

## Student Educational Data

Policy: Student Educational Data (512)  
Adopted 01/28/2020

### I. PURPOSE

The purpose of this policy is to define education data, to identify various protections afforded to such data, and to establish procedures required by state and federal law.

### II. GENERAL STATEMENT OF POLICY

It is the policy of Bright Water Elementary School to fully comply with state and federal laws regarding the classification, maintenance and use of education data. Education data is governed by state law, Minn. Stat. §13.32. Education data is also governed by federal law, the Family Educational Rights and Privacy Act (FERPA) and its regulations in 34 CFR, Part 99.

### III. DEFINITIONS AND GENERAL PROVISIONS

- A. Education Data. "Education data" means data on students maintained by the school, or by a person acting for the school, which relates to a student.
- B. Eligible Student. "Eligible Student" means a student who has reached 18 years of age or is attending an institution of postsecondary education.
- C. Private Education Data. Unless there is a specific exception providing otherwise, education data is generally classified as "private" under state and federal law. With certain exceptions, (e.g., directory information, health and safety emergencies), education data may only be accessed by the student who is the subject of the data or the student's parent when appropriate and school officials with a legitimate educational interest as determined by the educational agency in accordance with applicable law.
- D. School Official. "School officials" who have access to student education records are those individuals at the school who need to know the contents of a student's education record in order to provide education services to the student. School officials will be allowed access to private education data without the consent of the parent or student if they have a legitimate "need to know".
- E. Directory Information. "Directory information" means education data that is available to anyone in the public. the school will notify parents each year which education data is designated as "directory information." Parents have the right to opt-out of including any of their students' data as directory information.
- F. Parent. "Parent" means a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent of the student in the absence of a parent or guardian. the school school officials may presume the parent has the authority to exercise the rights provided herein unless it has been provided with evidence that there is a state law or court order governing such matters as marriage dissolution, separation or child custody, or a legally binding instrument which provides to the contrary.
- G. Responsible Authority. "Responsible Authority" means the person (Head of School or Designee) appointed by the School Board who is ultimately responsible for the collection, use, and dissemination of all the school's data, and

for all of the school's data practices decisions. The Responsible Authority must ensure compliance with all of the requirements, duties, and obligations of the Minnesota Government Data Practices Act and accompanying rules.

#### IV. STATEMENT OF RIGHTS

- A. Rights of Parents and Students. Parents and students have the following rights under this policy:
  - 1. The right to inspect and review the student's education records;
  - 2. The right to request the amendment of the student's education records to ensure that they are not inaccurate, misleading, or otherwise in violation of the student's privacy or other rights;
  - 3. The right to consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that such consent is not required for disclosure pursuant to this policy, state or federal law;
  - 4. The right to file a complaint with the U.S. Department of Education concerning alleged failures by the school to comply with the federal law and the regulations promulgated thereunder;
  - 5. The right to be informed about rights under the federal law; and
  - 6. The right to obtain a copy of this policy.
- B. Transfer of Rights to Students Over Eighteen (18). All rights and protections given parents under this policy transfer to the student when he or she reaches eighteen (18) years of age or enrolls in an institution of post-secondary education. However, the parents of a student who is also a "dependent student" for federal tax purposes are entitled to gain access to the education records of such student without first obtaining the consent of the student. In addition, parents of an eligible student may be given access to education records in connection with a health or safety emergency if the disclosure meets the conditions of applicable federal regulations.
- C. Right to Inspect and Review Educational Records Procedure
  - 1. Authority to Inspect and Request Procedures
    - a) It is presumed that either parent of the student has authority to inspect or review the educational records of the student unless otherwise stated by law or the school has received evidence of a relevant legally binding instrument or court order providing to the contrary.
    - b) A request to inspect or review an educational record under Section IV(A)(1) of this policy shall meet all of the following requirements: (i) be written; (ii) identify the record or records as precisely as possible (iii) be signed and dated by the requestor; (vi) provide contact information for the requestor.
    - c) The Responsible Authority shall comply with the request for access to education records of the student within a reasonable time after receiving the request not exceeding ten (10) business days.

2. Records containing information on Multiple Students  
If the educational records of a student contain information on more than one student, the parent or eligible student may inspect, review, or be informed of only the specific information about the particular student.
  3. Fees for Copies of Records  
Bright Water Elementary School shall charge a reasonable fee for providing copies unless the fee effectively prevents a parent or eligible student from exercising their rights or the fee is part of the search for and/or the retrieval of the educational record. The amount of the fee shall be based on the following factors:
    - a) Costs of materials to provide copies;
    - b) Costs of labor to prepare copies
    - c) Any standard copying charges established by Minnesota Law.
    - d) Any special costs are necessary to produce copies from machine-based record-keeping systems including but not limited to computers, but excluding charges for separating public from private data.
    - e) Mailing costs.
- D. Right to Amend Educational Record Procedure
1. Amendment Request and Response
    - a) A request to amend an educational record under Section IV(A)(2) of this policy shall meet all of the following requirements: (i) be written; (ii) identify the information believed to be inaccurate, misleading, or in violation the privacy or other rights of the student (iii) state the reason for this belief; (iv) specify the correction desired for the record by the Responsible Authority; (v) be signed and dated by the requestor; (vi) provide contact information for the requestor.
    - b) The Responsible Authority shall decide whether to amend the education records of the student in accordance with the request within a reasonable time after receiving the request.
    - c) If the Responsible Authority decides to refuse the request to amend the educational records of the student, it shall inform the Parent or Eligible Student of the refusal and advice the Parent or Eligible Student of the right to request a hearing.
  2. Hearing Request & Results
    - a) If the Responsible Authority refuses to amend the educational record, the school shall, on request, an opportunity for a hearing to challenge the content of the student's education records on the grounds that the information contained in the education records is inaccurate, misleading, or in violation of the privacy rights of the student.
    - b) If, as a result of the hearing, the school decides that the information is inaccurate, misleading, or otherwise in violation of the privacy rights of the student, it shall amend the record

- accordingly and inform the parent or eligible student of the amendment in writing
- c) If, as a result of the hearing, the school decides that the information in the education record is not inaccurate, misleading, or otherwise in violation of the privacy rights of the student, it shall inform the parent or eligible student of the right to place a statement in the record commenting on the contested information in the record or stating why he or she disagrees with the decision of the school or both. This statement shall be maintained along with the contested part of the record for the life of the educational record, and disclosed whenever the related portion of the record is disclosed.
3. Hearing Conduct
- a) This hearing will be held within a reasonable time after the school receives the request, and the parent or eligible student will be given the date, time, and place of the hearing by the school reasonably in advance of the hearing.
  - b) The hearing may be conducted by any individual including an official of the school who does not have a direct interest in the outcome of the hearing.
  - c) The parent or eligible student will have a full and fair opportunity to present evidence relevant to the issues raised in the request for a hearing, and may, at their own expense, be assisted or represented by one or more individuals of his or her choosing including an attorney
  - d) Bright Water Elementary School will make its decision in writing within a reasonable time after the hearing. The decision must be based solely upon the evidence presented at the hearing, and must include a summary of the evidence and the reasons for the decision.

## V. WHEN PRIOR INFORMED CONSENT TO RELEASE EDUCATION RECORDS IS NOT REQUIRED

- A. In certain circumstances, the school may release information from the education records of a student without the prior informed consent of the parent of the student if the disclosure is consistent with state and federal laws governing such release. These circumstances include:
- 1. Pursuant to a valid subpoena or court order. However, the school must make 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:
    - 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;

- b) 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
  - c) An ex parte court order obtained by the United States Attorney General (or designee not lower than an Assistant Attorney General) concerning investigations or prosecutions of an offense listed in 18 U.S.C. 2332b(g)(5)(B) or an act of domestic or international terrorism as defined in 18 U.S.C. 2331.
- 2. Pursuant to a statute specifically authorizing access to the private data;
- 3. The disclosure is to other school officials, including teachers, if the officials are determined to have legitimate educational interests.
- 4. The disclosure is to officials of another school, school system, or institution of postsecondary education where 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;
- 5. To appropriate health authorities to the extent necessary to administer immunization programs and for bona fide epidemiologic investigations which the commissioner of health determines are necessary to prevent disease or disability to individuals in the public educational agency or institution in which the investigation is being conducted;
- 6. To appropriate school officials to the extent necessary to indicate the extent and content of remedial instruction, including the results of assessment testing and academic performance at a postsecondary institution during the previous academic year by a student who graduated from a Minnesota school district within two years before receiving the remedial instruction;
- 7. To volunteers who are determined to have a legitimate educational interest in the data and who are conducting activities and events sponsored by or endorsed by the educational agency or institution for students or former students;
- 8. To the Commissioner of Education for purposes of an assessment or investigation of a report of alleged maltreatment of a student. Upon request by the Commissioner data that are relevant to a report of maltreatment and are from the school's investigations of alleged maltreatment of a student must be disclosed to the commissioner, including, but not limited to, the following:
  - a) Information regarding the student alleged to have been maltreated;
  - b) Information regarding student and employee witnesses;
  - c) Information regarding the alleged perpetrator; and
  - d) The corrective or protective action was taken, if any, by the school facility in response to a report of maltreatment by an employee or agent of the school or school district.

9. The disclosure is information that the school has designated as “directory information”.

### **VI. HEALTH AND SAFETY EMERGENCIES**

- A. The school may disclose personally identifiable information from an education record to appropriate parties, in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals. In making this 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, the school 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.

### **VII. RECEIPT OF RECORDS REGARDING JUVENILE ADJUDICATIONS; SHARING INFORMATION**

- A. “Juvenile justice system” includes criminal justice agencies and the judiciary when involved in juvenile justice activities.
- B. Access by Juvenile Justice System.
  1. Request. Authorities in the juvenile justice system may request data if such data concerns the juvenile justice system and the ability of the system to effectively serve, prior to adjudication, the student whose records are released. The authorities to whom the data are released must first submit a written request for the data that certifies that the data will not be disclosed to any other person except as authorized by law without the written consent of the parent of the student and the request and a record of the release are maintained in the student's file. All requests must also include an explanation of why access to the data is necessary to serve the student.
  2. After a written request under B.1 has been made, the school must disclose the following education data to the juvenile justice system: a student's full name, home address, telephone number, date of birth; a student's school schedule, daily attendance record, and photographs, if any; and parents' names, home addresses, and telephone numbers.
  3. After a request under B.1 has been made, the school may also disclose the existence of the following data about a student:
    - a) Use of a controlled substance, alcohol, or tobacco;
    - b) Assaultive or threatening conduct that could result in dismissal from school;
    - c) Possession or use of weapons or look-alike weapons;
    - d) Theft; or
    - e) Vandalism or other damage to property.However, the school may not disclose the actual data or other information contained in the student's education record and the

school must notify the student's parent or guardian by certified mail of the request to disclose information before disclosing the information. If the student's parent or guardian notifies the school within ten days of receiving the certified notice that the parent or guardian objects to the disclosure, the school must not disclose the information. The school must inform the requesting member of the juvenile justice system of the objection. The school must respond to a data request within 14 days if no objection is received from the parent or guardian.

4. Notice to Parents. If the school receives a request to disclose information about a student to the juvenile justice system the school shall, to the extent permitted by federal law, notify the student's parent or guardian by certified mail of the request to disclose information before disclosing the information. If the student's parent or guardian notifies the school within ten days of receiving the certified notice that the parent or guardian objects to the disclosure, the school must not disclose the information. The school must inform the requesting member of the juvenile justice system of the objection.
- C. Receipt of Records from Juvenile Justice System
  1. Disposition Orders.
    - a) Filing. On receipt of a disposition order for a student, the [Chief administrative officer] must transfer the order to the school principal who must place the order in the student's educational record.
    - b) Notification. The principal must immediately notify any counselor directly supervising the student, and any other teacher or administrator who directly supervises the student with a legitimate educational purpose. The principal may also notify other district employees, substitutes, and volunteers who are in direct contact with the student with a legitimate educational purpose.
    - c) A person with a legitimate educational purpose under this part is a person whom the principal believes needs the data to work with the student in an appropriate manner, to avoid being needlessly vulnerable, or to protect other persons from needless vulnerability.
    - d) Notification contents. The notice given by the principal when receiving a disposition order under this part must: (i) identify the student; (ii) outline the offense; and (iii) describe any conditions of probation requiring the school to provide information.
    - e) Destruction. The disposition order must be destroyed from the educational record when the student graduates or at the end of the school year when the student reaches age 23, whichever is earlier.
    - f) Private data. The order for disposition is considered private educational data and may only be disseminated to those with a



- legitimate educational interest, the student, and the student's parents or otherwise required by law.
2. Probable Cause Notice.
    - a) Filing. If a required probable cause notice for a student is given to the school, the school must then place the notice in the student's educational record.
    - b) Notification. The principal must immediately notify any teacher, counselor, or administrator who directly supervising the student who has a legitimate educational purpose. The principal may notify other district employees, substitutes, and volunteers who are in direct contact with the student who has a legitimate educational purpose.
    - c) Notification contents. The notice given by the principal when receiving a disposition order under this part must: (i) identify the student; and (ii) describe the alleged offense.
    - d) Destruction. The notice must be destroyed after one year if the school does not receive an adjudicated order for disposition related to the probable cause notice.
    - e) Private data. The data received under this part is considered private educational data and may only be disseminated to those with a legitimate educational interest, the student, and the student's parents or otherwise required by law.
  3. Legitimate Educational Interest
    - a) For the purposes of this part only, a person with a legitimate educational purpose is a person whom the principal believes needs the data to work with the student in an appropriate manner, to avoid being needlessly vulnerable, or to protect other persons from needless vulnerability.

## VIII. DESIGNATION OF DIRECTORY INFORMATION AND RELEASE TO OUTSIDE ORGANIZATIONS

- A. Bright Water Elementary School has designated the following information as directory information:
  1. Student's Name;
  2. Dates of Attendance;
  3. Degrees and Awards received;
  4. Most recent Educational Agency or Institution attended;
  5. Participation in officially recognized activities and sports; and
  6. Weight and height of members of athletic teams
- B. Directory information may be disclosed to outside organizations without a parent's prior written consent. Outside organizations include, but are not limited to, companies that manufacture class rings or publish yearbooks.
- C. If a parent does not want the school to disclose directory information from a child's education records without prior written consent, parents must notify the



school by October 1st. To make this request, the parent should call the school main number.

### **IX. RELEASE OF INFORMATION TO MILITARY RECRUITERS**

- A. Bright Water Elementary School shall release to military recruiting officers the names, addresses, and home telephone numbers of students in grades 11 and 12 within 60 days after the date of the request. The school shall give parents and students notice of the right to refuse the release of this data to military recruiting officers. Notice may be given by any means reasonably likely to inform the parents and students of the right.
- B. Limits on Use of Information. Data released to military recruiting officers:
  - 1. May be used only for the purpose of providing information to students about military service, state and federal veterans' education benefits, and other career and educational opportunities provided by the military; and
  - 2. Shall not be further disseminated to any other person except personnel of the recruiting services of the armed forces.

### **X. WHEN PARENTS MAY BE DENIED ACCESS TO EDUCATION RECORDS**

- A. Minor's Requests for Denial of Access. In order to deny parental access to education data regarding a minor student, that student must request that the school deny such access in writing, must set forth the reasons for denying access to the parent and must sign the request. Upon receipt of such request, the school will determine if honoring the request to deny the parent access would be in the best interest of the minor student. In making this determination, the school will consider the following factors:
  - 1. Whether the minor student is of sufficient age and maturity to be able to explain the reasons for and understand the consequences of the request to deny access;
  - 2. Whether the personal situation of the minor student is such that denying parental access may protect the student from physical or emotional harm;
  - 3. Whether there are grounds for believing that the minor student's reasons for precluding parental access are reasonably accurate;
  - 4. Whether the data in question is of such a nature that disclosure of it to the parent may lead to physical or emotional harm to the minor data subject; and
  - 5. Whether the data concerns medical, dental or other health services provided pursuant to Minn. Stat. §§144.341-144.347, in which case the data may be released only if the failure to inform the parent would seriously jeopardize the health of the minor.
- B. Reports under the Maltreatment of Minors Reporting Act. Pursuant to Minn. Stat. §626.556, reports pertaining to a neglected and/or physically and/or sexually abused child shall be accessible only to the appropriate welfare and law enforcement agencies. In respect to other parties, such data shall be confidential and will not be made available to the parent or the subject individual by the school.

- C. Conditions Related to the Release of Investigative Data. Data collected by the school as part of an active investigation undertaken for the purpose of the commencement or defense of pending civil legal action, or which are retained in anticipation of a pending civil legal action are classified as “confidential data” and shall not be provided to individuals not associated with the investigation. Parents or eligible students may have access to investigative data of which the student is the subject, but only to the extent the data is not inextricably intertwined with data about other school students, school employees, and/or attorney data as defined in Minn. Stat. §13.393.
  - 1. A “pending civil legal action” for purposes of this subdivision is defined as including, but not limited to, judicial, administrative, or arbitration proceedings.
- D. Release of Information Related to Chemical Abuse. To the extent that the school maintains records of the identity, diagnosis, prognosis, or treatment of any student which are maintained in connection with the performance of any drug abuse prevention function conducted, regulated, or directly or indirectly assisted by any department or agency of the United States, such records are classified as confidential and shall be disclosed only for the purposes and under the circumstances expressly authorized by law.

### **XI. RESPONSIBLE AUTHORITY; RECORD SECURITY; AND RECORD KEEPING**

- A. Responsible Authority. The responsible authority shall be responsible for the maintenance and security of student records.
- B. Record Security. The principal of the school shall be the records manager of the school and shall have the duty of maintaining and securing the privacy and/or confidentiality of student records.
- C. Plan for Securing Student Records. The principal shall submit to the responsible authority a written plan for securing students records annually each school year. The written plan shall contain the following information:
  - 1. A description of records maintained;
  - 2. Titles and addresses of person(s) responsible for the security of student records;
  - 3. Location of student records, by category, in the buildings;
  - 4. Means of securing student records; and
  - 5. Procedures for access and disclosure.
- D. Review of Written Plan for Securing Student Records. The responsible authority shall review the plans submitted pursuant to paragraph “C” above for compliance with the law, this policy and the various administrative policies of the school. The responsible authority shall then promulgate a chart incorporating the provisions of Paragraph C. which shall become a part of this policy.
- E. Record Keeping. The Responsible Authority shall, for each request for and each disclosure of personally identifiable information from the education records of a student, maintain a record with the education records of the student which indicates:

1. The parties who have requested or received personally identifiable information from the education records of the student;
  2. The legitimate interests these parties had in requesting or obtaining the information; and
  3. The names of the state and local educational authorities and federal officials and agencies who may make further disclosures of personally identifiable information from the student's education records without consent.
- F. In the event that the school discloses personally identifiable information from an education record of a student pursuant to this policy, the record of disclosure required under this section shall also include:
1. The names of the additional parties to which the receiving party may disclose the information on behalf of the school district;
  2. The legitimate interests of this policy which each of the additional parties has in requesting or obtaining the information; and
  3. A copy of the record of further disclosures maintained by a state or local educational authority or federal official or agency listed in accordance with 34 C.F.R. §99.32 and to whom the school disclosed information from an education record.
- G. The school shall request a copy of the record of further disclosures from a state or local educational authority or federal official or agency to whom education records were disclosed upon a request from a parent or eligible student to review the record of requests for disclosure.

### Legal References

- Minn. Stat. §13.02 (Definitions)
- Minn. Stat. §13.05 (Duties of Responsible Authority)
- Minn. Stat. §13.32 (Educational Data)
- Minn. Stat. §121A.75 (Receipt of Records; Sharing)
- Minn. Stat. §260B.171 (Disposition Order & Peace Officer Records - Child)
- 20 U.S.C. 1232g(b)(1)(I) and (h) (Family Educational and Privacy Rights)
- 34 C.F.R. Part 99 (Family Education Rights and Privacy Act)
- Minn. R. 1205.0500 (Access to Private Data on Minors)