

SCHOOL DISTRICT OF BAYFIELD

347-Rule

GUIDELINES FOR MAINTENANCE AND CONFIDENTIALITY OF STUDENT RECORDS

1. Definitions

- a. **"Student records"**, as defined by state law, mean all records relating to individual students maintained by an elementary or secondary school other than (1) notes or records maintained for personal use by teachers or other certified personnel which are not available to others, and (2) records necessary for and available only to persons involved in the psychological treatment of a student.
- b. **"Behavioral records"**, as defined by state law, mean those student 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, police alcohol and other drug (AOD) records and any other student records which are not progress records. Under the rules implementing Chapter 115, Subchapter V, the student behavioral records include referral information (including notices and forms); signed parental consent or refusal for evaluation; multidisciplinary team (M-team) evaluations; individual reports and M-team findings and reports; individualized education programs; placement decisions and 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.
 - (1) **"Police AOD records"**, as defined by state law, mean those records obtained from a law enforcement agency relating to the use, possession or distribution of alcohol or a controlled substance by a student enrolled in the District. Such records may only be obtained from the law enforcement agency upon request of the District Administrator. Once the records are received, the student named in the records and the parent of any minor student named in the records shall be notified of the information.

- c. **"Progress records"**, as defined by state law, mean those student 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 and records of the student's extracurricular activities.
- d. **"Student 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, and any follow-up to such test, 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. **"Student Patient records"** mean 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" definition 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 or is attending an institution of postsecondary education. For purposes of Board policy and these procedures, adult students have all the rights accorded to parents.

2. Access Rights

- a. **Parent Access to Student Records** - Parents are permitted to review and inspect any education 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.

In cases involving exceptional educational needs (EEN) students, the District shall respond to parental requests for records without unnecessary delay prior to any meeting about an Individual Education Program (IEP) or a hearing regarding identification, evaluation or placement of a child. The response must be given no more than 45 days after the request is made. The building principal or designated staff member will discuss the records with the parents. Parent representatives shall also have this right.

A parent, 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 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).

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.

Parents shall not be charged for search or retrieval of student record information and will not be charged for copies. A parent shall not be charged for copies if such a fee prevents them from exercising their right to have copies.

b. **Access to Progress and Behavioral Records by Persons Other Than Parents/Adult Students** - The District shall provide access to a student's behavioral or progress records in the following situations:

- (1) 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.
- (2) Student records shall be made available to persons who are employed in the school which the student 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. Police AOD records may be made available under this exception only for the purpose of providing alcohol and other drug abuse (AODA) programs for students enrolled in the District and only to those designated personnel involved in AODA programs.

- (3) Upon the written request of an adult student or the parent of a minor student, the school shall make available to the person named 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. Police AOD records may not be made available under this exception unless specifically identified by the adult student or by the parent of a minor student in the written request.
- (4) Student 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.
- (5) 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 student 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.
- (6) Information from a student's immunization records shall be made available to state and local health officials to carry out immunization requirements.
- (7) 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.
- (8) Personally identifiable information from the student

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,

- (9) A student'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.

- (10) 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, development disabilities, alcoholism and drug abuse).

- (11) If school attendance is a condition of a student's dispositional order under section 48.355(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.

C. **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 any part of the directory data may not be released.

- (1) 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 vocational, technical and adult education district board.

(2) 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 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.

d. **Access to Student Patient Records** - All student patient records shall remain confidential. They may be released only to persons specifically designated in state law or to other persons with the informed consent of the patient or a person authorized by the patient. Student patient records may be released upon request without informed consent to a District employee or agent, with regard to patient records maintained by the District in which he/she is employed or is an agent, if any of the following apply:

- (1) The employee or agent has responsibility for the preparation or storage of patient health care records.
- (2) Access to patient health care 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 test subject.

3. 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. 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.

4. Maintenance, Transfer and Destruction of 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 classroom. All records shall be maintained in locked files. Student patient records and police AOD 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 student records.
- c. The District shall keep a record of parties obtaining access to education 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 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. Under the record retention requirements of the federal General Education Provisions Act (GEPA), a school district must maintain records to show compliance with the requirements of the Individuals with Disabilities Education Act (IDEA) for at least five years or destruction of records at parents request. These records include a child's multidisciplinary team (M-team) reports, individualized education programs (IEPs), and placement offers.
- f. All student 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.

- g. 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.
- h. Student progress records shall be filed and maintained permanently in the District.
- i. Student patient records and police AOD records shall be maintained for the same period of time as other student behavioral records.

5. Annual Public Notice

Parents and students shall be notified annually of the following: (a) their rights to inspect, review and obtain copies of student records; (b) the existence of the student records policy and procedures and where copies can be obtained; (c) the categories of student record information which have been designated as directory data 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. This notice shall be published annually in District student and/or parent handbooks, or disseminated through other appropriate means. 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

APPROVED IN PART: March 9, 1992

REVISED: September 13, 1993
May 9, 1994
January 10, 2000