

The District shall make every effort to comply with the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, (“FERPA”) and to keep student education records, and the personally identifiable information contained therein, confidential as required by law.

I. Definitions. As used in this policy, the following definitions apply:

Attendance includes, but is not limited to:

(a) Attendance in person or by paper correspondence, videoconference, satellite, Internet, or other electronic information and telecommunications technologies for students who are not physically present in the classroom; and

(b) The period during which a person is working under a work-study program.

Biometric record, as used in the definition of *personally identifiable information*, means a record of one or more measurable biological or behavioral characteristics that can be used for automated recognition of an individual. Examples include fingerprints; retina and iris patterns; voiceprints; DNA sequence; facial characteristics; and handwriting.

Dates of attendance means the period of time during which a student attends or attended an educational agency or institution. Examples of dates of attendance include an academic year, a spring semester, or a first quarter. The term does not include specific daily records of a student's attendance at an educational agency or institution.

Directory information means information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed.

(a) *Directory information*: Directory information includes, but is not limited to, the following:

(1) Student's name

(2) Grade in school

(3) Name of student's school

(4) Eligibility and participation in officially recognized activities, including but not limited to fine arts exhibits, performing arts programs, other performances, graduation programs, and sports events

(5) Weight and height of members of athletic teams

(6) Honors and awards received

(7) Yearbooks

(8) Identification in visual media, including photographs, videotapes, and digital images, depicting school programs or activities

(9) a student ID number, user ID, or other unique personal identifier used by the student for purposes of accessing or communicating in electronic systems, but only if the identifier cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user's identity, such as a personal identification number (PIN), password, or other factor known or possessed only by the authorized user.

(b) **Directory information** does not include student:

(1) Social security number; or

(2) Student identification (ID) number, except as provided in paragraph (b)(9) of this section or

(3) address, telephone listing and electronic mail address.

Disciplinary action or proceeding means the investigation, adjudication, or imposition of sanctions by the District with respect to an infraction or violation of the internal rules of conduct applicable to students of District.

Disclosure means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record.

Education records means those records that are:

(a) Directly related to a student; and

(b) Maintained by an educational agency or institution or by a party acting for the agency or institution.

Eligible student means a student who has reached 18 years of age.

Law enforcement unit means any individual, office, department, division, or other component of the District, such as a unit of commissioned police officers or non-commissioned security guards, officially authorized or designated by the District to:

(a) Enforce any local, State, or Federal law, or refer to appropriate authorities a matter for enforcement of any local, State, or Federal law against any individual or organization other than the District itself; or

(b) Maintain the physical security and safety of District.

A component of the District does not lose its status as a law enforcement unit if it also performs other, non-law enforcement functions for the District, including investigation of incidents or conduct that constitutes or leads to a disciplinary action or proceedings against the student.

Parent means a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or a guardian.

Personally Identifiable Information includes, but is not limited to:

- (a) The student's name;
- (b) The name of the student's parent or other family members;
- (c) The address of the student or student's family;
- (d) A personal identifier, such as the student's social security number, student number, or biometric record;
- (e) Other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name;
- (f) Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or
- (g) Information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates.

Records of a law enforcement unit means those records, files, documents, and other materials that are:

- (a) Created by a law enforcement unit;
- (b) Created for a law enforcement purpose; and
- (c) Maintained by the law enforcement unit.

Records of a law enforcement unit does not mean:

- (a) Records created by a law enforcement unit for a law enforcement purpose that are maintained by a component of the District other than the law enforcement unit; or
- (b) Records created and maintained by a law enforcement unit exclusively for a non-law enforcement purpose, such as a disciplinary action or proceeding conducted by the

District.

II. Classification and Maintenance of Records

A. Each school shall maintain a cumulative folder for each student. The cumulative record folder shall contain all the educational records directly related to a student that are kept by the school except:

(1) Records kept by teachers, counselors, or supervisory or administrative personnel that are in the sole possession of the maker and are not revealed to any other person except a substitute;

(2) Employment records of student employees if those records relate exclusively to the student in the capacity as an employee and are not made available for any other use;

(3) Records kept by a law enforcement unit of the school if they are maintained solely for law enforcement purposes, and are not disclosed to anyone other than law enforcement officials of the same jurisdiction, and if the law enforcement officers do not have access to the student's cumulative folder;

(4) Records created or received by the school after an individual is no longer a student in attendance in the District and that are not directly related to the individual's attendance as a student; and

(5) Grades on peer-reviewed papers before they are collected and recorded by a teacher.

B. The following types of educational records are kept in cumulative record folders:

(1) Identification information, including name, sex, race, birthplace, and birth date;

(2) Family data;

(3) Medical health records and emergency medical information;

(4) Attendance records;

(5) Scholastic records;

(6) Standardized test scores;

(7) Records of interest, activities, and honors;

(8) Records of educational or vocational plans;

- (9) Teacher evaluations if shared with anyone else;
- (10) Counselor evaluations if shared with anyone else;
- (11) Information pertaining to special services provided for students;
- (12) Records of incidents of unsatisfactory behavior; and
- (13) Other education records kept by individual school units.

C. Cumulative record folders shall be kept in the administrative office of the school that the student attends. If the student no longer attends a school within the District, the cumulative record folder shall be stored in a central location or at each school.

D. The principal of each school is responsible for maintaining the cumulative record folders of students attending that school.

E. Unnecessary and outdated material may be deleted from the student's record at any time except when a request for a review by a parent or student is pending. At a minimum, the student's records shall be reviewed for unnecessary and outdated information when the student completes elementary school, middle school, and high school.

III. Rights of Parents to Review and Inspect Records

A. Those that have the right to inspect and review the cumulative record folder kept about the student include:

1. Parents of the student if the student is under 18 years of age,
2. Parents who claim an eligible student as a dependent under the Internal Revenue Code if the student is at least 18 years of age unless the student provides evidence satisfactory to the school that the student is not a dependent for federal income tax purposes;

3. The student who is at least 18 years of age.

B. Parents or eligible students who wish to inspect and review the cumulative record folder shall submit a request in writing to the principal of the student's school. When the principal receives a written request for review of the records from a parent or student who has a right to inspect the records, the principal shall schedule the review. The appointment date should be as early as possible but never later than fifteen days after the request was made. The inspection and review shall be made in the office of the principal or at another designated place.

C. A school official competent in interpreting student records shall be present to explain the implications of the records that are examined.

D. Parents or eligible students who wish to inspect records and live within fifty (50) miles of the place where the records are kept must do so at the place designated by the school unit. After the inspection, they may request copies of the records they inspected. Parents or students who live more than fifty (50) miles from the place where the records are kept may request copies of the records without first inspecting them at the school or central office. The copies shall be sent by registered mail, return receipt requested.

E. The board additionally grants to all students of any age the right to inspect the contents of the student's cumulative record folder, but only in the presence of a building administrator or counselor.

F. The District shall not charge a fee for the search or retrieval of student records, but may charge a fee of not more than \$0.25 per page for copies of records unless such fee would effectively prevent a parent or eligible student from exercising the right to inspect and review the student's education records.

IV. Hearing to Correct Inaccuracies.

Parents authorized to inspect and an eligible student have the right to challenge the content of the student's educational records. A parent or student who believes that educational records contained in the student's cumulative record folder are inaccurate or misleading or otherwise violate the student's rights may request, in writing, that the records be amended by the principal of the school where the records are kept. Not later than five (5) school days after receipt of a request to amend, the principal shall decide whether to amend the records in accordance with the request. If the principal finds that the challenge is not justified, the principal shall inform the person who made the request of the finding and shall also inform that person of the right to request, in writing, a hearing before the superintendent of schools or a designee. If a parent or eligible student requests a hearing, the hearing officer shall set a date for the hearing as soon as possible but not more than ten (10) school days after the request for the hearing was made and shall give the parent or the student at least two (2) school days advance written notice of where and when the hearing will be held. At the expense of the parent or student, an attorney or anyone else of his or her choice may assist at the hearing.

The hearing officer shall render a written decision as soon as possible and must make it within five (5) school days after the hearing. The decision shall be based only on evidence presented at the hearing and shall include a summary of this evidence and the reasons for the decisions.

If the hearing officer decides that the educational record is not inaccurate or misleading or does not otherwise violate the student's rights, the parent or student shall be notified of that decision and shall be informed of the right to submit to the principal of the school where the records are kept a statement of objection of reasonable length to the information contained in the records. Any explanation submitted by the parent or student shall be placed in the student's cumulative record folder, shall be disclosed by the school whenever the contested portion of the educational record is disclosed, and shall not be destroyed unless the contested portion of the educational record is destroyed.

A parent or student who is dissatisfied with the decision of the hearing officer may appeal to the board of education within fifteen (15) days. The review shall be on the record and not a *de novo* hearing.

V. Disclosure to Person(s) Other Than Parents or Students.

A. Parental or Student Consent. No one else may have access to personally identifiable information from the cumulative record folder, other than directory information, except when proper written consent to the release of such records has been obtained. If the student is not yet 18, one of the student's parents must consent to the release. If the student is 18 or older, the student must consent to the release. The consent must be signed and dated and must specify the records to be disclosed, the purpose for disclosure, and the persons or class of persons to whom the disclosure may be made. Upon request, the school shall supply a copy of records released to the parent or the student who gave the consent. If the parent gives consent for a student, the parent may request that a copy of the records released be given to the student even though the student is not yet 18.

B. Persons Authorized to Have Access. Notwithstanding Paragraph A., above, the school may, without the consent of either the student or the parent, disclose information kept in the student's cumulative record folder under one of the following circumstances:

(1) To school officials who have a legitimate educational interest in examining the information. The term school official includes any teacher, administrator, assigned student teacher, intern, teacher aide, or other professional employee of the District and members of the school board. The term also includes a contractor, consultant, volunteer, or other party to whom the District has outsourced institutional services for which the District would otherwise use employees and over whom the District has direct control with regard to the use and maintenance of the educational records, and only on the condition that the outside party will not re-disclose the education records without prior consent of the parents or eligible student. The principal of the school where the records are kept determines whether a school official is seeking the information to carry out official duty and whether the specific information sought will help in carrying out that duty.

(2) To officials of another school in which the student seeks or intends to enroll or where the student is already enrolled so long as the disclosure is for purposes related to the student's enrollment or transfer. After the principal receives a request from another school in which the student seeks or intends to enroll, the principal of the school where the records are kept shall forward the cumulative record folder without notifying the parents or student of the transfer or seeking their consent. If the parents or the eligible student so request, the principal shall furnish them an unofficial copy of the records to be transferred and give them an opportunity to correct any inaccuracies in accordance with the procedure set out in Rights of Parents to Inspect Records.

(3) To authorized representatives of the Comptroller General of the United States; the Secretary of the U.S. Department of Health, Education, and Welfare; the

Commissioner of Education; or officials of the New Mexico Public Education Department if they seek the information in connection with either the audit and evaluation of State or Federally funded programs, or the enforcement of State or Federal legal requirements that relate to these programs, and the authority to conduct an audit, evaluation, or compliance is established under Federal, State, or local laws.

(4) To accrediting organizations that seek the information to carry out their accrediting functions.

(5) To persons or organizations conducting studies for or on behalf of the school administrative unit or another educational agency to develop or validate predictive tests, administer student aid programs, or improve instruction. Any report released on the basis of data collected under this paragraph may not include information that personally identifies students or their parents. The District shall enter a written agreement with the persons or organizations conducting the survey that complies with the requirements outlined in 34 C.F.R. 99.31.

(6) To persons who seek the information in connection with a student's application for, or receipt of, financial aid.

(7) To persons who seek information in connection with a health or safety emergency and whose knowledge of the information is necessary to protect the health or safety of the student or other individuals.

(8) To comply with a court order or lawfully issued subpoena. Upon receipt of a court order or subpoena, the principal of the school where the records are kept shall immediately send written notice to the student's parents or to the eligible student at their last known address that a court order or subpoena has been received unless the court or agency issuing the subpoena has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed; or the information is sought pursuant to an *ex parte* court order obtained by the U. S. Attorney General concerning investigations or prosecutions of an offense listed in 18 U.S.C. § 2331 or 18 U.S.C. § 2332b(g)(5)(B) or other *ex parte* court order.

(9) To others when the disclosure concerns sex offenders and others required to register under 42 U.S.C §14071 and the information was provided under 42 U.S.C §14071 and applicable federal guidelines.

ALL EMPLOYEES WHO HAVE ACCESS TO STUDENT RECORDS ARE DIRECTED BY THE BOARD TO MAINTAIN THE MOST SCRUPULOUS PROTECTION OF INFORMATION IN THOSE RECORDS WHICH IS OF A SENSITIVE AND PRIVATE NATURE.

When a school official discloses information from the student's cumulative record folder, other than directory information, to anyone other than the parents of the student, the student himself, or other school officials, the office shall inform the person who receives the information that it may not be disclosed to any other party without the consent of the parents or the eligible

student, except when permitted by law.

VI. Inspection Log.

The principal shall maintain in each cumulative record folder for which the principal is responsible a cumulative record inspection log of each request for access to and each disclosure of personally identifiable information from the education records. The inspection log shall include the name and reason for inspection of each person who requests access to the cumulative record folder, but shall not include disclosures to the parents, the student, school officials, or persons who have student or parent consent or disclosures of directory information. The inspection log may be inspected by the student's parents or the eligible student. In the event that personally identifiable information is disclosed from the education records in the event of a health or safety emergency, the inspection log must include (a) the articulable and significant threat to the health or safety of a student or other individuals that formed the rational basis for the disclosure; and (b) the parties to whom the information was disclosed.

The principal must use reasonable methods to identify and authenticate the identity of parents, students, school officials, and any other party to whom the school discloses personally identifiable information from education records prior to the disclosure.

VII. Directory Information.

The schools may disclose directory information about a student without the consent of either the student (age 18 or above) or the parent, unless the parent or student has objected to the release by delivering a written objection to the principal of the student's school site that states which disclosures are objectionable within fifteen (15) days following the date of the publication of the annual Notice to Parents or Students set forth below.

VIII. Waiver of Rights.

Parents of a student or an eligible student may waive any of their rights under this policy. A waiver of rights must be in writing, must be by the parents or the student, and must specify the rights to be waived. A waiver is effective until revoked in writing. If a parent executes a waiver, the student may revoke it when reaching the age of eighteen years.

IX. Notice to Parents or Students.

Annual notice of this declaration of compliance with the Family Educational Rights and Privacy Act (FERPA) shall be made by the board of education and said declaration, in substantially the following form, shall be published in a newspaper of general circulation or shall be mailed to each parent of a student currently enrolled or attending Pojoaque Valley Schools, and shall be printed on the District's website. The following information shall also be provided by an effective means of communication annually to parents who have a primary or home language other than English.

TO ALL PARENTS OF STUDENTS CURRENTLY ATTENDING THE POJOAQUE VALLEY SCHOOLS AND ALL STUDENTS CURRENTLY ATTENDING WHO HAVE REACHED THE AGE OF 18.

The Family Educational Rights and Privacy Act (FERPA) is a Federal law that governs the maintenance of student records. Under that law, parents of students or students, if they are least 18 have both the right to inspect records kept by the school about the student and the right to correct inaccuracies in the record. Access to the records by other than the parents or the student is limited and generally requires prior consent by the parent or the student. The District has adopted a written policy governing all the rights of parents and students under FERPA. Copies of this policy may be found in the superintendent's office and in the principal's office of each school within the system.

As defined by Pojoaque Valley Schools policy, *directory information* means information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. The District classifies the following as directory information:

- The student's name;
- Grade in school;
- Name of school;
- Eligibility and participation in officially recognized activities, including but not limited to fine arts exhibits, performing arts programs, other performances, graduation programs and sports events;
- Weight and height of members of athletic teams;
- Honors and awards received;
- Yearbooks; and
- Identification in visual media, including photographs, videotapes, and video images, depicting school programs or activities

School officials may release this information to any person without the consent of the parents or the student. Any parent or eligible student who objects to the release of any or all of this information without consent must notify, in writing, the principal of the school where the records are kept within fifteen (15) days following the date of the publication of this notice. The objection must state what information the parent or student does not want to be classified as directory information. If no objection is received by fifteen (15) days after the publication of this notice, the information will be classified as directory information until the beginning of the next school year.

In addition, the District will forward, without prior consent, education records to other agencies or institutions that have requested the records and in which the student seeks or intends to enroll or is already enrolled so long as the disclosure is for a purpose related to the student's enrollment or transfer. The District may also disclose education records to other "school officials" including contractors, consultants, volunteers, or other parties to whom the district has outsourced instructional services or functions, provided this outside party (1) performs an institutional service or function for which the district would otherwise use employees; (2) is under the District's control with regard to the use and maintenance of education records; and (3)

is subject to the same conditions for the use and re-disclosure of education records as other school officials.

Complaints about failure of the Pojoaque Valley Schools to comply with the Family Educational Rights and Privacy Act may be made, in writing, to FERPA Office, Department of Health and Human Services, 330 Independence Avenue, S.W., Washington, D.C. 20201.

X. Information Supplied to Military Recruiters.

In addition, under the provisions of the Federal No Child Left Behind Act, school districts are required to provide student names, addresses, and telephone numbers to military recruiters unless the parent or student (if over 18) specifically requests that the information not be released. Parents and students in grades 9-12 are asked to complete a form consenting to or denying the release of this information. If the form is not completed and returned to the school, the requests will be honored. Forms are available at all schools serving students in grades 9-12.

See Policies 325, 327.

Reference: 20 U.S.C. 1232(g); 34 C.F.R. Part 99