Education Records/Records of Students with Disabilities Management

1. 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:

a. 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, used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record;
b. Records of the law enforcement unit of the district subject to the provisions of Oregon Administrative Rule (OAR) 581-021-0225;
c. 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;
d. Records on a student who is 18 years of age or older, or is attending an institution of postsecondary education, that are:

   (1) 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;
   (2) Made, maintained or used only in connection with treatment of the student; and
   (3) 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.

e. Records that only contain information relating to activities in which an individual engaged after he/she is no longer a student at the district;
f. Medical or nursing records which are made or maintained separately and solely by a licensed health-care professional who is not employed by the district, 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:

a. Name and address of educational agency or institution;
b. Full legal name of the student;
c. Student birth date and place of birth;
d. Names of parents;
e. Date of entry in school;

f. Name of school previously attended;
g. Courses of study and marks received;
h. Data documenting a student's progress toward achievement of state standards and must include a student's Oregon State Assessment results;
i. Credits earned;
j. Attendance;
k. Date of withdrawal from school; and
l. 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.

2. Confidentiality of Student Records

a. The district shall keep confidential any record maintained on a student in accordance with OAR 581-021-0220 through 581-021-0430.
b. Each district shall protect the confidentiality of personally identifiable information at collection, storage, disclosure and destruction stages.
c. Each district shall identify one official to assume responsibility for ensuring the confidentiality of any personally identifiable information.
d. All persons collecting or using personally identifiable information shall receive training or instruction on state policies and procedures.

3. 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 reasonably 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:

a. Inspect and review the student's education records;
b. 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;
c. 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;
d. Pursuant to OAR 581-021-0410, file with the Family Policy Compliance Office, United States Department of Education a complaint under 34 C.F.R. § 99.64 concerning alleged failures by the district to comply with the requirements of federal law; and
e. 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 581-021-0255. 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, or has a disability, 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 postsecondary education and is not enrolled in a 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.

4. 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 district shall comply with a request for access to records:

a. Within a reasonable period of time and without unnecessary delay;
b. For children with disabilities before any meeting regarding an individualized education program (IEP), or any due process hearing, or any resolution session related to a due process hearing;
c. 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 parent(s) or eligible student shall comply with the following procedure to inspect and review a student's education record:

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

The written request will be permanently added to 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 a fee effectively prevents a parent or eligible student from exercising the right to inspect and review the student's educational records. The district may not charge a fee to search for or to retrieve the education records of a student.

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) unless authorized by federal law.

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.

Student education records will be maintained at the school building at which the student is in attendance except for special education records which may be located at another designated location within the district. The administrator/principal or his/her designee shall be the person responsible for maintaining and releasing the education records.

5. 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:

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

   As used in this section, "legitimate educational interest" means a district official employed by the district as an administrator, supervisor, instructor or staff support member; a person serving on a school board who needs to review an educational record in order to fulfill his or her professional responsibilities, as delineated by their job description, contract or conditions of employment. Contractors, consultants, volunteers or other parties to whom an agency or institution has outsourced institutional services or functions may be considered a school official provided that party performs an institutional service or function for which the district would otherwise use employees, is under the direct control of the district with respect to the use and maintenance of education records, and is subject to district policies concerning the redisclosure of personally identifiable information.

   The district shall maintain, for public inspection, a listing of the names and positions of individuals within the district who have access to personally identifiable information with respect to students with disabilities.

b. The disclosure is to officials of another school within the district;

c. The disclosure is to authorized representatives of:

The U.S. Comptroller General, U.S. Attorney General, U.S. Secretary of Education or state and local education authorities or the Oregon Secretary of State Audits Division in connection with an audit or evaluation of federal or state-supported education programs, or the enforcement of or compliance with federal or state-supported education programs, or the enforcement of or compliance with federal or state regulations.

d. 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:

(1) Determine eligibility for the aid;
(2) Determine the amount of the aid;
(3) Determine the conditions for the aid; or
(4) Enforce the terms and condition of the aid.

As used in this section "financial aid" means any payment of funds provided to an individual that is conditioned on the individual's attendance at an educational agency or institution.

e. The disclosure is to organizations conducting studies for, or on behalf of, the district to:

(1) Develop, validate or administer predictive tests;
(2) Administer student aid programs; or
(3) Improve instruction.

The district may disclose information under this section only if disclosure is to an official listed in paragraph (c) above and who enters into a written agreement with the district that:

(1) Specifies the purpose, scope and duration of the study and the information to be disclosed;
(2) Limits the organization to using the personally identifiable information only for the purpose of the study;
(3) 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
(4) 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.

f. The district may disclose information under this section only if the disclosure is to an official listed in paragraph (c) above who is conducting an audit related to the enforcement of or compliance with federal or state legal requirements and who enters into a written agreement with the district that:

(1) Designates the individual or entity as an authorized representative;
(2) Specifies the personally identifiable information being disclosed;

(3) Specifies the personally identifiable information being disclosed in the furtherance of an audit, evaluation or enforcement or compliance activity of the federal or state-supported education programs;
(4) Describes the activity with sufficient specificity to make clear it falls within the audit or evaluation exception; this must include a description of how the personally identifiable information will be used;
(5) Requires information to be destroyed when no longer needed for the purpose for which the study was conducted;
(6) Identifies the time period in which the personally identifiable information must be destroyed; and
(7) Establishes policies and procedures which are consistent with Family Education Rights and Privacy Act (FERPA) and other federal and state confidentiality and privacy provisions to insure the protection of the personally identifiable information from further disclosure and unauthorized use.

g. The disclosure is to accrediting organizations to carry out their accrediting functions;
h. 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, unless an order or subpoena of a federal court or agency prohibits notification to the parent(s) or student;
i. The disclosure is to comply with a judicial order or lawfully issued subpoena when the parent is a party to a court proceeding involving child abuse and neglect or dependency matters;
j. The disclosure is to the parent(s) of a dependent student, as defined in Section 152 of the Internal Revenue Code of 1986;
k. 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. If the district determines that there is an articulable and significant threat, the district will document the information available at that time of determination and the rationale basis for the determination for the disclosure of the information from the educational records.

In making a determination whether a disclosure may be made under the health or safety emergency, 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. 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, or other such reasons that the district may in good faith determine a health or safety emergency;
l. The disclosure is information the district has designated as "directory information" (See Board policy JOA – Directory Information);
m. The disclosure is to the parent(s) of a student who is not an eligible student or to an eligible student;
n. The disclosure is to officials of another school, school system, institution of postsecondary 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;

o. The disclosure is to the Board during an executive session pursuant to ORS 332.061.

The district will use reasonable methods to identify and authenticate the identity of the parents, students, school officials, and any other parties to whom the district discloses personally identifiable information from educational records.;

p. The disclosure is to a caseworker or other representative, who has the right to access the student's case plan, of a state or local child welfare agency or tribal organization that are legally responsible for the care and protection of the student, provided the personally identifiable information will not be disclosed unless allowed by law.

6. 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:

a. The party or parties who have requested or received personally identifiable information from the education records; and
b. 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:

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

7. 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.

8. 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 district shall appoint a hearings officer to conduct the formal hearing requested by the eligible student or student's parent. The hearing may be conducted by any individual, including an official of the district, who does not have a direct interest in the outcome of the hearing. The hearings officer will establish a date, time and location for the hearing, and give the student's parent or eligible student notice of date, time and location reasonably in advance of the hearing. The hearing will be held within 10 working days of receiving the written or verbal request for the hearing.

The hearings officer will convene and preside over a hearing panel consisting of:

a. The principal or his/her designee;
b. A member chosen by the eligible student or student's parent(s); and
c. A disinterested, qualified third party appointed by the superintendent.

The parent or eligible student may, at his/her own expense, be assisted or represented by one or more individuals of his/her own choice, including an attorney. The hearing shall be private. Persons other than the student, parent, witnesses and counsel shall not be admitted. The hearings 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 shall make a determination after hearing the evidence and make its recommendation in writing within 10 working days following the close of the hearing. 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 not more than 10 working days 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 a statement is placed in an education record, the district will ensure that the statement:

a. Is maintained as part of the student's records as long as the record or contested portion is maintained by the district; and

b. Is disclosed by the district to any party to whom the student's records or the contested portion are disclosed.

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:

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

9. 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 detention facility or youth care center in which the student was formerly enrolled, and shall request the student's education records.

10. Duties and Responsibilities When Transferring Education Records

The district shall 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. The transfer shall be made no later than 10 days after receipt of the request. For students in substitute care programs, the transfer must take place within five days of a request. Readable copies of the following documents shall be retained:

a. The student's permanent records, for one year;
b. Such special education records as are necessary to document compliance with state and federal audits, for five years after the end of the school year in which the original was created. In the case of records documenting speech pathology and physical therapy services, until the student reaches age 21 or 5 years after last seen, whichever is longer.

Note: Education records shall not be withheld for student fees, fines and charges if requested in circumstances described in ORS 326.575 and applicable rules of the State Board of Education or such records are requested for use in the appropriate placement of a student.

Disclosure Statement

Required for use in collecting personally identifiable information related to social security numbers.

On any form that requests the social security number (SSN), the following statement shall appear just above the space for the SSN:

> "Providing your social security number (SSN) is voluntary. If you provide it, the district will use your SSN for record-keeping, research, and reporting purposes only. The district will not use your SSN to make any decision directly affecting you or any other person. Your SSN will not be given to the general public. If you choose not to provide your SSN, you will not be denied any rights as a student. Please read the statement on the back of this form that describes how your SSN will be used. Providing your SSN means that you consent to the use of your SSN in the manner described."

On the back of the same form, or attached to it, the following statement shall appear:

> "OAR 581-021-0250 (1)(j) authorizes districts to ask you to provide your social security number (SSN). The SSN will be used by the district for reporting, research and record keeping. Your SSN will also be provided to the Oregon Department of Education. The Oregon Department of Education gathers information about students and programs to meet state and federal statistical reporting requirements. It also helps districts and the state research, plan and develop educational programs. This information supports the evaluation of educational programs and student success in the workplace."

The district and Oregon Department of Education may also match your SSN with records from other agencies as follows:

> The Oregon Department of Education uses information gathered from the Oregon Employment Division to learn about education, training and job market trends. The information is also used for planning, research and program improvement.
>
> State and private universities, colleges, community colleges and vocational schools use the information to find out how many students go on with their education and their level of success.
>
> Other state agencies use the information to help state and local agencies plan educational and training services to help Oregon citizens get the best jobs available.

Your SSN will be used only for statistical purposes as listed above. State and federal law protects the privacy of your records.

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