

## Protection and Privacy of Pupil Records

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### 1 Purpose

2 The school district recognizes its responsibility in regard to the collection, maintenance and  
3 dissemination of pupil records and the protection of the privacy rights of students as provided in federal  
4 law and state statutes.

### 5 Policy

6 The following procedures and policies regarding the protection and privacy of parents and students are  
7 adopted by the school district, pursuant to the requirements of 20 U.S.C. §1232g, et seq., (Family  
8 Educational Rights and Privacy Act) 34 C.F.R. Part 99 and consistent with the requirements of the  
9 Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, and Minn. Rules Parts 1205.0100-  
10 1205.2000.

### 11 Definitions

#### 12 A. Dates of Attendance

13 Date of attendance, as referred to in Directory Information, means the period of time during which a  
14 student attends or attended a school or schools in the school district. The term does not include specific  
15 daily records of a student's attendance at a school or schools in the school district.

#### 16 B. Dependent Student

17 A "dependent student" is an individual who during each of five (5) calendar months during the calendar  
18 year in which the taxable year of the parent begins:

- 19 1. is a full-time student at an educational institution; or
- 20 2. is pursuing a full-time course of instructional on-farm training under the supervision of an  
21 accredited agent of an educational institution or of a state or political subdivision of the  
22 state.

#### 23 C. Directory Information

24 “Directory information” means information contained in an education record of a student which would  
25 not generally be considered harmful or an invasion of privacy if disclosed. It includes, but is not limited  
26 to: the student’s name, address, telephone listing, electronic mail address, photograph, date and place of  
27 birth, major field of study, dates of attendance, grade level, enrollment status (i.e. full-time or part-time),  
28 participation in officially recognized activities and sports, weight and height of members of athletic  
29 teams, degrees, honors and awards received, and the most recent educational agency or institution  
30 attended. It also includes the name, address and telephone number of the student’s parent(s). Directory  
31 information does not include personally identifiable data which references religion, race, color, social  
32 position or nationality. Data collected from nonpublic school students, other than those who receive  
33 shared time educational services, shall not be designated as directory information unless written consent  
34 is given by the student’s parent or guardian.

35 D. Education Records

- 36 1. What constitutes “education records.” Education records means those records which: (1)  
37 are directly related to a student; and (2) are maintained by the school district or by a party  
38 acting for the school district.
- 39 2. What does not constitute an education record. The term “education records” does not  
40 include:
- 41 a. Records of instructional personnel which:
- 42 (1) are in the sole possession of the maker of the record; and
- 43 (2) are not accessible or revealed to any other individual except a substitute  
44 teacher; and
- 45 (3) are destroyed at the end of the school year.
- 46 b. Records of a law enforcement unit of the school district, provided educational  
47 records maintained by the school district are not disclosed to the unit, and the law  
48 enforcement records are:
- 49 (1) maintained separately from education records;
- 50 (2) maintained solely for law enforcement purposes; and
- 51 (3) disclosed only to law enforcement officials of the same jurisdiction.
- 52 c. Records relating to an individual, including a student, who is employed by the  
53 school district which:

- 55 (1) are made and maintained in the normal course of business;  
56 (2) relate exclusively to the individual in that individual's capacity as an  
57 employee; and  
58 (3) are not available for use for any other purpose.

59 However, these provisions shall not apply to records relating to an individual in  
60 attendance at the school district who is employed as a result of his or her status as a  
61 student.

62 d. Records relating to an eligible student, or a student attending an institution of post-  
63 secondary education, which are:

- 64 (1) made or maintained by a physician, psychiatrist, psychologist or other  
65 recognized professional or paraprofessional acting in his or her professional  
66 or paraprofessional capacity or assisting in that capacity;  
67 (2) made, maintained, or used only in connection with the provision of  
68 treatment to the student; and  
69 (3) disclosed only to individuals providing the treatment; provided that the  
70 records can be personally reviewed by a physician or other appropriate  
71 professional of the student's choice. For the purpose of this definition,  
72 "treatment" does not include remedial educational activities or activities  
73 that are a part of the program of instruction within the school district.

74 e. Records that only contain information about an individual after he or she is no  
75 longer a student at the school district.

76 E. Eligible Student

77 "Eligible student" means a student who has attained eighteen (18) years of age or is attending an  
78 institution of post-secondary education.

79 F. Juvenile Justice System

80 "Juvenile justice system" includes criminal justice agencies and the judiciary when involved in juvenile  
81 justice activities.

82 G. Legitimate Educational Interest

83 "Legitimate educational interest" includes interest directly related to classroom instruction, teaching,  
84 student achievement and progress, discipline of a student, student health and welfare, and the ability to  
85 respond to a request for education data. It includes a person's need to know in order to:

- 86 1. Perform an administrative task required in the school or employee’s contract or position  
87 description approved by the school board;
- 88 2. Perform a supervisory or instructional task directly related to the student’s education; or
- 89 3. Perform a service or benefit for the student or the student’s family such as health care,  
90 counseling, student job placement or student financial aid.
- 91 4. Perform a task directly related to responding to a request for data.

92 H. Parent

93 “Parent” means a parent of a student and includes a natural parent, a guardian, or an individual acting as a  
94 parent of the student in the absence of a parent or guardian. The school district may presume the parent  
95 has the authority to exercise the rights provided herein, unless it has been provided with evidence that  
96 there is a state law or court order governing such matters as marriage dissolution, separation or child  
97 custody, or a legally binding instrument which provides to the contrary.

98 I. Personally Identifiable

99 “Personally identifiable” means that the data or information includes, but is not limited to: (a) a student’s  
100 name; (b) the name of the student’s parent or other family member; (c) the address of the student or  
101 student’s family; (d) a personal identifier such as the student’s social security number or student number;  
102 (e) a list of personal characteristics that would make the student’s identity easily traceable; or (f) other  
103 information that would make the student’s identity easily traceable.

104 J. Record

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

107 K. Responsible Authority

108 “Responsible authority” means the executive director.

109 L. Student

110 “Student” includes any individual who is or has been in attendance, enrolled or registered at the school  
111 district and regarding whom the school district maintains education records. Student also includes  
112 applicants for enrollment or registration at the school district, and individuals who receive shared time  
113 educational services from the school district.

114 M. School Official

115 “School official” includes: (a) a person duly elected to the school board; (b) a person employed by the  
116 school board in an administrative, supervisory, instructional or other professional position; (c) a person  
117 employed by the school board as a temporary substitute in a professional position for the period of his or  
118 her performance as a substitute; and (d) a person employed by, or under contract to, the school board to  
119 perform a special task such as a secretary, a clerk, as public information officer or data practices  
120 compliance official, an attorney or an auditor for the period of his or her performance as an employee or  
121 contractor.

#### 122 N. Summary Data

123 “Summary data” means statistical records and reports derived from data on individuals but in which  
124 individuals are not identified and from which neither their identities nor any other characteristic that  
125 could uniquely identify the individual is ascertainable.

#### 126 O. Other Terms and Phrases

127 All other terms and phrases shall be defined in accordance with applicable state and federal law or  
128 ordinary customary usage.

### 129 **General Classification**

130 State law provides that all data collected, created, received or maintained by a school district are public  
131 unless classified by state or federal law as not public or private or confidential. State law classifies all  
132 data on individuals maintained by a school district which relates to a student as private data on  
133 individuals. This data may not be disclosed to parties other than the parent or eligible student without  
134 consent, except pursuant to a valid court order, certain state statutes authorizing access, and the  
135 provisions of 20 U.S.C. §1232g and the regulations promulgated thereunder.

### 136 **Statement of Rights**

#### 137 A. Rights of Parents and Eligible Students

138 Parents and eligible students have the following rights under this policy:

- 139 1. The right to inspect and review the student’s education records;
- 140 2. The right to request the amendment of the student’s education records to ensure that they  
141 are not inaccurate, misleading or otherwise in violation of the student’s privacy or other  
142 rights;
- 143 3. The right to consent to disclosures of personally identifiable information contained in the  
144 student’s education records, except to the extent that such consent is not required for  
145 disclosure pursuant to this policy, state or federal law, or the regulations promulgated  
146 thereunder;

147 4. The right to refuse release of secondary students' names, addresses, and home telephone  
148 numbers to military recruiting officers;

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150 5. The right to file a complaint with the U.S. Department of Education concerning alleged  
151 failures by the school district to comply with the federal law and the regulations  
152 promulgated thereunder;

153 6. The right to be informed about rights under the federal law; and

154 7. The right to obtain a copy of this policy at the location set forth in the COPIES OF  
155 POLICY section of this policy.

156 B. Eligible Students

157 All rights and protections given parents under this policy transfer to the student when he or she reaches  
158 eighteen (18) years of age or enrolls in an institution of post-secondary education. The student then  
159 becomes an "eligible student." However, the parents of an eligible student who is also a "dependent  
160 student" are entitled to gain access to the educational records of such student without first obtaining the  
161 consent of the student.

162 **Disclosure of Education Records**

163 A. Consent Required for Disclosure

164 1. The school district shall obtain a signed and dated written consent of the parent of a  
165 student or the eligible student before disclosing personally identifiable information from  
166 the education records of the student, except as provided herein.

167 2. The written consent required by this subdivision must be signed and dated by the parent of  
168 the student or the eligible student giving the consent and shall include:

169 a. a specification of the records to be disclosed;

170 b. the purpose or purposes of the disclosure;

171 c. the party or class of parties to whom the disclosure may be made; and

172 d. if appropriate, a termination date for the consent.

173 3. When a disclosure is made under this subdivision:

174 a. if the parent or eligible student so requests, the school district shall provide him or  
175 her with a copy of the records disclosed; and



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Whenever a student has attained eighteen (18) years of age or is attending an institution of post-secondary education, the rights accorded to and the consent required of the parent of the student shall thereafter only be accorded to and required of the eligible student, except as provided in the STATEMENT OF RIGHTS section of this policy.

## 211 B. Prior Consent for Disclosure Not Required

212 The school district may disclose personally identifiable information from the education records of a  
213 student without the written consent of the parent of the student or the eligible student unless otherwise  
214 provided herein, if the disclosure is:

- 215 1. To other school officials, including teachers, within the school district whom the school  
216 district determines have a legitimate educational interest in such records;
- 217 2. To officials of other schools or school districts in which the student seeks or intends to  
218 enroll. The records shall include information about disciplinary action taken as a result of  
219 any incident in which the student possessed or used a dangerous weapon, and with proper  
220 annual notice (See Part XIX.), suspension and expulsion information pursuant to section  
221 4155 of the federal **No Child Left Behind Act** and, if applicable, data regarding a student's  
222 history of violent behavior. The records also shall include a copy of any probable cause  
223 notice or any disposition or court order under Minn. Stat. § 260B.171, unless the data are  
224 required to be destroyed under Minn. Stat. § 120A.22, Subd. 7(c) or § 121A.75. On  
225 request, the school district will provide the parent or eligible student with a copy of the  
226 education records which have been transferred and provide an opportunity for a hearing to  
227 challenge the content of those records in accordance with the REQUEST TO AMEND  
228 RECORDS; PROCEDURES TO CHALLENGE DATA section of this policy;
- 229 3. To authorized representatives of the Comptroller General of the United States, the  
230 Attorney General of the United States, the Secretary of the U.S. Department of Education,  
231 or the Commissioner of the State Department of Education or his or her representative,  
232 subject to the conditions relative to such disclosure provided under federal law;
- 233 4. In connection with financial aid for which a student has applied or has received, if the  
234 information is necessary for such purposes as to:
  - 235 a. determine eligibility for the aid;
  - 236 b. determine the amount of the aid;
  - 237 c. determine conditions for the aid; or
  - 238 d. enforce the terms and conditions of the aid.

239 "Financial aid" for purposes of this provision means a payment of funds provided to an  
240 individual or a payment in kind of tangible or intangible property to the individual that is  
241 conditioned on the individual's attendance at an educational agency or institution;
- 242 5. To state and local officials or authorities to whom such information is specifically allowed  
243 to be reported or disclosed pursuant to state statute adopted:
  - 244 a. before November 19, 1974, if the allowed reporting or disclosure concerns the  
245 juvenile justice system and such system's ability to effectively serve the student  
246 whose records are released; or

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- 248           b.       after November 19, 1974, if the reporting or disclosure allowed by state statute  
249               concerns the juvenile justice system and the system’s ability to effectively serve,  
250               prior to adjudication, the student whose records are released, provided the officials  
251               and authorities to whom the records are disclosed certify in writing to the school  
252               district that the data will not be disclosed to any other party, except as provided by  
253               state law, without the prior written consent of the parent of the student. At a  
254               minimum, the school district shall disclose the following information to the  
255               juvenile justice system under this paragraph: a student’s full name, home address,  
256               telephone number, and date of birth; a student’s school schedule, attendance  
257               record, and photographs, if any; and parents’ names, home addresses, and  
258               telephone numbers;
- 259           6.       To organizations conducting studies for or on behalf of educational agencies or  
260               institutions for the purpose of developing, validating or administering predictive tests,  
261               administering student aid programs or improving instruction; provided that the studies are  
262               conducted in a manner which does not permit the personal identification of parents or  
263               students by individuals other than representatives of the organization and the information  
264               is destroyed when no longer needed for the purposes for which the study was conducted.  
265               For purposes of this provision, the term “organizations” includes, but is not limited to,  
266               federal, state and local agencies and independent organizations. In the event the  
267               Department of Education determines that a third party outside of the school district to  
268               whom information is disclosed violates this provision, the school district may not allow  
269               that third party access to personally identifiable information from education records for at  
270               least five years.
- 271           7.       To accrediting organizations in order to carry out their accrediting functions;
- 272           8.       To parents of a dependent student;
- 273           9.       To comply with a judicial order or lawfully issued subpoena, provided, however, that the  
274               school district makes a reasonable effort to notify the parent or eligible student of the  
275               order or subpoena in advance of compliance therewith so that the parent or eligible student  
276               may seek protective action, unless the disclosure is in compliance with a federal grand  
277               jury subpoena, or any other subpoena issued for law enforcement purposes, and the court  
278               or other issuing agency has ordered that the existence or the contents of the subpoena or  
279               the information furnished in response to the subpoena not be disclosed. In addition, if the  
280               school district initiates legal action against a parent or student it may disclose to the court,  
281               without a court order or subpoena, the education records of the student that are relevant  
282               for the school district to proceed with the legal action as plaintiff. Also, if a parent or  
283               eligible student initiates a legal action against the school district, the school district may

- 284 disclose to the court, without a court order or subpoena, the student’s education records  
285 that are relevant for the school district to defend itself.
- 286 10. To appropriate parties in connection with an emergency if knowledge of the information is  
287 necessary to protect the health or safety of the student or other individuals. In addition, an  
288 educational agency or institution may include in the educational records of a student  
289 appropriate information concerning disciplinary action taken against the student for  
290 conduct that posed a significant risk to the safety or well-being of that student, other  
291 students, or other members of the school community. This information may be disclosed  
292 to teachers and school officials within the school district and/or teachers and school  
293 officials in other schools who have legitimate educational interests in the behavior of the  
294 student;
- 295 11. To the juvenile justice system if information about the behavior of a student who poses a  
296 risk of harm is reasonably necessary to protect the health or safety of the student or other  
297 individuals;
- 298 12. Information the school district has designated as “directory information” pursuant to the  
299 RELEASE OF DIRECTORY INFORMATION section of this policy;
- 300 13. To military recruiting officers pursuant to the MILITARY RECRUITMENT section of  
301 this policy;
- 302 14. To the parent of a student who is not an eligible student or to the student himself or  
303 herself;
- 304 15. To appropriate health authorities to the extent necessary to administer immunization  
305 programs and for bona fide epidemiologic investigations which the commissioner of  
306 health determines are necessary to prevent disease or disability to individuals in the public  
307 educational agency or institution in which the investigation is being conducted;
- 308 16. To volunteers who are determined to have a legitimate educational interest in the data and  
309 who are conducting activities and events sponsored by or endorsed by the educational  
310 agency or institution for students or former students; or
- 311 17. To the juvenile justice system, on written request that certifies that the information will  
312 not be disclosed to any other person except as authorized by law without the written  
313 consent of the parent of the student:
- 314 a. the following information about a student must be disclosed: a student’s full  
315 name, home address, telephone number, date of birth; a student’s school schedule,  
316 daily attendance record, and photographs, if any; and any parents’ names, home  
317 addresses, and telephone numbers;

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- b. the existence of the following information about a student, not the actual data or other information contained in the student's educational record, may be disclosed provided that a request for access must be submitted on the statutory form and it must contain an explanation of why access to the information is necessary to serve the student: (1) use of a controlled substance, alcohol, or tobacco; (2) assaultive or threatening conduct that could result in dismissal from school under the Pupil Fair Dismissal Act; (3) possession or use of weapons or look-alike weapons; (4) theft; or (5) vandalism or other damage to property. Prior to releasing this information, the executive director or chief administrative officer of a school who receives such a request must, to the extent permitted by federal law, notify the student's parent or guardian by certified mail of the request to disclose information. If the student's parent or guardian notifies the school official of an objection to the disclosure within ten (10) days of receiving certified notice, the school official must not disclose the information and instead must inform the requesting member of the juvenile justice system of the objection. If no objection from the parent or guardian is received within fourteen (14) days, the school official must respond to the request for information.

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The written requests of the juvenile justice system member(s), as well as a record of any release, must be maintained in the student's file.

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18. To the executive director where the student attends and to any counselor directly supervising or reporting on the behavior or progress of the student if it is information from a disposition order received by a executive director under Minn. Stat. § 260B.171, Subd. 3. The executive director must notify the counselor immediately and must place the disposition order in the student's permanent education record. The executive director also must notify immediately any teacher or administrator who directly supervises or reports on the behavior or progress of the student whom the executive director believes needs the information to work with the student in an appropriate manner, to avoid being needlessly vulnerable, or to protect other persons from needless vulnerability. The executive director may also notify other school district employees, substitutes, and volunteers who are in direct contact with the student if the executive director determines that these individuals need the information to work with the student in an appropriate manner, to avoid being needlessly vulnerable, or to protect other persons from needless vulnerability. Such notices from the executive director must identify the student, outline the offense, and describe any conditions of probation about which the school must provide information if this information is provided in the disposition order. Disposition order information

355 received is private educational data received for the limited purpose of serving the  
356 educational needs of the student and protecting students and staff. The information may  
357 not be further disseminated by the counselor, teacher, administrator, staff member,  
358 substitute, or volunteer except as necessary to serve the student, to protect students and  
359 staff, or as otherwise required by law, and only to the student or the student's parent or  
360 guardian.

- 361 19. To the executive director where the student attends if it is information from a peace  
362 officer's record of children received by an executive director under Minn. Stat. §  
363 260B.171, Subd. 5. The executive director must place the information in the student's  
364 educational record. The executive director also must notify immediately any teacher,  
365 counselor, or administrator directly supervising the student whom the executive director  
366 believes needs the information to work with the student in an appropriate manner, to avoid  
367 being needlessly vulnerable, or to protect other persons from needless vulnerability. The  
368 executive director may also notify other district employees, substitutes, and volunteers  
369 who are in direct contact with the student if the executive director determines that these  
370 individuals need the information to work with the student in an appropriate manner, to  
371 avoid being needlessly vulnerable, or to protect other persons from needless vulnerability.  
372 Such notices from the executive director must identify the student and describe the alleged  
373 offense if this information is provided in the peace officer's notice. Peace officer's record  
374 information received is private educational data received for the limited purpose of serving  
375 the educational needs of the student and protecting students and staff. The information  
376 must not be further disseminated by the counselor, teacher administrator, staff member,  
377 substitute, or volunteer except to communicate with the student or the student's parent or  
378 guardian as necessary to serve the student, to protect students and staff, or as otherwise  
379 required by law.

380 The executive director must delete the peace officer's record from the student's  
381 educational record, destroy the data, and make reasonable efforts to notify any teacher,  
382 counselor, staff member, administrator, substitute, or volunteer who received information  
383 from the peace officer's record if the county attorney determines not to proceed with a  
384 petition or directs the student into a diversion or mediation program or if a juvenile court  
385 makes a decision on a petition and the county attorney or juvenile court notifies the  
386 executive director of such action.

### 387 C. Nonpublic School Students

388 The school district may disclose personally identifiable information from the education records of a  
389 nonpublic school student, other than a student who receives shared time educational services, without the  
390 written consent of the parent of the student or the eligible student unless otherwise provided herein, if the  
391 disclosure is:

- 392 1. Pursuant to a valid court order;
- 393 2. Pursuant to a statute specifically authorizing access to the private data; or
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- 395 3. To appropriate health authorities to the extent necessary to administer immunization
- 396 programs and for bona fide epidemiological investigations which the commissioner of
- 397 health determines are necessary to prevent disease or disability to individuals in the public
- 398 educational agency or institution in which the investigation is being conducted.

### 399 **Release of Directory Information**

#### 400 A. Classification

401 Directory information is public except as provided herein.

#### 402 B. Former Students

403 Unless a former student affirmatively opted out of the release of directory information in his or her last

404 year of attendance, the school district may disclose directory information from the education records

405 generated by it regarding the former student without meeting the requirements of Paragraph C. of this

406 section. In addition, under an explicit exclusion from the definition of an “education record,” the school

407 district may release records that only contain information about an individual obtained after he or she is

408 no longer a student at the school district.

#### 409 C. Present Students and Parents

410 The school district may disclose directory information from the education records of a student and

411 information regarding parents without prior written consent of the parent of the student or eligible

412 student, except as provided herein. Prior to such disclosure the school district shall:

- 413 1. Annually give public notice by any means that are reasonably likely to inform the parents
- 414 and eligible students of:
- 415 a. the types of personally identifiable information regarding students and/or parents
- 416 that the school district has designated as directory information;
- 417 b. the parent’s or eligible student’s right to refuse to let the school district designate
- 418 any or all of those types of information about the student and/or the parent as
- 419 directory information; and
- 420 c. the period of time in which a parent or eligible student has to notify the school
- 421 district in writing that he or she does not want any or all of those types of

422 information about the student and/or the parent designated as directory  
423 information.

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- 426 2. Allow a reasonable period of time after such notice has been given for a parent or eligible  
427 student to inform the school district, in writing, that any or all of the information so  
428 designated should not be disclosed without the parent's or eligible student's prior written  
429 consent, except as provided in the DISCLOSURE OF EDUCATION RECORDS section  
430 of this policy.

431 D. Procedure for Obtaining Nondisclosure of Directory Information

432 The parent's or eligible student's written notice shall be directed to the responsible authority and shall  
433 include the following:

- 434 1. Name of the student and/or parent, as appropriate;
- 435 2. Home address;
- 436 3. School presently attended by student;
- 437 4. Parent's legal relationship to student, if applicable; and
- 438 5. Specific categories of directory information to be made not public without the parent's or  
439 eligible student's prior written consent, which shall only be applicable for that school year.

440 E. Duration

441 The designation of any information as directory information about a student or parents will remain in  
442 effect for the remainder of the school year unless the parent or eligible student provides the written  
443 notifications provided herein.

444 **Disclosure of Private Records**

445 A. Private Records

446 For the purposes herein, education records are records which are classified as private data on individuals  
447 by state law and which are accessible only to the student who is the subject of the data and the student's  
448 parent if the student is not an eligible student. The school district may not disclose private records or their  
449 contents except as summary data, or except as provided in the DISCLOSURE OF EDUCATION  
450 RECORDS section of this policy, without the prior written consent of the parent or the eligible student.

451 B. Private Records Not Accessible to Parent

452 In certain cases state law intends, and clearly provides, that certain information contained in the  
453 education records of the school district pertaining to a student be accessible to the student alone, and to  
454 the parent only under special circumstances, if at all.

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457 1. The responsible authority may deny access to private data by a parent when a minor  
458 student who is the subject of that data requests that the responsible authority deny such  
459 access. The minor student's request must be submitted in writing setting forth the reasons  
460 for denying access to the parent and must be signed by the minor. Upon receipt of such  
461 request the responsible authority shall determine if honoring the request to deny the parent  
462 access would be in the best interest of the minor data subject. In making this  
463 determination the responsible authority shall consider the following factors:

464 a. whether the minor is of sufficient age and maturity to be able to explain the  
465 reasons for and understand the consequences of the request to deny access;

466 b. whether the personal situation of the minor is such that denying parental access  
467 may protect the minor data subject from physical or emotional harm;

468 c. whether there are grounds for believing that the minor data subject's reasons for  
469 precluding parental access are reasonably accurate;

470 d. whether the data in question is of such a nature that disclosure of it to the parent  
471 may lead to physical or emotional harm to the minor data subject; and

472 e. whether the data concerns medical, dental or other health services provided  
473 pursuant to Minn. Stat. §§ 144.341-144.347, in which case the data may be  
474 released only if the failure to inform the parent would seriously jeopardize the  
475 health of the minor.

476 C. Private Records Not Accessible to Student

477 Students shall not be entitled to access to private data concerning financial records and statements of the  
478 student's parent or any information contained therein.

479 **Disclosure of Confidential Records**

480 A. Confidential Records

481 Confidential records are those records and data contained therein which are made not public by state or  
482 federal law, and which are inaccessible to the student and the student's parents or to an eligible student.

483 B. Reports Under the Maltreatment of Minors Reporting Act

484 Pursuant to Minn. Stat. § 626.556, reports pertaining to a neglected and/or physically and/or sexually  
485 abused child shall be accessible only to the appropriate welfare and law enforcement agencies. In respect  
486 to other parties, such data shall be confidential and will not be made available to the parent or the subject  
487 individual by the school district. The subject individual, however, may obtain a copy of the report from  
488 either the local welfare agency, county sheriff or the local police department subject to the provisions of  
489 Minn. Stat. § 626.556, Subd. 11.

490 C. Investigative Data

491 Data collected by the school district as part of an active investigation undertaken for the purpose of the  
492 commencement or defense of pending civil legal action, or which are retained in anticipation of a  
493 pending civil legal action are classified as protected nonpublic data in the case of data not on individuals,  
494 and confidential data in the case of data on individuals.

- 495 1. The school district may make any data classified as protected non-public or confidential  
496 pursuant to this subdivision accessible to any person, agency or the public if the school  
497 district determines that such access will aid the law enforcement process, promote public  
498 health or safety, or dispel widespread rumor or unrest.
- 499 2. A complainant has access to a statement he or she provided to the school district.
- 500 3. Once a civil investigation becomes inactive, civil investigative data becomes public unless  
501 the release of the data would jeopardize another pending civil legal action, except for  
502 those portions of such data that are classified as not public data under state or federal law.  
503 Any civil investigative data presented as evidence in court or made part of a court record  
504 shall be public. For purposes of this provision, a civil investigation becomes inactive  
505 upon the occurrence of any of the following events:
  - 506 a. a decision by the school district, or by the chief attorney for the school district, not  
507 to pursue the civil legal action. However, such investigation may subsequently  
508 become active if the school district or its attorney decides to renew the civil legal  
509 action;
  - 510 b. the expiration of the time to file a complaint under the statute of limitations or  
511 agreement applicable to the civil legal action; or
  - 512 c. the exhaustion or expiration of rights of appeal by either party to the civil legal  
513 action.

- 514 4. A “pending civil legal action” for purposes of this subdivision is defined as including, but  
515 not limited to, judicial, administrative or arbitration proceedings.

## 516 **Disclosure of School Records Prior to Exclusion or Expulsion Hearing**

517 At a reasonable time prior to any exclusion or expulsion hearing, the student and the student’s parent or  
518 guardian or representative shall be given access to all school district records pertaining to the student,  
519 including any tests or reports upon which the action proposed by the school district may be based,  
520 pursuant to the Minnesota Pupil Fair Dismissal Act, Minn. Stat. § 121A.40, et seq.

## 523 **Disclosure of Data to Military Recruitment Officers**

524 A. The School District will release the names, addresses, and home telephone numbers of secondary  
525 students to military recruiting officers within sixty (60) days after the date of the request unless a parent  
526 or eligible student has refused in writing to release this data to military recruiters pursuant to Paragraph  
527 C. below.

528 B. Data released to military recruiting officers under this provision:

- 529 1. may be used only for the purpose of providing information to students about military  
530 service, state and federal veterans’ education benefits, and other career and educational  
531 opportunities provided by the military; and
- 532 2. cannot be further disseminated to any other person except personnel of the recruiting  
533 services of the armed forces.

534 C. A parent or eligible student has the right to refuse the release of the name, address, or home  
535 telephone number to military recruiting officers. To refuse the release of the above information to  
536 military recruiting officers, a parent or eligible student must notify the responsible authority, the  
537 executive director in writing, by January 1 each year. The written request must include the following  
538 information:

- 539 1. Name of student and parent, as appropriate;
- 540 2. Home address;
- 541 3. Student’s grade level;
- 542 4. School presently attended by student;
- 543 5. Parent’s legal relationship to student, if applicable;

- 544 6. Specific category or categories of information which are not to be released to military  
545 recruiters; and
- 546 7. Specific category or categories of information which are not to be released to the public,  
547 including military recruiters.
- 548 D. Annually, the school district will provide public notice by any means that are reasonably likely to  
549 inform the parents and eligible students of their rights to refuse to release the names, addresses, and home  
550 phone numbers of secondary students without prior consent.
- 551 E. A parent or eligible student's refusal to release the above information to military recruiting  
552 officers does not affect the school district's release of directory information to the rest of the public,  
553 which includes military recruiting officers. In order to make any directory information about a student  
554 private, the procedures contained in the RELEASE OF DIRECTORY INFORMATION section of this  
555 policy also must be followed. Accordingly, to the extent the school district has designated the name,  
556 address, phone number, and grade level of students as directory information, absent a request from a  
557 parent or eligible student not to release such data, this information will be public data and accessible to  
558 members of the public, including military recruiting officers.

## 559 **Limits On Redisclosure**

- 560 A. Redisclosure
- 561 Consistent with the requirements herein, the school district may only disclose personally identifiable  
562 information from the education records of a student on the condition that the party to whom the  
563 information is to be disclosed will not disclose the information to any other party without the prior  
564 written consent of the parent of the student or the eligible student, except that the officers, employees and  
565 agents of any party receiving personally identifiable information under this section may use the  
566 information, but only for the purposes for which the disclosure was made.
- 567 B. Redisclosure Not Prohibited
- 568 1. Subdivision A. of this section does not preclude the school district from disclosing  
569 personally identifiable information under the DISCLOSURE OF EDUCATION  
570 RECORDS section of this policy with the understanding that the party receiving the  
571 information may make further disclosures of the information on behalf of the school  
572 district provided:
- 573 a. The disclosures meet the requirements of the DISCLOSURE OF EDUCATION  
574 RECORDS section of this policy; and

575                   b.       The school district has complied with the record-keeping requirements of the  
576                   RESPONSIBLE AUTHORITY; RECORD SECURITY; AND RECORD  
577                   KEEPING section of this policy.

578                   2.       Subdivision A. of this section does not apply to disclosures made pursuant to court orders  
579                   or lawfully issued subpoenas or litigation, to disclosures of directory information, to  
580                   disclosures to a parent or student, or to parents of dependent students.

581   C.       Classification of Disclosed Data

582   The information disclosed shall retain the same classification in the hands of the party receiving it as it  
583   had in the hands of the school district.

584   D.       Notification

585   The school district shall, except for disclosures made pursuant to court orders or lawfully issued  
586   subpoenas, disclosure of directory information under the RELEASE OF DIRECTORY INFORMATION  
587   section of this policy, or disclosures to a parent or student, the school district shall inform the party to  
588   whom a disclosure is made of the requirements set forth in this section. In the event that the Family  
589   Policy Compliance Office determines that a third party improperly rediscloses personally identifiable  
590   information from education records, the educational agency or institution may not allow that third party  
591   access to personally identifiable information from education records for at least five years.

## 592   **Responsible Authority, Record Security; and Record Keeping**

593   A.       Responsible Authority

594   The responsible authority shall be responsible for the maintenance and security of student records.

595   B.       Record Security

596   The executive director of each school subject to the supervision and control of the responsible authority  
597   shall be the records manager of the school, and shall have the duty of maintaining and securing the  
598   privacy and/or confidentiality of student records.

599   C.       Plan for Securing Student Records

600   The executive director shall submit to the responsible authority a written plan for securing students  
601   records by September 1 of each school year. The written plan shall contain the following information:

- 602                   1.       A description of records maintained;
- 603                   2.       Titles and addresses of person(s) responsible for the security of student records;
- 604                   3.       Location of student records, by category, in the buildings;

605 4. Means of securing student records; and

606 5. Procedures for access and disclosure.

607 D. Review of Written Plan for Securing Student Records

608 The responsible authority shall review the plans submitted pursuant to Paragraph C. of this section for  
609 compliance with the law, this policy and the various administrative policies of the school district. The  
610 responsible authority shall then promulgate a chart incorporating the provisions of Paragraph C. which  
611 shall be attached to and become a part of this policy.

612 E. Record Keeping

613 1. The executive director shall, for each request for and each disclosure of personally  
614 identifiable information from the education records of a student, maintain a record with  
615 the education records of the student which indicates:

616 a. the parties who have requested or received personally identifiable information  
617 from the education records of the student; and

618 b. the legitimate interests these parties had in requesting or obtaining the information;

619 2. In the event the school district discloses personally identifiable information from an  
620 education record of a student pursuant to Paragraph B. of the LIMITS ON  
621 REDISCLOSURE section of this policy, the record of disclosure required under this  
622 section shall also include:

623 a. the names of the additional parties to which the receiving party may disclose the  
624 information on behalf of the school district; and

625 b. the legitimate interests under the DISCLOSURE OF EDUCATION RECORDS  
626 section of this policy which each of the additional parties has in requesting or  
627 obtaining the information.

628 3. Paragraph (1) of Record Keeping does not apply to requests by or disclosure to a parent of  
629 a student or an eligible student, disclosures pursuant to the written consent of a parent of a  
630 student or an eligible student, requests by or disclosures to other school officials under  
631 Paragraph B.1 of the DISCLOSURE OF EDUCATION RECORDS section of this policy,  
632 to requests for disclosures of directory information under the RELEASE OF  
633 DIRECTORY INFORMATION section of this policy, or to a party seeking or receiving  
634 the records as directed by a Federal grand jury or other law enforcement subpoena and the  
635 issuing court or agency has ordered that the existence or the contents of the subpoena or  
636 the information provided in response to the subpoena not be disclosed.

- 637 4. The record of requests of disclosures may be inspected by:
- 638 a. the parent of the student or the eligible student;
- 639 b. the school official or his or her assistants who are responsible for the custody of  
640 the records; and
- 641 c. the parties authorized by law to audit the record-keeping procedures of the school  
642 district.
- 643 5. The record of requests and disclosures shall be maintained with the education records of  
644 the student as long as the school district maintains the student's education records.

645 **Right to Inspect and Review Education Records**

646 A. Parent of a Student, an Eligible Student or the Parent of an Eligible Student Who is Also a  
647 Dependent Student

648 The school district shall permit the parent of a student, an eligible student or the parent of an eligible  
649 student who is also a dependent student who is or has been in attendance in the school district to inspect  
650 or review the education records of the student, except those records which are made confidential by state  
651 or federal law or as otherwise provided in the DISCLOSURE OF PRIVATE RECORDS section of this  
652 policy.

653 B. Response to Request for Access

654 The school district shall respond to any request pursuant to Subdivision A. of this section immediately, if  
655 possible, or within ten (10) days of the date of the request, excluding Saturdays, Sundays and legal  
656 holidays.

657 C. Right to Inspect and Review

658 The right to inspect and review education records under Subdivision A. of this section includes:

- 659 1. The right to a response from the school district to reasonable requests for explanations and  
660 interpretations of records; and
- 661 2. If circumstances effectively prevent the parent or eligible student from exercising the right  
662 to inspect and review the education records, the school district shall provide the parent or  
663 eligible student with a copy of the records requested, or make other arrangements for the  
664 parent or eligible student to inspect and review the requested records.
- 665 3. Nothing in this policy shall be construed as limiting the frequency of inspection of the  
666 educational records of a student with a disability by the student's parent or guardian or by  
667 the student upon the student reaching the age of majority.

668 D. Form of Request

669 Parents or eligible students shall submit to the school district a written request to inspect education  
670 records which identify as precisely as possible the record or records he or she wishes to inspect.

671 E. Collection of Student Records

672 If a student's education records are maintained in more than one location, the responsible authority may  
673 collect copies of the records or the records themselves from the various locations so they may be  
674 inspected at one site. However, if the parent or eligible student wishes to inspect these records where  
675 they are maintained, the school district shall attempt to accommodate those wishes. The parent or  
676 eligible student shall be notified of the time and place where the records may be inspected.

677 F. Records Containing Information on More Than One Student

678 If the education records of a student contain information on more than one student, the parent or eligible  
679 student may inspect and review or be informed of only the specific information which pertains to that  
680 student.

681

682

683 G. Authority to Inspect or Review

684 The school district may presume that either parent of the student has authority to inspect or review the  
685 education records of a student unless the school district has been provided with evidence that there is a  
686 legally binding instrument or a state law or court order governing such matters as marriage dissolution,  
687 separation or custody which provides to the contrary.

688 H. Fees for Copies of Records

689 1. The school district shall charge a reasonable fee for providing photocopies or printed  
690 copies of records unless printing a copy is the only method to provide for the inspection of  
691 data. In determining the amount of the reasonable fee, the school district shall consider  
692 the following:

693 a. the cost of materials, including paper, used to provide the copies;

694 b. the cost of the labor required to prepare the copies;

695 c. any schedule of standard copying charges established by the school district in its  
696 normal course of operations;

- 697 d. any special costs necessary to produce such copies from machine based record-  
698 keeping systems, including but not limited to computers and microfilm systems;  
699 and
- 700 e. mailing costs.
- 701 2. If 100 or fewer pages of black and white, letter or legal size paper copies are requested,  
702 actual costs shall not be used, and instead, the charge shall be no more than 25 cents for  
703 each page copied.
- 704 3. The cost of providing copies shall be borne by the parent or eligible student.
- 705 4. The responsible authority, however, may not impose a fee for a copy of an education  
706 record made for a parent or eligible student if doing so would effectively prevent or, in the  
707 case of a student with a disability, would impair the parent or eligible student from  
708 exercising their right to inspect or review the student's education records.
- 709 5. The school district reserves the right to make a charge for copies such as transcripts it  
710 forwards to potential employers or post-secondary institutions for employment or  
711 admissions purposes.

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## 715 **Request to Amend Records; Procedures to Challenge Data**

### 716 A. Request to Amend Education Records

717 The parent of a student or an eligible student who believes that information contained in the education  
718 records of the student is inaccurate, misleading or violates the privacy or other rights of the student may  
719 request that the school district amend those records.

- 720 1. The request shall be in writing, shall identify the item the requestor believes to be  
721 inaccurate, misleading or in violation of the privacy or other rights of the student, shall  
722 state the reason for this belief, and shall specify the correction the requestor wishes the  
723 school district to make. The request shall be signed and dated by the requestor.
- 724 2. The school district shall decide whether to amend the education records of the student in  
725 accordance with the request within a reasonable period of time after receiving the request.
- 726 3. If the school district decides to refuse to amend the education records of the student in  
727 accordance with the request, it shall inform the parent of the student or the eligible student

728 of the refusal and advise the parent or eligible student of the right to a hearing under  
729 Subdivision B. of this section.

730 B. Right to a Hearing

731 If the school district refuses to amend the education records of a student, the school district, on request,  
732 shall provide an opportunity for a hearing in order to challenge the content of the student's education  
733 records to ensure that information in the education records of the student is not inaccurate, misleading, or  
734 otherwise in violation of the privacy or other rights of the student. A hearing shall be conducted in  
735 accordance with Subdivision C. of this section.

736 1. If, as a result of the hearing, the school district decides that the information is inaccurate,  
737 misleading, or otherwise in violation of the privacy or other rights of the student, it shall  
738 amend the education records of the student accordingly and so inform the parent of the  
739 student or the eligible student in writing.

740 2. If, as a result of the hearing, the school district decides that the information is not  
741 inaccurate, misleading, or otherwise in violation of the privacy or other rights of the  
742 student, it shall inform the parent or eligible student of the right to place a statement in the  
743 record commenting on the contested information in the record or stating why he or she  
744 disagrees with the decision of the school district, or both.

745 3. Any statement placed in the education records of the student under Subdivision B. of this  
746 section shall:

747

748 a. be maintained by the school district as part of the education records of the student  
749 so long as the record or contested portion thereof is maintained by the school  
750 district; and

751 b. if the education records of the student or the contested portion thereof is disclosed  
752 by the school district to any party, the explanation shall also be disclosed to that  
753 party.

754 C. Conduct of Hearing

755 1. The hearing shall be held within a reasonable period of time after the school district has  
756 received the request, and the parent of the student or the eligible student shall be given  
757 notice of the date, place and time reasonably in advance of the hearing.

758 2. The hearing may be conducted by any individual, including an official of the school  
759 district who does not have a direct interest in the outcome of the hearing. The school

760 board attorney shall be in attendance to present the school board's position and advise the  
761 designated hearing officer on legal and evidentiary matters.

762 3. The parent of the student or eligible student shall be afforded a full and fair opportunity  
763 for hearing to present evidence relative to the issues raised under Subdivisions A. and B.  
764 of this section and may be assisted or represented by individuals of his or her choice at his  
765 or her own expense, including an attorney.

766 4. The school district shall make a decision in writing within a reasonable period of time  
767 after the conclusion of the hearing. The decision shall be based solely on evidence  
768 presented at the hearing and shall include a summary of evidence and reasons for the  
769 decision.

770 D. Appeal

771 The final decision of the designated hearing officer may be appealed in accordance with the applicable  
772 provisions of the Minn. Stat. Ch. 14 relating to contested cases.

### 773 **Problems Accessing Data**

774 A. The data practices compliance official is the designated employee to whom persons may direct  
775 questions or concerns regarding problems in obtaining access to data or other data practices problems.

776 B. Data practices compliance official means *[designate title and actual name of individual]*.

777

778

779

### 780 **Complaints for Noncompliance**

781 A. Where to File Complaints

782 Complaints regarding alleged violations of rights accorded parents and eligible students by 20 U.S.C.  
783 §1232g, and the rules promulgated thereunder, shall be submitted in writing to the Family Policy  
784 Compliance Office, U.S. Department of Education, 400 Maryland Avenue, S.W., Washington, D.C.  
785 20202-4605.

786 B. Content of Complaint

787 A complaint filed pursuant to this section must contain specific allegations of fact giving reasonable  
788 cause to believe that a violation of 20 U.S.C. §1232g and the rules promulgated thereunder has occurred.

789 **Waiver**

790 A parent or eligible student may waive any of his or her rights provided herein pursuant to 20 U.S.C.  
791 §1232g. A waiver shall not be valid unless in writing and signed by the parent or eligible student. The  
792 school district may not require such a waiver.

793 **Annual Notification of Rights**

794 A. Contents of Notice

795 The school district shall give parents of students currently in attendance and eligible students currently in  
796 attendance annual notice by such means as are reasonably likely to inform the parents and eligible  
797 students of the following:

- 798 1. That the parent or eligible student has a right to inspect and review the student's education  
799 records and the procedure for inspecting and reviewing education records;
- 800 2. That the parent or eligible student has a right to seek amendment of the student's  
801 education records to ensure that those records are not inaccurate, misleading, or otherwise  
802 in violation of the student's privacy or other rights and the procedure for requesting  
803 amendment of records;
- 804 3. That the parent or eligible student has a right to consent to disclosures of personally  
805 identifiable information contained in the student's education records, except to the extent  
806 that federal and state law and the regulations promulgated thereunder authorize disclosure  
807 without consent;
- 808 4. That the parent or eligible student has a right to file a complaint with the U.S. Department  
809 of Education regarding an alleged failure by the school district to comply with the  
810 requirements of 20 U.S.C. §1232g, and the rules promulgated thereunder;
- 811
- 812 5. The criteria for determining who constitutes a school official and what constitutes a  
813 legitimate educational interest for purposes of disclosing education records to other school  
814 officials whom the school district has determined to have legitimate educational interests;  
815 and
- 816 6. That the school district forwards education records on request to a school in which a  
817 student seeks or intends to enroll including suspension and expulsion records pursuant to  
818 the federal No Child Left Behind Act and, if applicable, a student's history of violent  
819 behavior.

820 B. Notification to Parents of Students Having a Primary Home Language Other Than English

821 The school district shall provide for the need to effectively notify parents of students identified as having  
822 a primary or home language other than English.

823 C. Notification to Parents or Eligible Students Who are Disabled

824 The school district shall provide for the need to effectively notify parents or eligible students identified as  
825 disabled.

## 826 **Destruction and Retention of Records**

827 Destruction and retention of records by the school district shall be controlled by state and federal law.

## 828 **Copies of Policy**

829 Copies of this policy may be obtained by parents and eligible students at the office of the executive  
830 director.

831

832 ***Legal References:*** Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)

833 Minn. Stat. § 120A.22 (Compulsory Instruction)

834 Minn. Stat. § 121A.75 (Sharing Disposition Order and Peace Officer Records)

835 Minn. Stat. § 121A.40-121A.56 (The Pupil Fair Dismissal Act)

836 Minn. Stat. § 144.341-144.347 (Consent of Minors for Health Services)

837 Minn. Stat. § 260B.171, Subds. 3 and 5 (Disposition Order and Peace Officer  
838 Records of Children)

839 Minn. Stat. § 626.556 (Reporting of Maltreatment of Minors)

840 Minn. Rules Parts 1205.0100-1205.2000

841 20 U.S.C. § 1232g et seq. (Family Educational Rights and Privacy Act)

842 20 U.S.C. § 6301 et seq. (No Child Left Behind)

843 26 U.S.C. §§ 151 and 152 (Internal Revenue Code)

844 34 C.F.R. §§ 99.1-99.67

845 Gonzaga University v. Doe, 536 U.S. 273 (2002)

846

847 ***Cross References:*** MSBA/MASA Model Policy 506 (Student Discipline)

- 848 MSBA/MASA Model Policy 519 (Interviews of Students by Outside Agencies)
- 849 MSBA/MASA Model Policy 520 (Student Surveys)
- 850 MSBA/MASA Model Policy 711 (Videotaping on School Buses)
- 851 MSBA Service Manual, Chapter 13, School Law Bulletin "I" (School Records –
- 852 Privacy – Access to Data)