

## BOARD POLICY 347

### 347 - Student Records

A. Content of records – Student records include all records relating to an individual student other than notes or records maintained for personal use by teachers or other certified personnel which are not available to others, and records necessary for and available only to persons involved in the psychological treatment of a student.

1. Directory Data are those records that include the student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, photographs, degrees and awards received, and the name of the school most recently attended by the student.

2. Progress Records maintained by the school include the student's grades, statement of the courses the student has taken, the student's immunization records, attendance record, and the record of the student's extracurricular activities.

3. Behavioral Records maintained by the school includes psychological tests; personality evaluations; , the student's physical health records other than his/her immunization records, law enforcement agency records and any other student records which are not progress records shared records of conversations of students with others; tests relating specifically to achievement or measurement of ability; and any written statement relating specifically to an individual student's behavior.

a. "Law enforcement agency records" include those records and other information 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) an act for which a District student was taken into custody based on the law enforcement officer's belief that he/sh violated or was violating any state or federal criminal laws, and (4) the act for which a juvenile enrolled in the District was adjudged delinquent. The law enforcement agency may provide such record information to the District on its own initiative or on the request of the District Administrator or designee, subject to the agency's official policy. The District may also enter into an interagency agreement with law enforcement and other appropriate agencies to provide for the routine disclosure of record information in accordance with state law provisions. If a law enforcement agency denies access to any of the aforementioned records, the District may file a petition with the court seeking access to any of the aforementioned records, the District may file a petition with the court seeking access to the records based on legitimate educational or safety interests in the records. {NOTE: Districts no longer have to notify the student named in the records and the parent/guardian of any minor student named in the records once the law enforcement agency record information is received by the district. This state law change became effective 5/27/10.}

b. "Law enforcement unit records" include those records maintained by a law enforcement unit of the District that were created for the purpose of law enforcement. A "law enforcement unit of the District" is an individual, office, department, division or other component of the District that is authorized by the Board of Education to do any of the following: (1) enforce any law or ordinance, or refer to the appropriate authorities a matter for enforcement of any law or ordinance against any person other than the school district, and/or (2) maintain the physical security and safety of a public school.

c. "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.

#### 4. Health Records

a. "Physical health records" include basic health information about a student, including the student's 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.

b. "Patient health care records" include all records relating to the health of a student prepared by or under the supervision of a health care provider which are not included in the student "physical health records" definition above.

#### B. Confidentiality:

#### **All student records are confidential, with the following exceptions:**

1. A pupil, or the parent or guardian of minor pupil, shall, upon request be shown and provided with a copy of the pupil's progress records.
2. An adult pupil, or the parent or guardian of a minor pupil, shall, upon request by appointment, be shown, in the presence of a person qualified to explain and interpret the records and the pupil's behavioral records. Such pupil or parent or guardian shall, upon request, be provided with a copy of the behavioral records.
3. A parent shall have access to a student's school records regardless of whether the parent has legal custody of the child, unless the parent has been denied periods of physical placement with the child or ordered by the court.
4. The judge of any court of this state of the United States, shall, upon request, be provided by the school district clerk with a copy of all progress records of a pupil who is the subject of any proceeding in such court.
5. Pupil records may be made available to persons employed in the school which the pupil attends who are required by the Department of Public Instruction under Section 115.28 (7) to hold a certificate, license or permit. And other school district officials who have been determined by the school board to have legitimate educational interests, including safety interests, in the pupil records. 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.
6. Law enforcement officers' records obtained under s. 938.396 (1m) shall be made available as provided in s. 118.127 (2). Law enforcement agency record information 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 agency 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 / activity code.

7. The District shall disclose pertinent student records to an investigating law enforcement agency or district attorney if the person to whom the records are disclosed certifies in writing that the records concern the juvenile justice system and the system's ability to effectively serve the student, relate to an ongoing investigation or pending delinquency petition, and will not be disclosed to any other person except as otherwise authorized by law.

8. A school board member or an employee of a school district may not be held personally liable for any damages caused by the nondisclosure of any information specified in the paragraph unless the member or employee acted with actual malice in failing to disclose the information.

9. A school district may be held liable for any damages caused by the nondisclosure of any information specified in this paragraph unless the school district or its agent acted with gross negligence or with reckless, wanton or intentional misconduct in failing to disclose the information.

10. Upon the written permission of an adult pupil, or the parent or guardian of a minor pupil, the school shall make available to the person named in the permission form the pupil's progress records or such portions of his behavioral records as determined by the person authorizing the release. Law enforcement officers' records obtained under 938.396 (1m) may not be made available under this paragraph unless specifically identified by the adult pupil or by the parent or guardian of a minor pupil in the written permission.

11. Pupil 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 had 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.

12. The Board may provide any public officer with any information required under Chapters 115 to 121.

Upon request by the Department of Public Instruction, the school board shall provide the Department of Public Instruction with any information contained in a pupil record that relates to an audit or evaluation of a federal or state supported program or that is required to determine compliance with requirements under Chapters 115 to 121. The department shall keep confidential all pupil records provided to the department by a school board.

13. Release of Attendance Records. The school district clerk or his/her designee shall provide a law enforcement agency with a copy of a pupil's attendance record if the law enforcement agency certifies in writing that the pupil under investigation for allegedly committing a criminal or delinquent act and that the law enforcement agency will not further disclose the pupil's attendance record except as permitted under s. 938.396 (1) to (1r).

If school attendance is a condition of a child's dispositional order under s.48.355(2)(b)7 or 938.355(2)(b)7, the school board shall notify the county department that is responsible for supervising the child within 5 days after any violation of the condition by the child.

14. Release of Immunization Records. Information from a pupil's immunization records shall be made available to the department head and family services to carry out the purposes of ss. 254.11 to 254.178.

15. Release of Lead Screening Records. Information from any pupil lead screening records shall be made available to state and local health officials to carry out the purposes of ss. 254.11 to 254.178.

16. Release of Pupils Who Have Withdrawn from Public School Prior to Graduation. Upon request, the school district clerk or his/her designee shall provide the names of pupils who have withdrawn from the public school prior to graduation under 118.15(1)(c) to the technical college district board in which the public school is located or, for verification of eligibility for public assistance under chapter 49, to the department of health and family services, the department of workforce development or a county department under s. 46.215, 46.22 or 46.23.

17. Release of Directory Data. Except as specified below, directory data may be disclosed to any person, if the school has notified the parent, legal guardian or guardian ad litem of the categories of information which it has designated as directory data with respect to each pupil and has allowed 14 days for the parent, legal guardian, or guardian ad litem of that pupil to inform the school that all or any part of the directory data may not be released without the prior consent of the parent, legal guardian, or guardian ad litem.

If the parent, legal guardian, or guardian ad litem does not notify the school within the 14 day time frame (see section C above) that directory data may not be released, the school district clerk or his/her designee, upon request, shall provide a technical college district board with the name and address of each such pupil is expected to graduate from high school in the current school year.

If a parent, legal guardian, or guardian ad litem does not notify the school within the 14 day time frame (see section C above) that directory data may not be released without permission, the school district clerk or his/her designee, upon request, shall provide any representative of a law enforcement agency, as defined in s. 165.83(1)(b), district attorney, or corporation counsel, county department under 46.215, 46.22, or 46.23 or a court of record or municipal court with such information relating to any such pupil enrolled in the school district for the purpose of enforcing that pupil's school attendance, investigating alleged criminal or delinquent activity by the pupil or responding to a health or safety emergency.

18. Release of Adult Pupil's Records. A school board may disclose personally identifiable information from the pupil records of an adult pupil to the parents or guardian of an adult pupil, without the written consent of the adult pupil, if the adult pupil is a dependent of his or her parents or guardian under Internal Revenue Code, unless the adult pupil has informed the school, in writing, that the information may not be disclosed.

19. Release of Pupil Records in Compliance with Court Order. A school board shall disclose the pupil records of a pupil in compliance with a court order under s.48.345(12)(b), 938.34(7d)(b), 938.396(1m)(c), 938.78(2)(b)2. After making reasonable effort to notify the pupil's parent or legal guardian.

20. Release of Pupil Records to a Parent Who Has Been Denied Periods of Physical Placement with a Child. A parent who has been denied periods of physical placement with a child under s.767.24(4) does not have the rights of parent or guardian with respect to that child's pupil records.

21. Use of Pupil Records in Suspension and Expulsion Proceedings. Notwithstanding their confidential status, student records may be used in suspension and expulsion proceedings and by the multidisciplinary team under Section 115 of the Wisconsin Statutes.

C. Handling of Personally Identifiable Records:

The school building principal shall be responsible for the development and posting of a written list of designated individuals who handle personally identifiable data according to the function of:

1. Those authorized to transmit data.
  2. Those authorized to work with records in a professional way (e.g. teachers, psychologist, guidance counselors, etc.)
  3. Those authorized to process records (e.g. secretarial staff, clerical staff, etc.)
- D. Maintenance, Disclosure and Destruction of Student Records:
1. While students are attending school, their records shall be maintained in the school of attendance. Upon transfer of the student to another school operated by the district, the records shall be transferred to that school. Patient health care records, law enforcement agency and law enforcement unit records shall be maintained separately from a student's other records.
  2. The building principal shall have primary responsibility for maintaining the confidentiality of all student records kept at that school. Except as otherwise provided, all requests for inspection or for transfer to another school or school district should be directed to the building principal who will determine whether inspection or transfer is permitted under state and federal law and these procedures. The building principal or his/her qualified designee shall be present to interpret behavioral records when inspection is made under Section B(1)(b) above. Upon transfer of student records to the central administrative office, the District Administrator or his/her qualified designee shall assume these duties.
  3. 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 student;
    - a school official with legitimate educational interest;
    - 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.
  4. When the student ceases to be enrolled in a school operated by the District, his/her records will be maintained as follows:
    - a. Behavioral records will be maintained for no longer than one year after the student graduated from or last attended the school unless the student or his/her parent/guardian, if the student is a minor, gives permission that the records may be maintained for a longer period of time.
    - b. Student progress records shall be maintained for 30 years after the student ceases to be enrolled in the District.



5. The Director of Special Education shall be responsible for reviewing records of students with disabilities before they are destroyed. Parents/guardians and adult students shall be informed of information that is no longer needed to provide educational services to the student with a disability and of their right to obtain a copy of such information before it is destroyed.

6. Records will be destroyed in such a way to maintain student confidentiality.

E. Transfer of Records:

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

1. From an adult student or the parent or guardian of a minor student that the student intends to enroll in the other school or school district;
2. From the other school or school district that the student has enrolled; or
3. From a court that the student has been placed in a secured correctional facility, secured child caring institution, or a secured group home.

The District forwards student records as requested so long as the disclosure is for purposes related to the student's enrollment or transfer.

The District shall transfer student records as soon as practicable.

Legal Ref.: Sections 118.125, 118.126, 118.127, 118.51(8), 118.52(10), 146.81 – 146.84, 252.15, 767.41(7), 938.342(1r), 938.396, 950.08(2w) Wisconsin Statutes, Family Educational Rights and Privacy Act (20 USC Section 1232g, 34 CFR Part 99), Protection of Pupil Rights Provision of General Education Provisions Act (20 USC 1232h)

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