

347R STUDENT RECORDS: PROCEDURES FOR MAINTENANCE AND CONFIDENTIALITY

DEFINITION OF TERMS

Student records are defined as all records or data relating to an individual student, other than notes or records maintained for personal use by teachers or other certified personnel that are not available to others, and records necessary for and available to persons involved in the psychological treatment of a student.

Progress records are defined as those student records which include: a statement of the courses the student has taken, the student's grades, the student's attendance records, the student's immunization records and extracurricular activities.

Behavioral records are defined as those student records which include: psychological test results, personality evaluations, records of conversations, any written statements relating to a student's behavior, achievement test results, ability test results, physical health care records other than immunization records, law enforcement officer records and any other student records which are not progress records.

Law enforcement officer records include those records obtained from a law enforcement agency relating to: (1) the use, possession or distribution of alcohol or a controlled substance by a student enrolled in the District, (2) the illegal possession of a dangerous weapon by a child, (3) the act for which a juvenile enrolled in the District was adjudged delinquent, and (4) an act for which a District student was taken into custody based on the law enforcement officer's belief that he/she violated or was violating certain specified laws. Such records may be provided to the District upon request of the Superintendent or designee, or upon the law enforcement agency's own initiative based on agency policy. Upon receipt of the records, the Superintendent or designee shall inform the student named in the records and the parent/guardian of a minor student named in the records of the information.

Court records include those records received from a court clerk concerning a juvenile enrolled in the District who: (1) has had a petition filed with a court alleging that he/she has committed a delinquent act that would be a felony if committed by an adult, (2) has been adjudged delinquent, (3) has school attendance as a condition of his/her court dispositional order, or (4) has been found to have committed a delinquent act at the request of or for the benefit of a criminal gang that would be a felony if committed by an adult and has been adjudged delinquent on that basis.

Student physical health care records are defined as those student records that 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

Student patient records include all records relating to the health of a student prepared health care provider which are not included in the "student physical health care records" definition above.

Directory Data: The Whitnall School Board has designated the following information as student directory data: student's name, present address, telephone listing, date and place of birth, major field of study, dates of attendance, participation in officially recognized activities and athletics, weights and heights of members of athletic teams, student's photographs, most recent previous educational agency or institution attended by the student, and degrees or awards received.

Hearing Committee shall be composed of the Superintendent, Director of Student Services, building principal and the originator (if possible) of the material being challenged.

CONFIDENTIALITY AND ACCESS TO RECORDS

Release of Student Progress and Behavioral Records (Other Than Student Patient Records)

All student progress and behavioral records are confidential and will not be released except as follows:

1. A student, or the parent(s) or guardian(s) of a minor student, shall, upon request, be shown and provided with a copy of the student's progress records. An appointment must be scheduled to honor such requests.
2. An adult student, or the parent(s) or guardian(s) of a minor student, shall upon request be shown, in the presence of a person qualified to explain and interpret the records, the student's behavioral records. Such student or parent(s) or guardian(s) shall, upon request, be provided with a copy of the behavioral records. An appointment must be scheduled to honor such requests.
3. The judge of any court of Wisconsin or the United States shall, upon request, be provided by the building principal or his/her designee with a copy of all records of a student who is the subject of any proceeding in such court. The building principal or designee shall make a reasonable effort to notify the adult student, or parent(s) or guardian(s) of a minor student, in advance of compliance.
4. Names of dropouts shall be provided to a court in response to an order under section 118.163(2m)(b).
5. If school attendance is a condition of a student's dispositional order under section 48.355(2)(b)7 or 938.358(2), the 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.
6. A law enforcement agency shall be provided a copy of a student's attendance record if the law enforcement agency certifies in writing that the student is under investigation for truancy or for allegedly committing a criminal or delinquent act and that the law enforcement agency will not further disclose the student's attendance record information except as permitted by law. If a student's attendance record is disclosed to a law enforcement agency for purposes of a truancy investigation, the student's parent/guardian shall be notified of that disclosure as soon as practicable after that disclosure.
7. A fire investigator shall be provided a copy of a student's attendance record if the fire investigator certifies in writing that: (a) the student is under investigation for arson, (b) the student's attendance record is necessary for the fire investigator to pursue his/her investigation, and (c) the fire investigator will use and further disclose the student's attendance record only for the purpose of pursuing that investigation.
8. Student records shall be made available to persons employed in the District which the student attends who are required by the state to hold a license and other school district officials who have been determined by the principal to have legitimate educational interests, including safety interests, in the student records. Refer to item (7) under the "Records Maintenance" section of this rule for a list of school officials designated to have access to a student's records.
9. Law enforcement records received by the District may be made available to those school officials with legitimate educational interests, including safety interests, in the information. If law enforcement record information obtained by the District relates to a District student, the information may 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. The 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.
10. Court records obtained by the District must be disclosed to District employees who work directly with the juvenile named in the records or who have been determined by the Board to have legitimate educational interests, including safety interests, in the information. An employee cannot further disclose the information, and the information cannot be used as the sole basis for suspending or expelling a student from school.

A Board member or District employee may not be held personally liable for any damages caused by failure to make student record disclosures to District employees as outlined above, unless the person acted with actual malice in failing to disclose the information. The District also may not be held liable for any damages caused by nondisclosure, unless the District or its agent acted with gross negligence or reckless, wanton or intentional misconduct in failing to disclose the

records.

11. Upon the written permission of an adult student, or the parent(s) or guardian(s) 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. Law enforcement officer records may not be made available under this exception unless specifically identified by the adult student or by the parent/guardian of a minor student in the written permission.

12. Student records shall be provided to a court in response to a subpoena by parties to an action for in camera inspection, to be used only for purposes of impeachment of any witness who has testified in the action. The court may turn said records or parts thereof over to parties in the action or their attorneys if said records would be relevant and material to a witness's credibility or competency.

13. Student records may be provided to authorized representatives of (1) the Comptroller General of the United States, (2) the Secretary of Health and Human Service and Secretary of Education, (3) an administrative head of an education agency, or (4) the Department of Public Instruction (DPI) for the purpose of audit and evaluation of federally-supported education programs, or in connection with the enforcement of the federal legal requirements which relate to such programs. Except when collection of personally identifiable data is specifically authorized by federal law, any data collected by such officials with respect to individual students shall not include information (including social security numbers) which would permit the personal identification of such students or their parents/guardians after the data so obtained has been collected. The Board may provide the DPI or any public officer with any information required under chapters 115 to 121 of the state statutes. The Board shall provide the DPI with any student record information that relates to an audit or evaluation of a state-supported program or that is required to determine compliance with state law provisions. Information reported shall be kept confidential by the DPI.

14. Notwithstanding their confidentiality, student records may be used in suspension and expulsion proceedings and by the individualized education program (IEP) team.

15. Information from a student's immunization records shall be made available to state and local health officers to carry out immunization requirements.

16. The district board of the technical college district in which the school district is located or, for verification of eligibility for public assistance, the department of health and family services, the department of workforce development or a county department under sections 46.215, 46.22 or 46.23 of the state statutes shall, upon request, be provided by the school district clerk with the names of students who have withdrawn from the public school prior to graduation

17. The Board may disclose personally identifiable information from an adult student's records to the student's parent(s) or guardian, without the adult student's written consent, if the adult student is a dependent of his/her parent(s) or guardian under the Internal Revenue Code. An exception shall be made when an adult student has informed the school, in writing, that the information may not be disclosed.

18. The Board shall disclose a student's records in compliance with a court-ordered educational plan after making a reasonable effort to notify the student's parent(s) or guardian.

19. The Board shall, on or before August 15 of each year, report to the appropriate county departments under sections 51.42 and 51.437 the names of students who reside in the District, are at least 16 years of age, 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).

20. The District shall, upon request, provide another public school district in Wisconsin student disciplinary records necessary for purposes of public school open enrollment. These records include: (a) a copy of any expulsion findings and orders or records of any pending disciplinary

proceedings involving the student; (b) a written explanation of the reasons for the expulsion or pending disciplinary proceedings; and, (c) the length of the term of the expulsion or the possible outcomes of the pending disciplinary proceeding.

Release of Student Patient Records

Except as otherwise provided, student patient records may only be released to persons specifically designated in the state patient health care records laws or to other persons with the informed consent of the patient or a person authorized by the patient. Any part of a student health care record that concerns the results of a test for the presence of HIV or antibody to HIV (the virus which causes acquired immune deficiency syndrome - AIDS) shall be confidential and may be disclosed only with the informed written consent of the test subject.

Release of Directory Data

Directory data will be released as outlined below, unless the parent, guardian or adult student informs the principal of any or all items he/she does not wish to have released without prior written consent of the parent, guardian or adult student. The District will give annual written notice by direct mail during the summer to each student and his/her parent or guardian; individually as students enroll during the remainder of the school year; and, by publishing a student records notice in the District newsletter. The notice shall identify the categories of information which the school board has designated as directory data with respect to each student and inform the parent/guardian and adult student that they have 14 days to inform the school that all or any part of the directory data may not be released without the prior consent of the parent/guardian or adult student. Any parent, guardian or adult student may inform the District in writing and/or by checking the box on the Student Enrollment Form showing their desire to disclose directory data.

1. If a school has followed the notification procedure outlined above, and the adult student, parent or guardian does not object to the directory data being released, directory data will be released by the school for school purposes.
2. If a school has followed the notification procedure as outlined above, and the adult student, parent or guardian does not object to the directory data being released, the school district clerk shall, upon request, provide a technical college district board with the name and address of each such student who is expected to graduate from high school in the current school year.
3. If the District has followed the notification procedure outlined above, and the adult student, parent or guardian does not object to the directory data being released, the school district clerk shall, upon request, provide any representative of a law enforcement agency, district attorney, city 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 District for the purpose of enforcing that student's school attendance, to respond to a health or safety emergency or to aid in the investigation of alleged criminal or delinquent activity by a student enrolled in the District.

PARENT ACCESS TO RECORDS

A parent regardless of whether the parent has legal custody of the child shall have access to a child'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 child, ordered by the court).

TRANSFER OF RECORDS

The District shall transfer to another school or school district all student records relating to a specific student if it has received written notice:

- A. From an adult student, or the parent(s) or guardian(s) of a minor student, that the student intends to enroll in the other school;
- B. From the other school district that the student has enrolled; or
- C. From a court that a student has been placed in a secured correctional facility, secured child caring institution or a secured group home.

RECORDS MAINTENANCE

The building principal, or his/her designee, shall have primary responsibility for maintaining the confidentiality of all student records, except as outlined in (1) and (2) below. All requests for inspection or for transfer of records to another school or school district shall be directed to the building principal, or his/her designee. A qualified person must be present to interpret student records.

A. Psychological evaluations will be filed only in the Student Services' Office located in the District Office(s). All requests for inspection or transfer of these records shall be directed to the Director of Student Services. A person qualified to explain and interpret these records must be present at the time of inspection.

B. Law enforcement officer records and student patient records shall be maintained separate from the student's other records and filed in the Student Services' Office located in the District Office(s).

C. While students are attending schools in the District, their records shall be maintained at the school of attendance, except as noted in (1) and (2) above. Upon transfer of the student to another school in the District, all records shall be transferred to that school.

D. For security purposes, the cumulative record folders must be kept either in a room with restricted access or in a file drawer which should be locked when not in use.

E. All designated District personnel shall be apprised of their respective responsibilities for implementation of the student records policy and its implementing procedures.

F. A "Folder Examination Record Form" should be maintained in each student's cumulative record folder. The authorized personnel utilizing the folder should write in the information requested.

G. A listing of the school officials authorized to examine the student record folders shall be posted. The following school officials have access to student records in the schools of the Whitnall School District, provided they have legitimate educational interests, including safety interests, in such records: a. Building level administrators; b. Regular classroom and special subject teachers; c. Special education teachers; d. Reading specialists; e. Title I teachers; f. School social worker; g. School psychologist; h. Guidance counselors; i. School nurse; j. Central office administrative staff; k. The school/guidance office secretaries; and, l. Other certified staff or school officials. A school official has a "legitimate educational interest" if the official needs to review a student record in order to fulfill his/her professional or District responsibility. This listing shall be posted near the files or storage areas in which student records are maintained.

H. A record of each request for access to and each disclosure of personally identifiable information from the education records of a student shall be maintained with such student's records, except when the request is from or the disclosure is to the following person/party:

- the parent/guardian or adult students;
- a school official;
- a party with written consent from the parent/guardian or adult student;
- a party seeking directory data; or
- a party seeking or receiving the records as directed by a federal grand jury or other law enforcement subpoena and the issuing court or other issuing agency has ordered that the existence or the contents of the subpoena or the information in response to the subpoena not be disclosed.

This record shall be available to students, parents/guardians and to the school officials responsible for record maintenance as means of auditing the operation of the system. This record shall be maintained as long as the District maintains the student's records.

I. Student records shall be reviewed at the point of transfer from elementary to middle to high school and one year following graduation or withdrawal from high school for the purpose of removing out-

dated obsolete materials. The building principal, or his/her designee, shall be responsible for the review.

RECORDS RETENTION

No behavioral records may be maintained for more than one year after the date upon which the student graduated from or last attended the school, unless the adult student, or the parent(s) or guardian(s) of a minor student, specifies in writing that individual behavioral records may be maintained longer, in which case they will be maintained for the period of time specified in the written permission or, if no such time period is noted, for as long as the District's needs require.

The high school student transcript, which includes a statement of the courses taken by the student, the student's grades and the student's score on the state-required high school graduation test, shall be kept in perpetuity. A high school student's other progress records (attendance data, immunization records and extracurricular activity participation) and the progress records of students at all other grade levels shall be maintained for one year after the student ceases to be enrolled in the school.

AMENDMENT OF RECORDS

Parents/guardians or an adult student may request a hearing with the Hearing Committee to challenge the content of the student's record if they believe it to be inaccurate or misleading.

COMPLAINTS REGARDING ALLEGED NONCOMPLIANCE WITH FEDERAL REQUIREMENTS

Adult students or parents/guardians of minor students may file a complaint with the Family Policy Compliance Office of the U.S. Department of Education for alleged District noncompliance with requirements of the federal Family Educational Rights and Privacy Act (FERPA).

ANNUAL NOTICE

Parents/guardians and adult students shall be notified of any rights of inspection per state statutes and District Policy.

LEGAL REF.: Wisconsin Statutes Sections

115.812(4)

118.125

118.126

118.127

146.81-146.83

252.15

767.24(7)

938.396

Family Educational Rights and Privacy Act of 1974

CROSS REF.:

347-Exhibit(1), Student Records Notice

REVISED:

January 27, 2003