accompanying regulation shall prohibit or restrict the District from termination its contract with the school service contract provider, as deemed appropriate by the District and in accordance with the contract and the Act.

#### **M. DATA RETENTION AND DESTRUCTION**

The District shall retain and destroy student education records in accordance with applicable law and Board policy (including Board policy EHB, Records Management).

#### **N. STAFF TRAINING**

The District shall provide periodic in-service trainings to appropriate District employees to inform them of their obligations under applicable law and Board policy concerning the confidentiality of student education records.

#### **O. REQUEST TO AMEND RECORDS**

In accordance with this policy's accompanying regulation (JRA/JRC-R-1), a parent/guardian of a District student may request an amendment to a student's records.

**P. PARENT/GUARDIAN COMPLAINTS**

In accordance with this policy's accompanying regulation (JRA/JRC-R-2), a parent/guardian of a District student may file a written complaint with the District if the parent/guardian believes the District has failed to comply with the Act.

**Q. OVERSIGHT, AUDITS AND REVIEW**

The CIO, the Director of Records and the Director of Procurement shall be responsible for ensuring compliance with this policy and its required privacy and security standards.

The District's practices with respect to student data privacy and the implementation of this policy shall be periodically audited by the CIO and the Director of Records.

A privacy and security audit shall be performed by the District on an annual basis. Such audit shall include a review of existing user access to and the security of student education records and student PII.

The Director of Records shall annually review this policy and accompanying regulation to ensure it remains current and adequate to protect the confidentiality of student education records in light of advances in data technology and dissemination. The Director of Records shall recommend revisions to this policy and/or accompanying regulation as deemed appropriate or necessary.

**R. COMPLIANCE WITH GOVERNING LAW AND BOARD POLICY**

The District shall comply with FERPA and its regulations, the Act, and other state and federal laws governing the confidentiality of student education records. The District shall be entitled to take all actions and exercise all options authorized under the law.

**S. WAIVERS**

A parent/guardian or adult student may waive any or all of his or her rights protected by this policy. Waiver will not be valid unless in writing and signed by the parent/guardian or adult student. The District does not require a waiver but may request a waiver. Any waiver under this provision may be revoked at any time in writing.

**T.** It will be the responsibility of all those persons designated to act as custodians of records to exercise reasonable judgment and care in all record transactions. Any individual who violates the provisions of this policy or any applicable student confidentiality law may be subject to disciplinary action, including, but not limited to, termination.

In the event this policy or accompanying exhibit does not address a provision in applicable state or federal law, or is inconsistent with or in conflict with applicable state or federal law, the provisions of applicable state or federal law shall control.

Adopted February 15, 1978  
Revised December 9, 1981  
Revised September 1993

Revised September 1996  
Revised June 1997  
Revised January 1999  
Revised May 1999  
Revised September 2001  
Revised June 2005  
Revised September 2005  
Revised June 11, 2014  
Revised October 11, 2017

LEGAL REFS.:       10 U.S.C. §503  
                      15 U.S.C. 6501 *et seq.*  
                      20 U.S.C. 1232g (Family Educational Rights and Privacy Act of 1974)  
                      20 U.S.C. 1232h  
                      20 U.S.C. 1415  
                      20 U.S.C. 7908  
                      20 U.S.C. 8025  
                      34 C.F.R. 99.1 *et seq.* (regulations)  
                      34 C.F.R. 300.610 *et seq.*  
                      C.R.S. 19-1-303 and 304  
                      C.R.S. 22-1-123  
                      C.R.S. 22-16-101 *et seq.*  
                      C.R.S. 22-16-107 (2)(a)  
                      C.R.S. 22-16-107 (4)  
                      C.R.S. 22-16-112 (2)(a)  
                      C.R.S. 22-1-123  
                      C.R.S. 22-32-109.3  
                      C.R.S. 24-72-204 *et seq.*  
                      C.R.S. 24-80-101 *et seq.*  
                      C.R.S. 25.5-1-116

CROSS REF.:       EHB, Records Management  
                      EHC, Technology Resources and Internet Safety  
                      Responsible Use Policy  
                      EHC-R-1, Usage of Social Media by District Students  
                      EHC-R-1, Usage of Social Media by District Staff  
                      GBGB, Staff Personal Security and Safety  
                      IMBB, Exemptions from Required Instruction  
                      JLDAC, Screening/Testing of Students (and Treatment of Mental Disorders)  
                      JRA/JRC-R-1, Request to Review/Amend Education Records  
                      JRA/JRC-R-2, Privacy and Protection of Confidential Student Information  
                      (Hearing and Complaint Procedures)  
                      JRA/JRC-E, Annual Notification of Parents/Guardians Rights  
                      JRD, Student Photographs  
                      KDB, Public's Right to Know/Freedom of Information  
                      Colorado Springs School District 11 Employee Manual, section (B)(18)