

POLICY TITLE: FERPA Policy	
ADOPTION/EFFECTIVE DATE: July 3, 2012	MOST RECENTLY UPDATED: October 26, 2015

1. Each charter school board shall adopt and comply with the Model DC Charter School FERPA Policy (at Exhibit B) or adopt and comply with a policy that is consistent with the standards provided in this Model Policy. This board-adopted policy must be submitted to the PCSB by December 31, 2012.
2. The PCSB shall designate a FERPA Contact at PCSB. This individual will counsel charter schools with FERPA-related questions (including whether any specific information is considered “personally identifiable” under FERPA). This individual will also maintain PCSB’s FERPA records and serve as schools’ official contact.
3. That the Board adopt the following FERPA Policy:

**DISCLOSURE OF STUDENT RECORDS UNDER THE
FAMILY EDUCATIONAL RIGHTS PRIVACY ACT (FERPA)**

PURPOSE

To clarify the restrictions on disclosure of students' education records under the Family Educational Rights Privacy Act ("FERPA") for the District of Columbia Public Charter School Board (the "Board") and its employees.

POLICY

The Board may not release personally identifiable information contained within student education records to a third party unless such release is expressly permitted under FERPA. A student's education records under FERPA include all records directly related to the student and which are maintained by the Board. Records covered by FERPA therefore include, but are not limited to: grades, report cards, transcripts, attendance information, academic appeals, and records of any disciplinary proceedings. This list is not exhaustive and is provided only as an example of the wide range of information considered to be an "education record" under FERPA.

Definitions:

Eligible Student: A student 18 years of age or over. (Eligible Students have FERPA consent rights.)

Parent: A parent or legal guardian¹ of a student at a School.

School: A public charter school under the Board's jurisdiction.

Procedures:

Disclosure

The Board will protect the privacy of all student education records in its possession and will not disclose personally identifiable information within student education records to anyone other than the Parent or Eligible Student unless (1) the Parent or Eligible Student has provided prior written consent to such disclosure using the attached "Consent to Disclose Student Education Records" form (Exhibit A); (2) the information to be disclosed has been classified as "directory information" in Schools' annual FERPA notification (described further below); or (3) the disclosure is permitted under one or more FERPA exceptions, some of which are presented below, but must be specifically determined to apply in a particular circumstance by the Board before the disclosure occurs.

¹ The legal guardian of a student includes any individual or entity acting as a parent in the absence of a parent or guardian, including, but not limited to, any governmental agency or third party who is granted custody, care and control of a child or granted legal custody pursuant to a court order.

Consent to Disclose Student Education Records Form (“Consent Form”)

Unless the requested records are not covered by FERPA or an exception applies, a Parent or Eligible Student must provide advance written permission to release the student’s education records to a third-party. The Parent’s or Eligible Student’s permission must be given through completion of the attached Consent Form. No information may be released beyond the scope of the permission as indicated in the form.

Once completed, the signed Consent Form must be kept in the Board’s office. Parents or Eligible Students may revise their consent at any time during the year by completing a new form. No form shall be effective for more than one academic year.

Exceptions

Allowable Disclosures

There are several exceptions that permit the release of student education records under FERPA. The following are some common examples of parties who can receive disclosures without written consent in a manner that does not violate FERPA:

1. A contractor, consultant, volunteer to whom the Board has outsourced institutional services or functions, if the party is under the direct control of the Board and has met the Third-Party Requirements described below.
2. Other schools, school districts or institutions of postsecondary education in which the student is seeking to enroll or to transfer credits.
3. Authorized representatives of the Board, the District of Columbia Office of the State Superintendent of Education (“OSSE”), U.S. Department of Education (“DOE”), the U.S. Attorney General (“AG”), or the U.S. Comptroller General (“USCG”) for audit, evaluation, or compliance activity with respect to Federal or state education programs.
4. Other DC Government agencies for the purpose of providing benefits to eligible students (limited to Board-generated rosters of student names, addresses, and enrollment status).
5. Organizations conducting studies for, or on behalf of, the PCSB, the School, or another governmental entity provided such organization has met the Third-Party Requirements described below.
6. Schools’ accrediting agencies.
7. To appropriate parties, if necessary to protect the health or safety of a student or other individuals.
8. To comply with a judicial order or lawfully issued subpoena.

Responses to requests for student records can be made to the third-parties identified above. Board staff must notify the Board’s FERPA Contact prior to the release of these records, provided that such notification is feasible.

Recordkeeping Requirements

While the Board would be able to disclose students' records under any of the above exceptions, there are certain recordkeeping and notification requirements with respect to these disclosures. A record of the disclosure must be made in a FERPA disclosure file, which describes: (1) the party or parties who received the students' records; and (2) the legitimate interests of the party or parties had in requesting and obtaining the information. In the event that the disclosure is to an authorized representative of the Board, a School, OSSE, the DOE, AG, or USCG, the record of the disclosure may be made by class, school, or other appropriate grouping. (For example, if OSSE requested all student records for a particular School, a record could be made indicating that the entire School's student records were provided, rather than noting a disclosure for each student.)

Notification Requirements

If the Board receives a judicial order or lawfully issued subpoena, there are certain notification requirements it must make before disclosing the students' records. The Parent or Eligible Student must be notified of the order or subpoena in order to give an opportunity to seek protective action. Before disclosing student education records pursuant to a judicial order or lawfully issued subpoena, please consult with Board counsel.

Third-Party Requirements

If the Board discloses student records that contain personally identifiable information to an authorized representative, such as a contractor, consultant or research organization, a written agreement must be entered into between the Board and the data recipient. The agreement must specify the following:

1. The designated official or entity that constitutes an authorized representative;
2. The type of student records to be disclosed to the authorized representative;
3. The purpose for which the student records are being disclosed;
4. A requirement that the authorized representative must destroy any personally identifiable information when it is no longer needed for the purpose specified, and a time period in which the information will be destroyed; and
5. Policies and procedures to protect personally identifiable information within the students' records from re-disclosure and unauthorized use by the authorized representative.

Health and Safety Emergencies

The Board may disclose student education records that contain personally identifiable information to appropriate parties, including Parents, in connection with an emergency, if necessary to protect the health or safety of students or other individuals. In disclosing student records, a determination must be made that there is a clear and significant threat to individuals' health or safety. If a disclosure is made due to a health or safety emergency, the Board must record a description of the significant threat to students or other individuals that formed the basis for the disclosure, and the parties who received the information.

Other FERPA Requirements:

Right to Request Inspection of Student Records

Every Parent or Eligible Student must be allowed to personally inspect copies of his or her records upon request. The Board must therefore either provide copies of student records to Parents and Eligible Students upon request, or make arrangements to allow for inspection of requested records within 45 days of when the request was received.

A reasonable fee for copies of student records may be charged, but not if imposition of a fee will prevent the Parent or Eligible Student from receiving copies of the records. No fee may be charged solely in order to search for or retrieve a student's education records.

Right to Request Amendments to Records and Hearings

If a Parent or Eligible Student believes that the education records maintained by the Board relating to the student contains information that is inaccurate or misleading, he or she may ask, in writing, for the records to be amended. If, based on that written statement, Board staff decides not to amend the records as requested it must inform the Parent or Eligible Student of its decision and the right to a hearing. The hearing may be conducted by any Board staff who was not involved in the initial decision not to accept the Parent's or Eligible Student's request to amend the relevant records.

In the event of a hearing, if the Board staff who conducted the hearing decides that the information in question is inaccurate or misleading, it must direct relevant staff to amend the records accordingly and inform the Parent or Eligible Student of the amendment in writing. If, on the other hand, Board staff decides that the information is not inaccurate or misleading, they must provide a decision in writing and inform the Parent or Eligible Student of the right to place a statement in the records commenting on the contested information. Board staff's decision must be based solely on the evidence presented at the hearing, and must include a summary of the evidence and the reasons for the decision.

Reasonable Protection of Student Information

The Board will ensure that Board employees may obtain access to only those education records in which they have legitimate educational interests. The Board will use physical and technological access controls as well as an administrative policy for controlling access to education records.

Staff plans to adopt the following practices for anonymizing and aggregating student data for all PCSB data reports. The proposed practices are:

1. The minimum population "n-size" for any rate or average shall be 10. This minimum applies to the total population considered in a group, i.e. the denominator of a calculation. In joint publications with other organizations, to preserve citywide continuity, or to follow an established business-rule, PCSB may use n-size minimums greater than 10.
2. In cases of sensitive, negative data publication, PCSB will not publish aggregated data at the LEA, campus, or subgroup level which results in a greater than 95% or less than 5% rate.

Instead, these will be published as “>95%” or “<5%.” This practice applies to the following data:

- Poor academic performance (e.g. 0% proficient on DC CAS/AP/SAT or 0% graduation rate for a specific subgroup)
- Discipline (e.g. 100% suspension rate, 100% expulsion rate of a specific subgroup)

Beyond these specific cases, PCSB staff will continue to use their best judgment under these guiding principles

Examples:

Example	Publish?	Rationale	Implementation
7 of 140 students were suspended.	Y	The 10 n-size minimum applies to the denominator.	
7 of 9 students in sixth grade were suspended.	N	The population does not meet the n-size minimum.	Do not publish sixth grade suspension rate. Consider publishing data for a larger population, such as all middle school students.
2 of 140 students were advanced on DC CAS math.	N	PCSB will not publish <5% or >95% rates for negative, sensitive data.	Instead, publish that <5% of students were advanced on DC CAS math. When feasible, avoid publishing n-size of these calculations.
0 of 140 students were suspended.	Y	PCSB will publish 0% or 100% for positive data.	

EXHIBIT A
CONSENT TO DISCLOSE STUDENT EDUCATION RECORDS

Student's Name _____

Age of Student _____

Parent's Name (if student is under 18) _____

Student Social Security # _____

I know that the Family Education Rights and Privacy Act of 1974 as amended protects the privacy of student education records and limits access to the information contained in those records.

I have indicated below the party or parties who may have information from my education records:

1) Name: _____ Relationship: _____

Address: _____

City, State, Zip: _____

Phone: (_____) _____

2) Name: _____ Relationship: _____

Address: _____

City, State, Zip: _____

Phone: (_____) _____

PLEASE INITIAL ALL AREAS THAT APPLY:

1. If asked, I want the above named individual(s) to receive student records regarding: _____

2. The purpose of disclosing the student records is as follows: _____

Date

Printed Name

**The consent provided by this form
is effective for only the current
academic year.**

Student's Signature (if student is 18 or over)
Parent's Signature (if student is under 18)

EXHIBIT B

MODEL DC CHARTER SCHOOL FERPA POLICY DISCLOSURE OF STUDENT RECORDS UNDER THE FAMILY EDUCATIONAL RIGHTS PRIVACY ACT (FERPA)

Purpose: To clarify the restrictions on disclosure of students' education records under the Family Educational Rights Privacy Act ("FERPA") for _____ charter school ("School") and its employees.

Policy: The School may not release personally identifiable information contained within student education records to a third party unless such release is expressly permitted under FERPA. A student's education records under FERPA include all records directly related to the student and which are maintained by a School. Records covered by FERPA therefore include, but are not limited to: grades, report cards, transcripts, attendance information, academic appeals, and records of any disciplinary proceedings. This list is not exhaustive and is provided only as an example of the wide range of information considered to be an "education record" under FERPA.

Definitions:

Eligible Student: A student 18 years of age or over. (Eligible Students have FERPA consent rights)

Parent: A parent or legal guardian¹ of a student at a School.

PCSB FERPA Contact: Staff member or designee of D.C. Public Charter School Board ("PCSB") designated as the School's point of contact on FERPA-related issues and compliance.

Procedures:

Disclosure

The School will protect the privacy of all student education records and will not disclose personally identifiable information within student education records to anyone other than the

¹ The legal guardian of a student includes any individual or entity acting as a parent in the absence of a parent or guardian, including, but not limited to, any governmental agency or third party who is granted custody, care and control of a child or granted legal custody pursuant to a court order.

Parent or Eligible Student unless (1) the Parent or Eligible Student has provided prior written consent to such disclosure using the attached “Consent to Disclose Student Education Records” form; (2) the information to be disclosed has been classified as “directory information” in the School’s annual FERPA notification (described further below); or (3) the disclosure is permitted under one or more FERPA exceptions, some of which are presented below, but must be specifically determined to apply in a particular circumstance by the School’s administration before the disclosure occurs.

Consent to Disclose Student Education Records Form (“Consent Form”)

Unless the requested records are not covered by FERPA, have been classified “directory information” in the annual FERPA notification, or another exception applies, a Parent, or Eligible Student must provide advance written permission to release the student’s education records to an outside third-party. The Parent’s or Eligible Student’s permission must be given through completion of the attached Consent Form. No information may be released beyond the scope of the permission as indicated in the form.

Once completed, the signed Consent Form will be kept in the School’s office. Parents or Eligible Students may revise their consent at any time during the year by completing a new form. No form shall be effective for more than one academic year.

Directory Information

Allowable Information

The School may disclose student information that has been classified as “directory information” in its annual FERPA notification. Directory information refers to information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed.

Directory information includes, but is not limited to, the following student information:

1. Student name
2. Address and telephone number
3. E-mail address
4. Photograph
5. Date and place of birth
6. Grade level
7. Dates of attendance
8. Participation in officially recognized activities and sports
9. Weight and height of members of athletic teams
10. Degrees, honors, and awards received

Directory information cannot include a student’s Social Security number. A student’s ID number or user ID can be considered directory information, but only if that identifier cannot be

used to gain access to the student's education records without utilizing a password or personal identification number.

Annual FERPA Disclosure Regarding Directory Information and Opt Out Option

In order for the School to disclose directory information, it must first provide public notice in an annual FERPA notification to Parents and Eligible Students of the following:

1. The types of personally identifiable information that is designated as directory information;
2. A Parent's or Eligible Student's right to refuse the designation of any or all of those types of information about the student as directory information; and
3. The period of time within which a Parent or Eligible Student has to notify the School in writing that he or she does not want any or all of those types of information about the student designated as directory information.

The required annual FERPA notification can be provided within other informational documents sent by the School or as separate School correspondence.¹

Exceptions

Allowable Disclosures

There are several exceptions that permit the release of student education records under FERPA. The following are some common examples of parties who can receive disclosures without the student's written consent in a manner that does not violate FERPA:

1. A contractor, consultant, volunteer to whom the School has outsourced institutional services or functions, if the party is under the direct control of the School and has met the Third-Party Requirements described below.
2. Other schools, school districts or institutions of postsecondary education in which the student is seeking to enroll or to transfer credits.
3. Authorized representatives of the DC Public Charter School Board (PCSB), the District of Columbia Office of the State Superintendent of Education ("OSSE"), U.S. Department of Education ("DOE"), the U.S. Attorney General ("AG"), or the U.S. Comptroller General ("USCG") for audit, evaluation, or compliance activity with respect to Federal or state education programs.
4. Organizations conducting studies for, or on behalf of, the Board, a School, or another governmental entity provided such organization has met the Third-Party Requirements described below.

¹ Please see the U.S. Department of Education's "Model Notification of Rights under FERPA for Elementary and Secondary Schools." The document is a sample of a compliant annual FERPA notification document, informing parents and students of their rights and the types of information that the school can disclose under the various FERPA exceptions. School personnel who have questions regarding what information must be in the annual FERPA notification document should consult the Department's model.

5. Schools' accrediting agencies.
6. To appropriate parties, if necessary to protect the health or safety of a student or other individuals.
7. To comply with a judicial order or lawfully issued subpoena.

Responses to requests for student records can be made to the third-parties identified above. School staff must notify the PCSB FERPA Contact prior to the release of these records, provided that such notification is feasible. Schools must within 15 days of such release provide the PCSB with a brief description of such release via upload to AOIS.

Recordkeeping Requirements

A record of any disclosure must be made in students' education records, which describes: (1) the party or parties who received the students' records; and (2) the legitimate interests of the party or parties had in requesting and obtaining the information. In the event that the disclosure is to an authorized representative of the PCSB, School, OSSE, the DOE, AG, or USCG, the record of the disclosure may be made by class, school, or other appropriate grouping. (For example, if OSSE requested all student records from the School, a record could be made indicating that the entire School's student records were provided, rather than placing a record in each student's file.)

Notification Requirements

If the School receives a judicial order or lawfully issued subpoena, there are certain notification requirements it must make before disclosing the students' records. The Parent or Eligible Student must be notified of the order or subpoena in order to give an opportunity to seek protective action. Before disclosing student education records pursuant to a judicial order or lawfully issued subpoena, please consult with School counsel.

Third-Party Requirements

If the School discloses student records that contain personally identifiable information to an authorized representative, such as a contractor, consultant or research organization, a written agreement must be entered into. The agreement must specify the following:

1. The designated official or entity that constitutes an authorized representative;
2. The type of student records to be disclosed to the authorized representative;
3. The purpose for which the student records are being disclosed;
4. A requirement that the authorized representative must destroy any personally identifiable information when it is no longer needed for the purpose specified, and a time period in which the information will be destroyed; and
5. Policies and procedures to protect personally identifiable information within the students' records from re-disclosure and unauthorized use by the authorized representative.

If charter school staff are contacted by a party purporting to be an authorized representative of the PCSB, OSSE, the DOE, AG, or USCG requesting student records, or purporting to be a

representative of an organization conducting a study or studies for, or on behalf of one of these entities, they must notify the PCSB FERPA Contact prior to the release of student records.

Health and Safety Emergencies

The School may disclose student education records that contain personally identifiable information to appropriate parties, including parents of a student, in connection with an emergency, if necessary to protect the health or safety of students or other individuals. In disclosing student records, a determination must be made that there is a clear and significant threat to individuals' health or safety. If a disclosure is made due to a health or safety emergency, the School must record a description of the significant threat to students or other individuals that formed the basis for the disclosure, and the parties who received the information.

Other FERPA Requirements:

Right to Request Inspection of Student Records

Every Parent or Eligible Student must be allowed to personally inspect copies of his or her records upon request. The School must therefore either provide copies of student records to Parents and Eligible Students upon request, or make arrangements to allow for inspection of requested records within 45 days of when the request was received.

A reasonable fee for copies of student records may be charged, but not if imposition of a fee will prevent the Parent or Eligible Student from receiving copies of the records. No fee may be charged solely in order to search for or retrieve a student's education records.

Right to Request Amendments to Records and Hearings

If a Parent or Eligible Student believes that the education records maintained by the School relating to the student contains information that is inaccurate or misleading, he or she may ask for the records to be amended, in writing. If, based on that written statement, the School decides not to amend the records as requested it must inform the Parent or Eligible Student of its decision and the right to a hearing. The hearing may be conducted by any School staff who was not involved in the initial decision not to accept the Parent's or Eligible Student's request to amend the relevant records.

In the event of a hearing, if the School staff who conducted the hearing decides that the information in question is inaccurate or misleading, it must direct relevant staff to amend the records accordingly and inform the Parent or Eligible Student of the amendment in writing. If, on the other hand, School staff decides that the information is not inaccurate or misleading, it must provide its decision in writing and inform the Parent or Eligible Student of the right to place a statement in the records commenting on the contested information. School staff's decision must be based solely on the evidence presented at the hearing, and must include a summary of the evidence and the reasons for the decision.

Reasonable Protection of Student Information

[Insert school policy here]

[Schools must use reasonable methods to ensure that school officials obtain access to only those education records in which they have legitimate educational interests. A school that does not use physical or technological access controls must ensure that its administrative policy for controlling access to education records is effective and that it restricts access to officials with legitimate educational interests. Each school's policy with respect to accessing student records should reflect its capacity to protect student information through the various means that it uses.]

Board Approval Acknowledged By:



Darren Woodruff
DC PCSB Board Chair

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