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SECTION I: EDUCATION RECORDS

**'EDUCATION RECORDS'
DEFINED**

For the purposes of this policy, the term “education records” means those records, files, documents, and other materials that contain information directly related to a student and are maintained by an education agency or institution or by a person acting for such agency or institution.

The term “education records” does not include:

1. Records that are created or received by the School after an individual is no longer a student in attendance and that are not directly related to the individual’s attendance as a student.
2. Records made by School personnel that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to anyone other than a temporary substitute for the maker of the record.

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3. Records maintained by a law enforcement unit of the School that were created by that law enforcement unit for the purpose of law enforcement.
4. Records on a student who is 18 years of age or older, or who is attending an institution of postsecondary education, that are:
 - a. Made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional capacity or assisting in a paraprofessional capacity;
 - b. Made, maintained, or used only in connection with treatment of the student; and
 - c. Disclosed only to individuals providing the treatment. For the purpose of this definition, "treatment" does not include remedial educational activities or activities that are part of the program of instruction at the agency or institution.
5. Grades on peer-graded papers before they are collected and recorded by a teacher.

20 U.S.C. 1232g; 34 C.F.R. 99.3

SCREENING RECORDS

The School shall maintain records of screening for special senses and communication disorders, spinal screening, and assessment for type 2 diabetes for each student in the school. Records shall be open for inspection by the state or local health department.

20 U.S.C. 1232g; Health & Safety Code 36.006, 37.003, 95.004; 25 TAC 37.145(b), [See FFAA]

IMMUNIZATION RECORDS

The School shall maintain an individual immunization record during the period of attendance for each student admitted. The records

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shall be open for inspection at all reasonable times by the Texas Education Agency or by representatives of local health departments or the Texas Department of State Health Services. The School shall cooperate with other districts in transferring students' immunization records between other schools. Specific approval from students, parents, or guardians is not required prior to making such record transfers. *Education Code 38.002* [See FFAB]

MEDICAL RECORDS

The parent or guardian of a student is entitled to access to the student's medical records maintained by the School. On request of a student's parent or guardian, the School shall provide a copy of the student's medical records to the parent or guardian. The School may not impose a charge that exceeds the amount authorized by Section 552.261 of the Government Code [see GBAA]. *Education Code 38.0095*

PRIVACY RULE FOR NON-'EDUCATION RECORDS'

To the extent the School is a covered entity under the Health Insurance Portability and Accountability Act (HIPAA), the School must comply with the Privacy Rule, 45 C.F.R Part 164, with respect to protected health information that is not an education record. *45 C.F.R. 160.103, 164.501* [See CRD]

FOOD ALLERGY INFORMATION

Information regarding a child's food allergy, regardless of how it is received by the School shall be retained in the child's student records but may not be placed in the health record maintained for the child by the School.

EXCEPTIONS

If the School receives documentation of a food allergy from a physician, that documentation shall be placed in the health record maintained for the child by the School.

A registered nurse may enter appropriate notes about a child's possible food allergy in the health record maintained for the child by

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the School, including a notation that the child's student records indicate that a parent has notified the School of the child's possible food allergy. [See FD]

Education Code 25.0022(d-f)

ASSESSMENT
INSTRUMENTS

The results of individual student performance on basic skills assessment instruments or other achievement tests administered by the School are confidential and may be made available only to the student, the student's parent or guardian, and to the school personnel directly involved with the student's educational program. However, overall student performance data shall be aggregated by ethnicity, sex, grade level, subject area, campus, and School, and made available to the public, with appropriate interpretations, at regularly scheduled board meetings. The information may not contain the names of individual students or teachers. *Education Code 39.030(b)* [See EKB]

ACADEMIC
ACHIEVEMENT RECORD
(GRADES 9-12)

Following guidelines developed by the Commissioner of Education, the School shall use the academic achievement record (transcript) form that includes student demographics, school data, student data, and the record of the courses and credits earned. The academic achievement record (transcript) shall serve as the academic record for each student and shall be maintained permanently by the School. Copies of the record shall be made available to students transferring to another district. The information may be provided to the student or to the receiving district or to both. The School shall respond promptly to all requests for student records from receiving districts. *19 TAC 74.5(b-c)* [See EI]

ENROLLMENT
RECORDS

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For information on enrollment records, see FD.

SECTION II: ACCESS, DISCLOSURE, AND AMENDMENT

“Attendance” includes, but is not limited to:

DEFINITIONS
'ATTENDANCE'

1. 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
2. The period during which a person is working under a work-study program.

AUTHORIZED
REPRESENTATIVE'

“Authorized representative” means any entity or individual designated by a state or local educational authority or an agency headed by an official listed in 34 C.F.R. 99.31(a)(3) to conduct- with respect to federal- or state-supported education programs- any audit, evaluation, or any compliance or enforcement activity in connection with federal legal requirements that relate to these programs.

BIOMETRIC
RECORD

“Biometric record” means a record of one or more measurable biological or behavioral characteristics that can be used for automated recognition of an individual (e.g., fingerprints, retina and iris patterns, voiceprints, DNA sequence, facial characteristics, and handwriting).

'DISCLOSURE'

“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 PROGRAM'	"Educational program" means any program that is principally engaged in the provision of education, including, but not limited to, early childhood education, elementary and secondary education, postsecondary education, special education, job training, career and technical education, and adult education, and any program that is administered by an educational agency or institution.
'PARENT'	"Parent" includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian.
'PERSONALLY IDENTIFIABLE INFORMATION'	"Personally identifiable information" includes, but is not limited to: <ol style="list-style-type: none">1. The student's name;2. The name of the student's parent or other family members;3. The address of the student or student's family;4. A personal identifier, such as the student's social security number, student number, or biometric record;5. Other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name;6. 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; or7. Information requested by a person who the School reasonably believes knows the identity of the student to whom the education record relates.

'RECORD'

"Record" means any information recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche.

34 C.F.R. 99.30(d)

'SIGNED AND
DATED WRITTEN
CONSENT'

"Signed and dated written consent" may include a record and signature in electronic form that:

1. Identifies and authenticates a particular person as the source of the electronic consent; and
2. Indicates such person's approval of the information contained in the electronic consent.

34 C.F.R. 99.30(d)

DISCLOSURE WITH
CONSENT

The parent or eligible student shall provide a signed and dated written consent before a district discloses personally identifiable information from a student's education records, except as provided by 34 C.F.R. 99.31. The written consent must specify the records that may be disclosed, state the purpose of the disclosure, and identify the part or class or parties to whom the disclosure may be made.

When a disclosure is made under written consent, if a parent or eligible student requests, the district shall provide a copy of the records disclosed and if the parent of a student who is not an

eligible student requests, the district shall provide the student with a copy of the records disclosed.

34 C.F.R. 99.30(a)-(c)

ACCESS BY PARENTS

The School shall give full rights under these provisions to either parent, unless it has been provided with evidence that there is a court order, state statute, or legally binding document that specifically revokes these rights. *34 C.F.R. 99.4*

A court may order the custodian of records to delete all references in a child's records to the place of residence of either party appointed as conservator before their release to another party appointed as conservator. *Family Code 153.012,*

A parent is entitled to access to all written records of the School concerning the parent's child, including attendance records, test scores, grades, disciplinary records, counseling records, psychological records, applications for admission, health and immunization information, teacher and counselor evaluations, and reports of behavioral patterns, and records relating to assistance provided for learning difficulties, including information collected regarding any intervention strategies used with the child.

"Intervention strategy" means a strategy in a multitiered system of supports that is above the level of intervention generally used in that system with all children. The term includes response to intervention and other early intervening strategies.

Education Code 26.004.

If the education records of a student contain information on more than one student, the parent or eligible student may inspect and review or be informed of only the specific information about that student. *34 C.F.R. 99.12(a)*

Parents are not entitled to records made confidential by law, including those files, reports, records, communications, audiotapes, videotapes, and working papers used or developed by the School in an investigation of child abuse or neglect under the Family Code or in providing services as a result of such an investigation.

ACCESS BY STUDENT

“Eligible student” means a student who has reached 18 years of age or is attending an institution of postsecondary education. 34 C.F.R. 99.3

When a student becomes an eligible student, the rights accorded to, and consent required of, parents under these provisions transfer from the parents to the student.

Nothing in this section prevents the School from disclosing education records, or personally identifiable information from education records, to a parent without prior written consent of an eligible student if the disclosure meets the conditions in 34 C.F.R. 99.31(a), including if the student is a dependent for tax purposes or in the case of a health or safety emergency.

34 C.F.R. 99.5, 31(a)(8), (a)(10), .36

[1]

[2]

ACCESS BY OTHER PERSONS

Personally identifiable information in education records shall not be released without the written consent of the student’s parents, except to the following:

SCHOOL
OFFICIALS

School officials, including teachers, who have legitimate educational interests. [3]

A contractor, consultant, volunteer, or other party to whom the School has outsourced institutional services or functions may be considered a school official under this paragraph provided that the outside party:

1. Performs an institutional service or function for which the School would otherwise use employees;
2. Is under the direct control of the School with respect to the use and maintenance of education records; and
3. Is subject to the requirements of 34 C.F.R. 99.33(a) governing the use and redisclosure of personally identifiable information from education records.

The School must use reasonable methods to ensure that school officials obtain access to only those education records in which they have legitimate educational interests. The School that does not use physical or technological access controls must ensure that its administrative policy for controlling access to education records is effective and that it remains in compliance with the legitimate educational interest requirement.

34 C.F.R. 99.31(a)(1)

An administrator, nurse, or teacher is entitled to access to a student's medical records maintained by the School for reasons determined in School policy. *Education Code 38.009*

OFFICIALS OF
OTHER SCHOOLS

Officials of educational agencies or institutions, including officials of other schools or school systems 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, provided that the School shall:

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1. Make a reasonable attempt to notify the parent or eligible student at the last known address of the parent or eligible student, unless:
 - a. The disclosure is initiated by the parent or eligible student; or
 - b. The annual notification under 34 CFR 99.7 includes a notice that the School forwards education records to other agencies or institutions that have requested records and in which the student seeks or intends to enroll or is already enrolled so long as the disclosure is for the purposes related to the student's enrollment or transfer;
2. Give the parent or eligible student, upon request, a copy of the record that was disclosed; and
3. Give the parent or eligible student, upon request, an opportunity for a hearing under 34 CFR Part 99, Subpart C.

34 CFR 99.31(a)(2), .34

AUTHORIZED
GOVERNMENTAL
REPRESENTATIVE
S

Authorized representatives of the officials or agencies headed by the Comptroller General of the United States, the Attorney General of the United States, the Secretary of Education, or state and local educational authorities who require access to student or other records necessary in connection with the audit and evaluation of federal- or state-supported education programs or in connection with the enforcement of or compliance with federal legal requirements that relate to such programs. *34 C.F.R. 99.35(a)(1)*

The School may not refuse to report information concerning a student holding an F, J, or M visa on the basis of the Family Educational Rights and Privacy Act (FERPA) and any regulation

implementing FERPA. The School is authorized and required to report information that would ordinarily be protected by FERPA only to the extent required by 8 U.S.C. 1372, 8 C.F.R. 214.3, or any corresponding regulation. *8 U.S.C. 1372(c)(2); 8 C.F.R. 214.1(h)*

FINANCIAL AND PERSONNEL Personnel involved with a student's application for, or receipt of, financial aid. *34 CFR 99.31(a)(4)(i)*

JUVENILE JUSTICE OFFICIALS State and local officials to whom such information is specifically allowed to be reported or disclosed by state statute if:

1. The allowed reporting or disclosure concerns the juvenile system and its ability to effectively serve, prior to adjudication, the student whose records are released; and
2. The officials and authorities to whom such information is disclosed certify in writing to the School that the information will not be disclosed to any other party except as provided under state law without the prior written consent of the parent of the student.

34 CFR 99.31(a)(5)(i), .38

The Superintendent or designee shall disclose information contained in a student's educational records to a juvenile service provider as required by Family Code 58.0051 [see GRA]. Education Code 37.084(a)

ORGANIZATIONS CONDUCTING STUDIES Organizations conducting studies for, or on behalf of, schools for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction. Such studies must be conducted so that personal identification of students and their parents will not be revealed to persons other than authorized personnel of the organizations conducting the studies who have legitimate interests in the

information. Such information must be destroyed when no longer needed for the original purposes of the studies.

The School must enter into a written agreement with the organization that:

1. Specifies the purpose, scope, and duration of the study or studies and the information to be disclosed;
2. Requires the organization to use personally identifiable information from education records only to meet the purpose or purposes of the study as stated in the written agreement;
3. Requires the organization to conduct the study in a manner that does not permit personal identification of parents and students, as defined in this part, by anyone other than representatives of the organization with legitimate interests; and
4. Requires the organization to destroy or return to the School all personally identifiable information when the information is no longer needed for the purposes for which the study was conducted and specifies the time period in which the information must be returned or destroyed.

The school that enters into an agreement with an organization conducting a study may redisclose personally identifiable information from education records on behalf of educational agencies and institutions that disclosed the information to the district in accordance with the requirements of 34 C.F.R. 99.33(b).

The School is not required to initiate a study or agree with or endorse the conclusions or results of the study.

34 CFR 99.31(a)(6)(i)-(iv)

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ACCREDITING ORGANIZATIONS Accrediting organizations that require the information for purposes of accreditation. *34 CFR 99.31(a)(7)*

HEALTH OR SAFETY EMERGENCY Appropriate persons, including the student's parents in connection with an emergency if the knowledge is necessary to protect the health or safety of the student or other individuals.

In making a determination, the School may take into account the totality of the circumstances pertaining to a threat to the health or safety of a student or other individuals. If the School determines that there is an articulable and significant threat to the health or safety of a student or other individuals, it may disclose information from education records to any person whose knowledge of the information is necessary to protect the health or safety of the student or other individuals. If, based on the information available at the time of the determination, there is a rational basis for the determination, the United States Department of Education will not substitute its judgment for that of the School in evaluating the circumstances and making its determination.

34 C.F.R. 99.31(a)(10), .36(a),(c)

SECRETARY OF AGRICULTURE The Secretary of Agriculture, or authorized representative from the Food and Nutrition Service, for the purposes of conducting program monitoring, evaluations, and performance measurements of districts receiving funding or providing benefits of programs authorized under the National School Lunch Act or the Child Nutrition Act for which the results will be reported in an aggregate form, on the conditions as follows:

1. Any data collected under this paragraph shall be protected in a manner that will not permit the personal identification of students and their parents by other than the authorized

representatives of the United States Secretary of Education;
and

2. Any personally identifiable data shall be destroyed when the data are no longer needed for program monitoring, evaluations, and performance measurements.

20 U.S.C. 1232g(b)(1)(K)

STATE OR LOCAL
CHILD WELFARE
AGENCY

An agency caseworker or other representative of a state or local child welfare agency who has the right to access a student's case plan when the agency is legally responsible, in accordance with state law, for the care and protection of the student. Records of the student shall not be disclosed by the agency, except to an individual or entity engaged in addressing the student's education needs and authorized by the agency to receive the disclosure. Any subsequent disclosure must be consistent with state laws applicable to protecting the confidentiality of a student's education records.

20 U.S.C. 1232g(b)(1)(L)

DIRECTORY
INFORMATION

Any person requesting directory information after the School has given public notice of that definition. *34 C.F.R. 99.37*

SUBPOENAED
RECORDS

The School shall release student records in compliance with a judicial order, or pursuant to any lawfully issued subpoena, except when a parent is a party to a court proceeding involving child abuse and neglect (as defined in section 3 of the Child Abuse Prevention and Treatment Act [42 USC 5101 note]) or dependency matters, and the order is issued in the context of that proceeding, additional notice to the parent by the educational agency or institution is not required. *20 USC 1232g(b)(1)(J), (b)(2)(B)*.

The School may disclose information under this section only if the School makes a reasonable effort to notify the parent or eligible student of the order or subpoena in advance of compliance, so that the parent or eligible student may seek protective action, unless the disclosure is in compliance with:

1. A federal grand jury subpoena and the court has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed;
2. Any other subpoena issued for a law enforcement purpose and the court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed; or
3. An ex parte court order obtained by the U.S. attorney general (or designee not lower than an assistant attorney general) concerning investigation or prosecutions of an offense listed in 18 USC 2332B(g)(5)(B) or an act of domestic or international terrorism as defined in 18 USC 2331.

If the School initiates legal action against a parent or student, the School may disclose to the court, without a court order or subpoena, the education records of the student that are relevant for the School to proceed with the legal action as plaintiff.

If a parent or eligible student initiates legal action against the School, the School may disclose to the court, without a court order or subpoena, the student's education records that are relevant for the School to defend itself.

34 CFR 99.31(a)(9)

SEX OFFENDERS

The School may disclose personally identifiable information without consent if the disclosure concerns sex offenders and other individuals required to register under section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. 14071, and the information was provided to the School under 42 U.S.C. 14071 and applicable federal guidelines. *34 C.F.R. 99.31(a)(16)*

REQUEST
PROCEDURE

Upon request of a properly qualified individual, access to a student's education record shall be granted within a reasonable period of time, not to exceed 45 days. The School shall respond to

reasonable requests for explanations and interpretations of the records. *34 C.F.R. 99.10*

DESTRUCTION OF RECORDS The School shall not destroy any education records if there is an outstanding request to inspect and review the records. *34 C.F.R. 99.10(e)*

DE-IDENTIFIED RECORDS The School, or a party that has received education records or information from education records, may release the records or information without the parent's written consent after the removal of all personally identifiable information provided that the School or other party has made a reasonable determination that a student's identity is not personally identifiable, whether through single or multiple releases, and taking into account other reasonably available information. *34 CFR 99.31(b)(1)*

EDUCATION RESEARCH The School, or a party that has received education records or information from education records, may release de-identified student level data from education records for the purpose of education research by attaching a code to each record that may allow the recipient to match information received from the same source, provided that:

1. The School or other party that releases de-identified data under this section does not disclose any information about how it generates and assigns a record code, or that would allow a recipient to identify a student based on a record code;
2. The record code is used for no purpose other than identifying a de-identified record for purposes of education research and cannot be used to ascertain personally identifiable information about a student; and

3. The record code is not based on a student's social security number or other personal information.

34 CFR 99.319(b)(2)

AUTHENTICATING REQUESTORS' IDENTITIES

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

34 C.F.R. 99.31(c)

TRANSFER NOT PERMITTED

Personal information from student education records shall be transferred to a third party only on the condition that such party will not permit any other party to have access to such information without the written consent of the student's parent. If a third party permits access to information in violation of this policy, or fails to destroy the information as required by 20 U.S.C. 1232g(b)(1)(F), the School shall not permit access to information from education records to that third party for a period of not less than five years. *20 U.S.C. 1232g(b)(4)(B); 34 C.F.R. 99.33(a)(1)*

The School shall inform a party to whom a disclosure is made of the requirements of 34 C.F.R 99.33, unless the disclosure is made pursuant to a court order, lawfully issued subpoena, or litigation; the disclosed information is directory information; the disclosure concerns sex offenders; or the disclosure is made to a parent of a student who is not an eligible student or to a student. *34 C.F.R. 99.33(c)-(d)*

The School may disclose personally identifiable information with the understanding that the party receiving the information may make further disclosures of the information on behalf of the School if:

1. The disclosures meet the requirements of 34 C.F.R. 99.31; and
2. The School has complied with the requirements of 34 C.F.R. 99.32(b) regarding the record of disclosure; or a state or local educational authority or federal official or agency listed requesting information through a subpoena or ex parte order has complied with the requirements of 34 C.F.R. 99.32(b)(2).

34 C.F.R. 99.33(b)

RECORD OF
ACCESS TO
STUDENT
RECORDS

The School shall maintain a record, kept with the education record of each student that indicates all individuals, agencies, or organizations that have requested or obtained access to a student's education records, as well as the names of state and local educational authorities and federal officials and agencies listed in 34 C.F.R. 99.31(a)(3) that may make further disclosures of personally identifiable information from the student's education records without consent. The School must obtain a copy of the record of further disclosures maintained by the named authorities, officials, and agencies under 34 C.F.R. 99.32(b)(2) and make it available in response to a parent's request to review the record.

The School must record the following information when it discloses personally identifiable information from education records under the health or safety emergency exception [see HEALTH & SAFETY EMERGENCY, above]:

1. The articulable and significant threat to the health or safety of a student or other individuals that formed the basis for the disclosure; and
2. The parties to whom the School disclosed the information.

34 C.F.R. 99.32

The records shall include at least the name of the person or agency that made the request and the legitimate interest the person or

agency had in the information. The record will be maintained as long as the School maintains the student's education record. The record of access shall be available only to parents, school officials responsible for custody of the records, and those state, local, and federal officials authorized to audit the operation of the system.

20 U.S.C. 1232g(b)(4)(A); 34 CFR 99.33(a)(2)

The record shall not include requests for access by, or access granted to, parents of the student or officials of the School, requests accompanied by prior written consent of the parent, requests for directory information, or a party seeking or receiving records in accordance with a subpoena or ex parte order.

34 C.F.R. 99.32(d)

RIGHT TO AMEND
RECORDS

The parent of a student whose records are covered by this policy may ask the School to amend the student's record if the parent believes it contains information that is inaccurate, misleading, or in violation of the student's right of privacy or other rights. If the School decides not to amend the education records requested, it shall inform the parent of its decision and his or her right to a hearing to challenge the content of the student's education records.*34 C.F.R. 99.20*

If the School decides to amend the records as a result of the hearing, it shall inform the parent in writing. If, as a result of the hearing, the School decides not to amend the records, it shall inform the parent of the right to place a statement in the records commenting on the contested information and/or stating why the parent disagrees with the decision of the School. Any explanation shall be maintained with the contested part of the record for as long as the record is maintained and shall be disclosed whenever the contested portion of the record is disclosed. *34 C.F.R. 99.21*

FEES FOR COPIES No fee shall be charged to search for or to retrieve the education records of a student. A fee may be charged for copies of education records that are made for the parents or an eligible student under this policy, unless the imposition of a fee effectively prevents a parent or eligible student from exercising their right to inspect and review those records. Hardship cases shall be dealt with on an individual basis. *20 U.S.C. 1232g; 34 C.F.R. 99.11; Education Code 26.012*

RECORDS OF STUDENTS WITH DISABILITIES The School shall permit parents to inspect and review education records collected, maintained, or used for purposes of identifying, evaluating, placing, or educating students with disabilities. *34 CFR 300.613(a)*

ACCESS RIGHTS In addition to policies applicable to all student records, the following guidelines shall apply when parents of a student with disabilities request to review or inspect School records relating to the education of their child:

1. Parents may request that a representative inspect and review the records. *34 C.F.R. 300.613(b)(3)*
2. The School shall comply with a request without unnecessary delay and before any meeting regarding an individualized education program (IEP) or hearing relating to the identification, evaluation, or placement of the child, and in no case longer than 45 days after the request. *34 C.F.R. 300.613(a)*
3. The School shall keep a record of persons obtaining access to these student records (except access by parents and authorized employees), including name, date of access, and the purpose for which the person is authorized to use the records. *34 C.F.R. 300.614*

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LIST OF TYPES
AND LOCATIONS
OF
INFORMATION

The School shall provide parents on request a list of types and locations of education records. *34 C.F.R. 300.616*

PARENTAL
CONSENT

Parental consent must be obtained before personally identifiable information is used for any purpose other than meeting a requirement under the Individuals with Disabilities Education Act or disclosed to anyone other than officials of agencies collecting or using this information. The School may not release information from these records without parental consent except as provided in FERPA. *34 C.F.R. 300.622*

CONFIDENTIALITY

The School shall protect the confidentiality of personally identifiable information in collection, storage, disclosure, and destruction of records. One official in the School shall assume responsibility for ensuring confidentiality of personally identifiable information. All persons collecting or using this information shall receive training or instruction concerning the legal requirements involved in handling these records. The School shall maintain for public inspection a current listing of the names and positions of employees who may have access to this information. *34 C.F.R. 300.623*

INFORMATION
DESTRUCTION

The School shall inform parents when personally identifiable information collected, maintained, or used to provide special education and related services is no longer needed to provide educational services to the student. Such information shall be destroyed at the request of the parents.

A permanent record of the student's name, address, phone number, grades, attendance record, classes attended, grade level

completed, and year completed may be maintained without time limitation.

34 C.F.R. 300.624

ANNUAL
NOTIFICATION OF
RIGHTS

The School shall give parents of students in attendance and eligible students in attendance annual notification of their rights under FERPA.

The notice must inform parents or eligible students that they have the right to:

1. Inspect and review the student's education records;
2. Seek amendment of the student's education records that the parent or eligible student believes to be inaccurate, misleading, or otherwise in violation of the student's privacy rights;
3. Consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that the Act and 34 C.F.R. 99.31 authorize disclosure without consent; and
4. File with the United States Department of Education a complaint under 34 C.F.R. 99.63 and 99.64 concerning alleged failures by the School to comply with the requirements of the Act and 34 C.F.R. part 99.

The notice must include all of the following:

1. The procedure for exercising the right to inspect and review education records.
2. The procedure for requesting amendment of records under 34 C.F.R. 99.20.
3. If the School has a policy of disclosing education records under 34 C.F.R. 99.31(a)(1), a specification of criteria for determining

who constitutes a school official and what constitutes a legitimate educational interest.

The School may provide this notice by any means that are reasonably likely to inform the parents or eligible students of their rights.

The School shall effectively notify parents who are disabled and parents of students who have a primary or home language other than English.

20 U.S.C. 1232g(e); 34 C.F.R. 99.7

SECTION III: DIRECTORY INFORMATION

DIRECTORY INFORMATION DEFINITION

“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. Directory information includes the student’s name, address, telephone listing, electronic mail address, photograph, date and place of birth, dates of attendance, grade level, enrollment status, participation in officially recognized activities and sports, weight and height of members of athletic teams, honors and awards received, and the most recent educational agency or institution attended. “Directory information” does not include a student’s:

1. Social security number; or
2. Student identification (ID) number, unless:
 - a. the student ID number, user ID number, or other unique personal identifier used by the student for purposes of accessing or communicating in electronic systems 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; or

- b. The student ID number or other unique personal identifier that is displayed on a student ID badge 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 PIN, password, or other factor known or possessed only by the authorized user.

34 C.F.R. 99.3

DISCLOSURE OF
DIRECTORY
INFORMATION

The School may release directory information if it has given public notice to parents of students in attendance and eligible students in attendance at the school of:

1. The types of personally identifiable information that it has designated as directory information.
2. A parent's or eligible student's right to refuse to let the School to designate any or all of that information about the student as directory information.
3. The period of time within which the parent must notify the School in writing that he or she does not want any or all of those types of information about the student designated as directory information.

RESTRICTION OF
THE RIGHT OF
REFUSAL

A parent or eligible student may not use the right of refusal to opt out of directory information disclosures to prevent the School from disclosing or requiring a student to disclose the student's name, identifier, or institutional e-mail address in a class in which the student is enrolled or to prevent a district from requiring a student to wear, to display publicly, or to disclose a student ID card or badge that exhibits information that may be designated as directory

information and that has been properly designated by the district as directory information in the public notice provided under this section.

FORMER STUDENTS

The School may disclose directory information about former students without satisfying the public notice conditions above. However, the School must continue to honor any valid request to opt out of the disclosure of directory information made while a student was in attendance unless the student rescinds the opt-out request.

CONFIRMATION OF IDENTITY OR RECORDS

The School may not disclose or confirm directory information without meeting the written consent requirements in 34 CFR 99.30 if a student's social security number or other non-directory information is used alone or combined with other data elements to identify or help identify the student or the student's records.

34 CFR 99.3, .37

HOMELESS STUDENTS

Information about a homeless child's living situation shall be treated as a student education record, and shall not be deemed to be directory information. *42 U.S.C. 11432(g)(3)(G)*

DESIGNATION OF DIRECTORY INFORMATION

The School may designate as directory information any or all information defined as directory information by FERPA. Directory information under that Act that is not designated by the School as directory information for that School is excepted from disclosure by the School under Government Code Chapter 552 (Public Information Act). [See GBA]

Directory information consented to by a parent for use only for a limited school-sponsored purpose, such as for a student directory,

student yearbook, or School publication, if any such purpose has been designated by the School, remains otherwise confidential and may not be released under Government Code Chapter 552.

- ANNUAL NOTICE The School shall provide the following to the parent of each School student, at the beginning of each school year or on enrollment of the student after the beginning of the school year:
1. A written explanation of the provisions of FERPA regarding the release of directory information about the student; and
 2. Written notice of the right of the parent to object to the release of directory information about the student under FERPA.

- CONTENTS OF NOTICE The notice must contain:
1. The following statement in boldface type that is 14-point or larger: “Certain information about TSD students is considered directory information and will be released to anyone who follows the procedures for requesting the information unless the parent or guardian objects to the release of the directory information about this student. If you do not want TSD to disclose directory information from your child’s education records without your prior written consent, you must notify the School in writing by [insert date]. TSD has designated the following information as directory information: [Here the School must include any directory information it chooses to designate as directory information for the School, such as a student’s name, address, telephone listing, electronic mail address, photograph, degrees, honors, and awards received, date and place of birth, major field of study, dates of attendance, grade level, most recent education institution attended, participation in officially recognized activities and

sports, and the weight and height of members of athletic teams.]”;

2. A form, such as a check-off list or similar mechanism, that:
 - a. Immediately follows, on the same page or the next page, the required statement; and
 - b. Allows a parent to record:
 - (1) The parent’s objection to the release of all directory information or one or more specific categories of directory information if Board policy permits the parent to object to one or more specific categories of directory information;
 - (2) The parent’s objection to the release of a secondary student’s name, address, and telephone number to a military recruiter or institution of higher education; and
 - (3) The parent’s consent to the release of one or more specific categories of directory information for a limited school-sponsored purpose if such purpose has been designated by the School and is specifically identified, such as for a student directory, student yearbook, or School publication; and
3. A statement that federal law requires Schools receiving assistance under the Elementary and Secondary Education Act of 1965 to provide a military recruiter or an institution of higher education, on request, with the name, address, or telephone number of a secondary student unless the parent has advised the School that the parent does not want the student’s information disclosed without the parent’s prior written consent.

Education Code 26.013

STUDENT
RECRUITING
INFORMATION

Notwithstanding the Directory Information provisions above, each School receiving assistance under the Elementary and Secondary Education Act of 1965 (ESEA) shall provide, on a request made by a military recruiter or an institution of higher education, access to secondary school students' names, addresses, and telephone listings unless a student's parent has submitted the prior consent request below.

CONSENT TO
RELEASE

A student who has attained 18 years of age or a parent of a secondary school student may submit a written request that the student's name, address, and telephone listing not be released for purposes described above not be released without prior written consent. Upon receiving such request, the School may not release the student's name, address, and telephone listing for such purposes without the prior written consent of the parent or student. The School shall notify parents of the option to make a request.

NO OPT-IN
PROCESS

Nothing in this provision shall be construed to allow the School to withhold access to a student's name, address, and telephone listing from a military recruiter or institution of higher education by implementing an opt-in process or any other process other than the written consent request process above.

20 U.S.C. 7908

The School shall:

1. Provide to military recruiters the same access to secondary school students as is provided generally to postsecondary educational institutions or to prospective employers of those students; and

2. Upon a request made by military recruiters for military recruiting purposes, provide access to secondary school student names, addresses, electronic mail addresses (which shall be the electronic mail addresses provided by the school, if available), and telephone listings, notwithstanding directory information requirements in FERPA [see above].

A district shall notify parents of their right to submit a request to the district that the student's name, address, electronic mail address, and telephone listing not be released.

10 U.S.C. 503(c)(1)(A)-(B) [See also GKC]

SECTION IV: VIDEOTAPES AND RECORDINGS

VIDEOTAPES AND
RECORDINGS
EXCEPTIONS

For information about videotaping or audio recording a child, see FA.

SECTION V: INFORMATION FROM LAW ENFORCEMENT

INFORMATION FROM
LAW ENFORCEMENT
ORAL NOTICE OF
ARREST OF
REFERRAL

Upon receipt of oral notice from a law enforcement agency that it has arrested a student or referred a student to the juvenile board for a specified offense [see GRA], the superintendent shall promptly notify all instructional and support personnel who have responsibility for supervising the student. All personnel shall keep the information received confidential.

WRITTEN NOTICE
OF ARREST OF
REFERRAL

Upon subsequent receipt of confidential, written notice of the arrest or referral, the superintendent or designee may send the information in the confidential notice to the School employee having

direct supervisory responsibility over the student if the superintendent or designee determines that the employee needs the information for educational purposes or for the protection of the person informed or others.

ORAL NOTICE OF
CONVICTION OR
ADJUDICATION

Upon receipt of oral notice from a prosecuting attorney of a student's conviction, deferred prosecution, or adjudication of a specified offense, including a statement as to whether the student is required to register as a sex offender, the Superintendent shall, within 24 hours of receiving the notice, notify all instructional and support personnel who have regular contact with the student.

NOTICE OF
TRANSFER OF
REENROLLMENT

Upon receipt of notice from a parole, probation, or community supervision office having jurisdiction over a student that a student has transferred or reenrolled, the superintendent of the School to which the student transfers or returns shall, within 24 hours of receiving the notice, notify all instructional and support personnel who have regular contact with the student.

A person who receives information described above shall not disclose it except as specifically authorized by Code of Criminal Procedure 15.27.

Code of Criminal Procedure 15.27

Information received by the School under this provision shall not be attached to the permanent academic file of the student who is the subject of the report. The School shall destroy the information at the end of the academic year in which the report was filed.

Education Code 37.017

DUTY TO FLAG
RECORDS

Upon receipt of notification from a law enforcement agency or the missing children and missing persons information clearinghouse that a child under 11 years of age who attended or who is enrolled

in the school is missing, the school shall flag the child's records and maintain the records in its possession so that on receipt of a request regarding the child, the school will be able to notify law enforcement or the missing children and missing persons information clearinghouse that a request for a flagged record has been made.

REQUEST IN
PERSON

When a request for a flagged record is made in person, the school may not advise the requesting party that the request concerns a missing child and shall:

4. Require the person requesting the flagged record to complete a form stating the person's name, address, telephone number, and relationship to the child for whom a request is made, and the name, address, and birth date of the child;
5. Obtain a copy of the requesting party's driver's license or other photographic identification, if possible;
6. If the request is for a birth certificate, inform the requesting party that a copy of a certificate will be sent by mail; and
7. Immediately notify the appropriate law enforcement agency that a request has been made concerning a flagged record and include a physical description of the requesting party, the identity and address of the requesting party, and a copy of the requesting party's driver's license or other photographic identification.

After providing the information listed above, the school shall mail a copy of the requested record to the requesting party on or after the 21st day after the date of the request.

REQUEST IN
WRITING

When a request for a flagged record is made in writing, the School may not advise the requesting party that the request concerns a

missing child and shall immediately notify the appropriate law enforcement agency that a request has been made concerning a flagged record and provide to the law enforcement agency a copy of the written request. After providing the notification, the school shall mail a copy of the requested record to the requesting party on or after the 21st day after the date of the request.

REMOVAL OF
FLAG

On the return of a missing child under 11 years of age, the law enforcement agency shall notify each school that has maintained flagged records for the child that the child is no longer missing. On receipt of this notification, the school shall remove the flag from the records.

A school that has reason to believe that a missing child has been recovered may request confirmation that the missing child has been recovered from the appropriate law enforcement agency or the missing children and missing persons information clearinghouse. If a response is not received after the 45th day after the date of the request for confirmation, the school may remove the flag from the record and shall inform the law enforcement agency or the missing children and missing persons information clearinghouse that the flag has been removed.

Code of Criminal Procedure 63.020–63.022