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EXPLANATION: STUDENT RECORDS

In 2013, Congress enacted the Uninterrupted Scholars Act. The Act made two changes to the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, designed to make it easier for school districts to share student records of foster care students with the agencies that work with those students.

Pursuant to the Act, school districts may share student records and information contained in student records with "agencies legally responsible for the care and protection of the student" without the consent of the parent. MSBA interprets this new exception to allow disclosure without parental consent only when the student is a foster child or otherwise in the legal custody of the state. In MSBA's opinion, the new exception does not apply to cases involving abuse or neglect of students where the parents still have custody, although another FERPA exception may allow release without consent in those situations. Further, the information released must be related to the individual's or agency's efforts to address the student's educational needs.

The Act also relieves the district of the obligation to notify parents before responding to a subpoena or court order in some circumstances. Currently, with very limited exceptions, if a district receives a subpoena or court order for the production of student records, the district is required to notify the parent before releasing those records to give the parent an opportunity to stop the release. With the new exception, districts can respond to the order or subpoena if it is related to a case of child abuse or neglect and the parent is a party or when it is related to "dependency" without first notifying the parent. "Dependency" refers to efforts by a court to place children in safe and permanent homes. During a dependency proceeding the court may issue orders and subpoenas to a school district in order to help determine or monitor the student's placement.

MSBA has also modified the definition of a "school official" to include care teams and threat-assessment teams. Districts frequently include community partners in those teams as well as employees. The federal government recently issued a document titled "Guide for Developing High-Quality School Emergency Operations Plans," which interprets FERPA to allow districts to share student education records with all members of the team as long as the members:

- 1. Perform a function that would otherwise involve employees;**
- 2. Are under the direct control of the district with respect to the use and maintenance of the records; and**

3. **Agree not to redisclose the records or information in the records unless otherwise allowed by law.**

For a copy of the guidance, see [http://rems.ed.gov/docs/REMS K-12 Guide 508.pdf](http://rems.ed.gov/docs/REMS_K-12_Guide_508.pdf).

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| <i>MSBA recommends that copies of this document be routed to the following areas because the content is of particular importance to them. The titles on this list may not match those used by the district. Please forward copies to the district equivalent of the title indicated.</i> | | | | | |
| | Board Secretary | X | Business Office | | Coaches/Sponsors |
| | Facility Maintenance | | Food Service | | Gifted |
| | Human Resources | X | Principals | | Library/Media Center |
| X | Health Services | X | Counselor | | Special Education |
| | Transportation | | Public Info/Communications | | Technology |

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STUDENT RECORDS

Definitions

For the purposes of this procedure, the following terms are defined:

Student – Any person who attends or has attended a school in the school district and for whom the district maintains education records.

Eligible Student – A student or former student who has reached age 18 or is attending a postsecondary school.

Parent – A biological or adoptive parent of a student, a guardian of a student, or an individual acting as a parent or guardian in the absence of the student's parent or guardian.

Education Record – A record that is directly related to a personally identifiable student and that is maintained by the school district or an agent acting on behalf of the school district. An education record may include information that is handwritten, in print or recorded using digital, electronic or other means and includes biometric records such as fingerprints. Education records do not include:

1. Records kept in the sole possession of the maker of the record, used only as a personal memory aid and not accessible or revealed to any other person except a temporary substitute for the maker of the record.
2. Records created and maintained by the school district law enforcement unit for law enforcement purposes.
3. An employment record that relates exclusively to an individual in his or her capacity as an employee of the school district and that is not available for use for any other purpose.
4. Records that contain information about a student after he or she is no longer in attendance at the district and that are not directly related to the person's attendance as a student, such as alumni records.
5. Grades on peer-graded papers before they are collected and recorded by a teacher.

Directory Information – Information contained in an education record of a student that generally would not be considered harmful or an invasion of privacy if disclosed. The school district defines directory information in policy JO.

Health Records – Any record relating to a student's health or disability including, but not limited to: doctor's orders, doctor's notes, medical evaluations, medical diagnoses, information regarding medications, Section 504 plans, individualized education programs (IEP) and individualized health plans (IHP). A health record is a type of education record.

School Official – A person who has a legitimate educational interest and who meets one of the following criteria:

1. A person employed by the district as an administrator, supervisor, instructor or support staff member, including health or medical staff.
2. A School Board member of the **FIELD**(DistrictCommonName).
3. A person paid by the district to perform a special task that requires access to student records, such as an attorney, auditor, medical consultant or therapist.
4. A person who is employed by the school district's law enforcement unit.
5. A person serving on an official committee, such as a disciplinary **committee, a care team, a threat-assessment team** or grievance committee, or who is assisting another school official in performing his or her tasks.
6. A contractor, consultant, volunteer or other party performing services on behalf of the district if 1) the service would have otherwise been performed by district employees, 2) the person or party is under the direct control of the district regarding the use and maintenance of education records, and 3) the person or party agrees to follow confidentiality laws regarding the redisclosure of information.

Legitimate Educational Interest – A school official has a legitimate educational interest if the official is:

1. Performing a task that is specified in his or her position description or by a contract **agreement**.
2. Performing a task related to a student's education in accordance with the school official's position.
3. Performing a task related to the discipline of a student in accordance with the school official's position.

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4. Providing a service or benefit relating to the student or student's family, such as healthcare, counseling, job placement or financial aid.
5. Maintaining the safety and security of the campus.
6. Under the direct supervision of a staff member and, with authorization from the district, assisting a staff member in performing his or her job.

Education Records

A. General

1. Education records shall be retained according to the guidelines set forth in the retention schedules developed by the Office of the Missouri Secretary of State. The district will not destroy an education record if there is an outstanding request by a parent or eligible student to inspect and review the record.
2. Teacher and staff comments on education records will be professional and for the limited purpose of serving the student.
3. Parents and/or students may refuse to disclose a student's Social Security number to the district unless required by law.
4. Pursuant to state law, the permanent record of a student reading below the fifth-grade reading level at the end of his or her sixth-grade year shall carry a notation advising that such student has not met minimal reading standards. The notation shall stay on the student's record until such time as the district determines that the student has met minimal reading standards.
5. It is the responsibility of the principal and the professional staff of the school to see that such records are kept secure and confidential and are utilized in accordance with the law.

B. Review of Education Records by Parents or Eligible Students

1. Education records shall be open for inspection by parents and eligible students. Both parents have access to their child's school records until and unless a court orders otherwise. Therefore, a copy of any applicable court order that restricts any parent's access to the student's education records must be filed with the school principal in order to certify to the district that a parent's access rights are limited or denied pursuant to the court's directions. If a school employee has good reason to believe,

based on personal knowledge or information from a reliable source, that a parent's access rights have been limited by a court order that is not on file with the district, the employee may delay access for a reasonable amount of time, but no longer than three business days, to afford the student's parent or the eligible student an opportunity to provide the school with the current applicable order.

2. The parents or the eligible student should submit to the school principal a written request that identifies as precisely as possible the record or records they wish to inspect. The principal (or appropriate school official) will make the needed arrangements for access as promptly as possible and notify the parent or eligible student of the time and place where the records may be inspected. Access must be given as soon as possible, but within three business days. However, the period for document production may exceed three days for reasonable cause.
3. If a parent or eligible student requests an education record that contains information on more than one identifiable student, the district will not disclose the record unless the district is able to effectively redact information pertaining to the other student(s), all parents or eligible students consent to the disclosure in writing, or the law otherwise allows for the disclosure.
4. If a parent or eligible student believes the education records related to the student contain information that is inaccurate, misleading or in violation of the student's privacy, he or she may ask the district to amend the record by following the appeals procedures outlined in this procedure.

C. Transfer of Education Records

1. The district will respond to a request for records from another school district enrolling a student within five business days of receiving the request. However, if the student's record has been marked pursuant to notification by the Missouri State Highway Patrol that the student has been classified as a missing child, the record shall not be forwarded to the requesting district, and the district will notify the missing persons unit of the Missouri State Highway Patrol of the record request.
2. Upon notification that a student has transferred to any other school district, the district will forward to the superintendent of the new district any written notification the **FIELD**(DistrictCommonName) has received from a juvenile officer, sheriff, chief of police or other appropriate law enforcement authority that a petition has been filed in juvenile court alleging that the student has committed an offense listed in § 167.115.1, RSMo., and the notification of disposition of such case.

D. Annual Notification of Rights to Parents and Students

1. The district shall annually notify eligible students currently in attendance and parents of students currently in attendance of their rights under the Family Educational Rights and Privacy Act (FERPA) and FERPA regulation by publication in the student handbook(s) or by distributing notification to the parents and eligible students at the beginning of the school year.
2. The district shall annually notify eligible students currently in attendance and parents of students currently in attendance of the directory information the district will release without written permission.
3. The district may notify parents of secondary school students that it is required to release the student's name, address and telephone listing to military recruiters and institutions of higher education upon request. Parents or eligible students may request that the district not release this information, and the district will comply with the request.
4. The district will notify parents at least annually of its policy on the collection, disclosure or use of personal information collected from students for the purpose of marketing or for selling that information or otherwise providing that information to others for a marketing purpose, including arrangements to protect student privacy that are provided by the district in the event of such collection, disclosure or use (see policies JHDA and KI). Parents will be directly notified annually at the beginning of the school year of the specific or approximate dates during the school year when such collection, disclosure or use of personal information is scheduled or expected to be scheduled. The district will also offer an opportunity for the parent or eligible student to opt the student out of participation in any such activity.

E. Annual Notification of Directory Information

1. The district shall annually notify parents and eligible students of the directory information the district will release without written consent. Parents or eligible students will have ten school days after the annual public notice to provide notice in writing to the school district that they choose to not have this information released. Unless notified to the contrary in writing within the ten-school-day period, the school district may disclose any of those items designated as directory information without the parent's or eligible student's prior written consent, including in print and electronic publications of the school district.

2. Even if a parent or eligible student notifies the district in writing that he or she does not want directory information disclosed, the district may still disclose the information if required or allowed to do so by law. For example, the district may require students to disclose their names, identifiers or district e-mail addresses in classes in which they are enrolled, or students may be required to wear, publicly display or disclose a student identification card or badge that exhibits information that is designated as directory information.
3. Directory information is considered a "public record" that must be released by the district to any person who requests it under the Missouri Sunshine Law.

F. Release of Education Records

Disclosure of information from a student's education records will be made only with the written consent of the parent or eligible student, subject to the following exceptions. The district may disclose education record information without consent in accordance with law, including when the disclosure is:

1. To school officials who have a legitimate educational interest in the records.
2. To officials of another school in which a student is enrolled or seeks or intends to enroll as long as the disclosure is for purposes related to the enrollment or transfer.
3. Directory information. If the district annually notifies parents and eligible students that directory information may be released without prior written consent and gives parents and eligible students the opportunity to notify the district in writing that they do not want the information released, the district may release directory information without prior consent.
4. To military recruiters or institutions of higher education that have requested the names, addresses and telephone listings of secondary school students. However, the district will honor a request from a secondary school student or his or her parent not to release the information.
5. To organizations conducting studies for or on behalf of the district or other educational agencies or institutions to develop, validate or administer predictive tests, administer student aid programs or improve instruction if the legal requirements for disclosure are met.
6. To state and local authorities, when allowed by state statute, if the disclosure concerns law enforcement's or juvenile justice authorities' ability to effectively serve,

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prior to adjudication, the student whose records are released. The officials and authorities to whom such information is disclosed may be required to certify in writing that the information will not be disclosed to any other party except as allowed by law or with the written consent of the parent.

7. To accrediting organizations to carry out their accrediting functions.
8. To parents of a dependent student, as defined in section 152 of the Internal Revenue Code of 1986.
9. To parents of a student who is not an eligible student or to the student.
10. To comply with a judicial order or a lawfully issued subpoena. Unless otherwise ordered, and except in cases where a parent is a party to a court proceeding involving child abuse or neglect or dependency matters and the order or subpoena is issued in the context of that proceeding, the district will 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 student may seek protective action.
11. In connection with a student's request for or receipt of financial aid to determine the eligibility, amount; or conditions of the financial aid or to enforce the terms and conditions of the aid.
12. To authorized representatives of the Comptroller General of the United States, the Attorney General of the United States, the Secretary of the United States Department of Education or state and local education authorities in connection with an audit or evaluation of federally or state-supported education programs or for the enforcement of or compliance with federal legal requirements relating to these programs.
13. To appropriate parties when there is an articulable and significant threat to the health or safety of a student or other persons. The nature of the threat and the persons to whom the information was disclosed must be recorded.
14. To an agency, caseworker or other representative of a state or local child welfare agency or tribal organization who has a right to access the student's case plan, as determined by the state or tribal organization, when such agency or organization is legally responsible for the care and protection of the student. This disclosure is limited to student records or information from those records used for the purpose of addressing the student's education needs.

- 15.** To other persons authorized to receive education records pursuant to FERPA and 34 C.F.R., Part 99, or other applicable laws.

G. Redisclosure

In accordance with law, the district may disclose personally identifiable information from education records only on the condition that the person to whom the information is disclosed will not redisclose the information to other persons or entities without the prior consent of the parent or eligible student. When required by law, a party may be required to first sign a statement in which he or she agrees to abide by this provision and agrees to use the information disclosed only for the purposes for which the disclosure was made. This provision does not apply to disclosures made to the officers, employees and agents of the person or entity to which the information was released for the purposes for which the disclosure was made; disclosures made to the student or parents of a dependent or minor student; disclosures made to comply with a judicial order or subpoena; and disclosures of directory information.

H. Recordkeeping

Unless exempted below, the school district will maintain a record of all requests for and disclosures of information from a student's education records. The district will maintain the record of requests and disclosures with the education records of the student as long as the records are maintained. The record will indicate the name of the party making the request, any additional party to whom the information may be redisclosed and the legitimate interest the party had in requesting or obtaining the information. The record may be reviewed by the parents or the eligible student.

When the district discloses personally identifiable information from education records to third parties without parental consent in a health or safety emergency, the district will record the articulable and significant threat to the health or safety of individuals that formed the basis for the disclosure and the parties to whom the district disclosed the information.

The district is not required to maintain a record of requests by or disclosures to:

1. The parent or eligible student.
2. School officials within the district who have a legitimate educational interest in the student's educational records.
3. A party with written consent from the parent or eligible student.

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4. A party seeking directory information.
5. A party seeking or receiving the records as directed by a law enforcement subpoena if the issuing 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.

I. Charging Fees

The district may charge a fee for copies of student education records, unless the charge effectively prevents a parent or eligible student from exercising the right to inspect and review the student's education records. The fee will not exceed the amount authorized under the Missouri Sunshine Law.

J. Appeals Procedures

Parents or eligible students have the right to request correction of education records that they believe are inaccurate, misleading or in violation of their privacy rights. Following are the procedures for the correction of education records:

1. Parents or the eligible student must ask the school district to amend a record. In so doing, they must identify the part of the record they want changed and specify why they believe it is inaccurate, misleading or in violation of the student's privacy rights. The request should be made to the building principal.
2. The building principal or an employee designated by the superintendent will decide, within a reasonable period of time after receiving the request, whether to amend the record as requested. The district will notify the parents or eligible student of the decision and, if the request for amendment is denied, will inform them of their right to a hearing to challenge the content of the student's education records on the grounds that the information included is inaccurate, misleading or in violation of the student's privacy rights.
3. The school district will hold a hearing within a reasonable period of time after a request for a hearing is received. The district will notify the parents or eligible student, reasonably in advance, of the date, place and time of the hearing.
4. The hearing will be conducted by a hearing officer who is a disinterested party; however, the hearing officer may be an official of the district. The parents or eligible student shall be afforded a full and fair opportunity to present evidence relevant to the issues raised in the original request to amend the student's education records. The

parents or eligible student may be assisted by one or more individuals of their choice, including an attorney.

5. The hearing officer will prepare a written decision based solely on the evidence presented at the hearing and provide a copy to the district and the parents or the eligible student within a reasonable period of time after the hearing. The decision will include a summary of the evidence presented and the reasons for the decision.
6. If the hearing officer decides that the information is inaccurate, misleading or in violation of the student's privacy rights, the district will amend the record and notify the parents or eligible student of the amendment in writing.
7. If the hearing officer decides that the challenged information is not inaccurate, misleading or in violation of the student's privacy rights, the district will notify the parents or eligible student that they have a right to place in the record a statement commenting on the challenged information and/or a statement setting forth reasons for disagreeing with the decision. The statement will be maintained as part of the student's education records as long as the contested portion is maintained. If the school district discloses the contested portion of the record, it must also disclose the statement.

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Note: The reader is encouraged to review policies and/or forms for related information in this administrative area.

Implemented: **FIELD**(AdoptDate)

Revised:

FIELD(DistrictLocationLine)