

GUIDELINES FOR MAINTENANCE AND CONFIDENTIALITY OF STUDENT RECORDS

347-Rule

1. Definitions

- a. **“Pupil records”**, as defined by state law, mean all records relating to individual students maintained by an elementary or secondary school other than notes or records maintained for personal use by teachers or other certified personnel which are not available to others.
- b. **“Behavioral records”**, as defined by state law, mean those pupil records which include psychological tests, personality evaluations, records of conversations, any written statements relating specifically to an individual student’s behavior, tests relating specifically to achievement or measurement of ability, student physical health care records other than his/her immunization records, and any other pupil records which are not progress records. Under the rules implementing Chapter 115, Subchapter V, PIP 11.37(2)(e), the pupil behavioral records include referral information (including notices and forms); signed parental consent or refusal; medical evaluations and prescriptions required to substantiate health treatment services; medical evaluations used to substantiate a handicapping condition; and physician’s statement required for provision of special education homebound instructional services.
- c. **“Progress records”**, as defined by state law, mean those pupil records which include a student’s grades, a statement of the courses the student has taken, the student’s immunization records, the student’s attendance record, lead screening records, and records of the student’s extracurricular activities.
- d. **“Pupil physical health care records”**, as defined by state law, mean those student records which include basic health information about a student, including the student’s immunization records, an 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, any lead screening records, and any follow-up to such tests, and any other basic health information as determined by the State Superintendent of Public Instruction.
- e. **“Directory data”**, as defined by state and federal law, means those student records which identify a student’s name, address, telephone listing, 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, photographs, degrees, and awards received and the name of school most recently attended by the student.

- f. **“Pupil health records”**, means all those records relating to the health of a student prepared by or under the supervision of a health care provider except those included in the “student physical health care records” defined above.
- g. **“Parent”** means parent, guardian or other individual as appointed by the court to act on behalf of a minor child.
- h. **“Adult student”** means a student who has attained the age of 18 years. For purposes of Board policy and these procedures, adult students have all the rights accorded to parents.

2. Access Rights

- a. **Parent or Adult Student Access to Pupil Records** – a student or the parent/guardian of a minor student shall, upon request, be shown and provided with a copy of the pupil’s progress records. Parents or adult students are permitted to review and inspect any educational records relating to their child. If any education record includes information on more than one child, the parents of those children shall have the right to inspect and review only the information relating to their child or to be informed of that specific information.
- b. The District permits parents and adult students to inspect and review any education records relating to their children regarding identification, evaluation, placement, or the provision of FAPE which are collected, maintained, or used by the agency. The agency complies with the hearing relating to the identification, evaluation, or placement, or the provision of FAPE to the child and, in no case more than 45 days after the request has been made. The building principal, counselor, psychologist or other qualified staff member should be contacted to discuss the records with the parents or parent representatives. The District responds to reasonable request for explanations and interpretations of the records provides copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records, and upon request {s. 118.125(2)(a)&(b)}.
- c. A parent or adult student, regardless of whether the parent has legal custody of the student, shall have equal access to the student’s medical, dental and school records unless the parent or adult student has been denied access to such records as outlined by state law (e.g., denied periods of physical placement with the student, ordered by the court.)

- d. A list of the types and locations of student education records collected, maintained or used by the District shall be provided to parents on request.
- e. Parents, or the adult student, may be charged for search or retrieval of pupil record information at a cost of 15¢ a page. A parent, or adult pupil, shall not be charged for copies if such a fee prevents them from exercising their right to have copies.
- f. Each building shall have a procedure for sharing information with divorced, separated, or non-custodial parents (see Board Policy 491).

3. Access to Progress, Behavioral, and Health Records by Persons Other than Parents/Adult Student – The District shall provide access to a pupil’s behavioral or progress records in the following situations:

- a. The judge of any court of Wisconsin or of the United States shall, upon request, be provided with a copy of all progress records of a student who is the subject of any proceeding in that court.
- b. Pupil records shall be made available to persons who are employed in the school which the pupil attends and who are required by the Department of Public Instruction (DPI) to hold a license and have a need to access the information and to other school district officials who have been determined by the Board to have legitimate educational interests. The building principal, counselor, psychologist, or other qualified staff member should be contacted to interpret progress records to staff.
- c. If a student transfers to another educational facility, and records are requested, such records will be sent without the parent’s or adult student’s consent.
- d. Upon the written request of an adult student or the parent of a minor student, the school shall make available to the person names in the permission form the student’s progress records or such portions of his/her behavioral records as determined by the person authorizing the release.
- e. Pupil records shall be provided to a court in response to a subpoena for inspection. The court may turn said records or parts thereof over to parties in the action or to their attorneys if these records would be relevant and material to a witness’s credibility or competency. Efforts will be made to contact the pupil’s parents or legal guardian.
- f. The Board shall provide the Department of Public Instruction (DPI) or any other public officer with any information required under Chapters 115 to 121, which covers all aspects of public instruction under the law. The DPI may secure pupil or other records which are necessary in connection with

the audit and evaluation of state or federal-supported programs or in connection with the enforcement of state or federal requirements which relate to such programs. Except when the collection of personally identifiable data is specifically required by federal law, any data collected by state educational authorities shall not include information (including social security numbers) which would permit the personal identification of such students or their parents after the data so obtained has been collected.

- g. Information from a pupil's immunization records shall be made available to state and local health officials to carry out immunization requirements.
- h. The school board may disclose personally identifiable information from the pupil records of an adult student to the parents or guardian of the adult student, without the written consent of the adult student, if the adult student is a dependent of his/her parents/guardians under 26 USC 152, unless the adult student has informed the school, in writing, that the information may not be disclosed.
- i. The district board of the vocational, technical and adult education district in which the school is located, the department of health and social services or a county department verifying eligibility for public assistance, shall, upon request, be provided with the names of students who have withdrawn from the school prior to graduation.
- j. Personally identifiable information from the pupil records of an adult student may be disclosed to the parent of the adult student without the written consent of the adult student if the adult student is a dependent of his/her parent for tax purposes (under the Federal Internal Revenue Code, 26 USC). This may be done unless the adult student has informed the school, in writing, that the information may not be disclosed.
- k. A pupil's records shall be disclosed in compliance with a court order under Wisconsin's delinquency statutes after a reasonable effort has been made to notify the student's parent.
- l. Annually, on or before August 15, the District shall report to the appropriate community services boards established under sections 51.42 and 51.437 the names of students who reside in the District, who are 16 years of age or older, who are not expected to be enrolled in an educational program two years from the date of the report and who may require services under sections 51.42 or 51.437 (community mental health, developmental disabilities, alcoholism and drug abuse).
- m. If school attendance is a condition of a student's dispositional order under section 48.335(2)(b)7, the school board shall notify the county department

that is responsible for supervising the student within five days after any violation of the condition by the student.

- n. The school district clerk or his or her designee shall provide a law enforcement agency with a copy of a student's attendance record if the law enforcement agency certifies in writing that the student is under investigation for allegedly committing a criminal or delinquent act and that the law enforcement agency will not further disclose the student's attendance record except as permitted under s. 938.396(1) to (1r).

4. Access to Directory Data – Except as provided below, directory data may be disclosed to any person after the school has notified the parent, legal guardian, or guardian ad litem of the categories of information which it has designated as directory data with respect to each student and has allowed 14 days for the parent of any student to inform the school that all or part of the directory data may not be released (Addendum B).

- a. If the school district has followed the notification procedure outlined above, and the parent, legal guardian, or guardian ad litem does not object to the directory data being released, the Board Clerk shall, upon request, provide the name and address of each student expected to graduate from high school in the current school year to the vocation, technical, and adult education district board.
- b. If the school district has followed the notification procedure listed above, and the parent, legal guardian, or guardian ad litem does not object to the directory data being released, the Board Clerk shall, upon request, provide any representative of a law enforcement agency, district attorney, or corporation counsel, county department under sections 46.215, 46.22, or 46.23 or a court of record or municipal court with such directory data information relating to any such student enrolled in the school district for the purpose of enforcing that student's school attendance or to respond to a health or safety emergency.

5. Access to Pupil Physical Health Records – All student 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 student or a person authorized by the student. Pupil health records may be released upon request without informed consent to a District employee or agent, with regard to pupil records maintained by the District in which he/she is employed or is an agent, if any of the following apply:

- a. The employee or agent has responsibility for the preparation or storage of pupil health records.

- b. Access to pupil health records is necessary to comply with a requirement in federal or state law.

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 student.

6. Amendment of Records

- a. A parent who believes that the educational records collected, maintained, or used are inaccurate, misleading or otherwise in violation of the privacy or other rights of the student may request the District to amend the records. A written request shall be made to the building principal. The District will decide whether to amend the information within 45 days after receipt of the request.
- b. If the district decides to refuse to amend the information, it will inform the parent of the refusal and advise the parent of the right to a hearing. On request, the District shall provide an opportunity for a hearing to challenge information in educational records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student.
- c. If the parent requests a hearing, the Board will appoint an individual who does not have a direct interest in the outcome to conduct the hearing. The person conducting the hearing shall issue a written decision within 15 days of the hearing. At least five days before the hearing, a notice shall be sent to the parent about the date, time, and place of the hearing.
 - (1) The District shall give the parent a full and fair opportunity to present relevant evidence at the hearing.
 - (2) The District shall provide the parent the opportunity to be assisted or represented by one or more individuals, or an attorney of his/her choice, at his/her expense.
 - (3) The decision of the person conducting the hearing will be based solely on the evidence presented at the hearing and include the summary of the evidence and reasons for the decision.
 - (4) If, as a result of the hearing, the District decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, it shall amend the information accordingly and so inform the parents in writing.

- (5) If, as a result of the hearing, the District 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 of the right to place in the records it maintains on the student, a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the District.

The District shall require that any explanation placed in the records of a student be maintained by the District as part of the records as long as the record or contested portion is maintained by the District. If the records of the student, or the contested portion are disclosed by the District to any party, the explanation shall also be disclosed to that party.

7. Maintenance of Pupil Records

- a. The building principals shall have primary responsibility for maintaining the confidentiality of records in their building. Copies of individualized education programs shall be maintained in the EEN classroom. All records shall be maintained in locked files. Pupil health records shall be maintained separately from a student's other records.
- b. Building principals shall maintain an updated list of staff by name and title who have access to records.
- c. The District shall keep a record of parties obtaining access to educational records collected, maintained, or used under the procedures, except access by parents and authorized District employees whose names and positions are listed.
- d. A record of access shall be maintained in each EEN student's file. This record shall include the name of the party, date access was given, and the purpose for which the party was authorized to use the record.
- e. The Director of Pupil Services shall be responsible for reviewing records of EEN students. Information that is no longer needed to provide educational services to the EEN student shall be destroyed after one year or by prior notification to the parents.
- f. A pupil's records can be used in connection with the suspension or expulsion of a student or use of such records by a multi-disciplinary team under ch. 115. Records of law officers and the court shall not be used as the sole basis for suspension or expulsion.

8. Transfer of Records

- a. All pupil records relating to a specific student shall be transferred to another school or school district upon receipt of written notice from an adult student, or the parent of a minor student that the student intends to enroll in the other school or school district; upon written notice from the other school or school district that the student has enrolled; or, upon written notice from a court that legal custody of the student has been transferred to the Department of Health and Social Services for placement in a juvenile correctional facility. Records will be sent within five working days of receiving the written request.
- b. Under the public school Open Enrollment Law provisions, a student's resident school district is required to provide the nonresident school district to which a student has applied for enrollment with the following information upon request of the nonresident district:
 - (1) a copy of any expulsion findings and orders pertaining to the student;
 - (2) a copy of any pending disciplinary proceeding involving the student;
 - (3) a written explanation of the reasons for the expulsion or pending disciplinary proceeding; and
 - (4) the length of the term of expulsion or the possible outcomes of the pending disciplinary proceeding.
- c. If a student who has been expelled from one school district seeks to enroll in another school district during the term of his/her expulsion, the student's former school district must provide the information identified in items (1), (3), and (4) above to the district.
- d. Law Enforcement Agency Records
 - (1) A law enforcement agency may now provide specific record information to a public school district administrator or designee upon its own initiative, not only upon the request of the district administrator. Such disclosure is subject to the agency's official policy.
 - (2) In addition to the types of records listed in current state law that may be disclosed by law enforcement agencies, a law enforcement agency may now provide a district administrator or designee with any information in its records relating to an act for which a juvenile enrolled in the district was taken into custody based on the law enforcement officer's belief that the juvenile was committing or had committed a serious juvenile offense specified in section 938.34

(4h)(a) of the state statutes. This section includes such offenses as murder or attempted murder, sexual assault, kidnapping, and soliciting a child to commit a felony.

Law enforcement agency record information previously available to school districts included information relating to: (1) the use, possession or distribution of alcohol or a controlled substance by a student enrolled in the District; (b) the illegal possession of a dangerous weapon by a child; and (c) the act for which a juvenile enrolled in the District was adjudged delinquent.

- (3) All law enforcement agency records obtained by a school district must now be handled in the same manner. Law enforcement agency information must be disclosed to school officials required by the DPI to hold a license and to other school officials determined by the School Board to have legitimate educational interests, including safety interests, in that information. If the information relates to a District student, the information must 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.
- (4) Law enforcement agency 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, including action under the District's athletic code. The law previously only included the suspension and expulsion language (10-14-97).

9. Deletion/Destruction of Pupil Records

- a. All behavioral records shall be destroyed one year after the student graduates or last attends school, except with written parent or adult student permission to retain them for a longer period of time. (Addendum C)
- b. Application to existing records: Any records existing on June 9, 1974 need not be revised for the purpose of deleting information from student records to comply with this section.
- c. Pupil progress records shall be filed and maintained permanently in the District.
- d. Pupil health records shall be filed and maintained for one (1) year in the District.

- e. Any pupil record that relates to a student's physical health and that is not a pupil physical health record shall be treated as a patient health care record under ss. 146.81 to 146.84.
- f. Individual Education Program records shall be filed and maintained for seven (7) years in the District.

10. Annual Public Notice - Parents and students shall be notified annually of the following: (a) their rights to inspect, review and obtain copies of pupil records; (b) the existence of the pupil records policy and procedures and where copies can be obtained; (c) the categories of pupil record information which have been designated as directory data and their right to deny the release of such information; and, (3) their right to file a complaint with the Family Policy and Regulations Office of the U.S. Department of Education at the following address: FAMILY POLICY COMPLIANCE OFFICE, U.S. DEPT. OF EDUCATION, 400 MARYLAND AVE. S.W., WASHINGTON, D.C. 20202-4605. This notice shall be published annually in District student and/or parent newsletters, or disseminated through other appropriate means (see Addendum D reverse side). Provisions shall be made to effectively notify parents when the parents' primary language is other than English.

When a student transfers into the District after the above notice has been given, the student and his/her parent(s) shall receive a copy of the notice.

LEGAL REF.: Sections 48.396(2m) Wisconsin Statutes

115.85(4)

118.125

118.127

146.025

146.81 – 146.83

767.24(7)

Chapter 19, Subchapter IV

Family Educational Rights and Privacy Act

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ADDENDUM D**347 – Exhibit 4**

Annually, parents and students shall be notified of the following: (a) their rights to inspect, review and obtain copies of pupil records; (b) the existence of the pupil records policy and procedures and where copies can be obtained; (c) the categories of pupil record information which have been designated as directory data (as listed on the reverse side of this sheet) and their right to deny the release of such information; and (d) their right to file a complaint with the Family Policy and Regulations Office of the U.S. Department of Education at the following address: FAMILY POLICY COMPLIANCE OFFICE, U.S. DEPT. OF EDUCATION, 400 MARYLAND AVE. S.W., WASHINGTON, D.C. 20202-4605. This notice shall be published annually in District student and/or parent newsletters, or disseminated through other appropriate means.