

ADOPTED: February 6, 2003

**Student Educational Records Regulations**

**PROCEDURES FOR IMPLEMENTING STUDENT EDUCATIONAL RECORDS  
REGULATIONS**

I. INTRODUCTION

These regulations have been adopted to implement federal and state legislation establishing guidelines governing the manner in which student records are maintained and supervised. The purpose of the legislation is to ensure students and parents of students access to their official records, to guarantee that these records are used only for legitimate educational purposes, and to ensure that the records are not released without the written permission of the student or parent of the student except as permitted by law. These procedures do not contain all the information contained in the federal or state legislation, but does adopt and incorporate such laws.

II. DEFINITIONS

The following definitions apply to terms used in this policy.

1. "Act" means the Family Educational Rights and Privacy Act (20 U.S.C. ' 1232g).
2. "Directory information" means the following information contained in an education record of a student: name, the student's participation in officially recognized activities and sports, height and weight of student athletes and grade level in school of students in extracurricular activities, dates of attendance in the school unit, and honors and awards received.
3. "Eligible student" means a student who has attained eighteen years of age, has not been judged by a court of competent jurisdiction to be so severely impaired that the student is unable to make decisions or exercise judgment on his or her own behalf, or is attending an institution of post-secondary education.
4. "Parent" means parent, regardless of divorce or separation, a legal guardian, or individual acting as a parent or guardian provided that there shall be a presumption that a parent has the authority to exercise the rights inherent in the Act, unless there is evidence of a state law or court order governing such matters

as divorce, separation or custody or a legally binding instrument that specifically revokes such rights.

5. "Record" means any information or data recorded in any medium including, but not limited to, handwriting, print, computer media, video or audio tape, microfilm and microfiche, but excluding records of instructional, supervisory and administrative personnel and educational personnel ancillary to those persons which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a temporary substitute for the maker of the record.
6. "School" means MSAD No. 54 and each school within the system.
7. "Student" includes any individual with respect to whom MSAD No. 54 maintains education records.

### III. ANNUAL NOTIFICATION OF RIGHTS

Each year parents of students attending school or eligible students attending school will be provided with a summary of their rights through any of the following means:

1. Letter to each parent or eligible student within MSAD No. 54, or
2. Publication of the policy summary in a school newspaper, newsletter, or handbook distributed to each parent or eligible student.
3. MSAD No. 54 shall post a copy of the policy in each school building.

### IV. INSPECTION AND REVIEW OF EDUCATION RECORDS

Parents of students and eligible students may review and inspect their educational records by the following procedure:

1. The parent or eligible student must request in writing to review the records through the Superintendent/designee.
2. The school will comply with the request within a reasonable period of time, but in no case more than 45 days after it received the request, and will comply before any meeting regarding an Individualized Education Program or any due process hearing relating to the identification, evaluation, or placement of the student.
3. The Superintendent/designee will list the types and locations of all records, the names and titles of officials responsible for those records, and the names of non-school personnel who have received copies or reviewed the education records.

4. The school may deny a request for access to or a copy of the student's record if there is reasonable doubt as to the legality of the parent/child relationship. Access will be withheld until a determination of legal right to access can be established.

## V. DISCLOSURE OF EDUCATION RECORDS

- A. The school will not disclose any personally identifiable information from the education records of a student without the prior written consent of the parent or of the eligible student. The written consent shall include a specification of the records, which may be disclosed, the purpose(s) of the disclosure(s), and the identity of the party or parties to whom the disclosure(s) may be made. Exceptions to this disclosure requirement are as follows:

1. As provided by 20-A M.R.S.A. ' 6001-B, when a student transfers from MSAD No. 54 to another unit in Maine or any other state, a copy of all of his/her education records, including special education records, will be sent to the receiving school unit upon written request of the Superintendent/designee of that unit; there is no requirement for written consent by the parent/guardian or eligible student. At the request of the receiving unit, the student's current or former school administrator will disclose orally or in writing whether the student seeking admission has been expelled, suspended or is the subject of an expulsion or suspension proceeding.
2. Personally identifiable information may be disclosed without written consent if the disclosure is to:
  - a. State and local educational authorities, the Comptroller General of the United States, or the Secretary of the U.S. Department of Education (including those acting for the Secretary) in connection with the audit and evaluation of federal and state supported educational programs or for enforcement of or compliance with federal legal requirements, and to state and local educational authorities as required by state statute and permitted by federal law.
  - b. One exception, which permits disclosure without consent, is disclosure to school officials with legitimate educational interests. A school official is a person employed by the school department as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel); a person serving on the Board of Directors; a person or company with whom the school department has contracted to perform a special task (such as an attorney, auditor, medical consultant, or therapist); or a parent or student serving on an

official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks. A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.

- c. Officials of another school, school system, or institution of post-secondary education in which the student seeks or intends to enroll.
- d. Institutions to which the student has applied for or has received financial aid if the information is necessary to determine the eligibility, amount, or conditions of the aid or to enforce the terms or conditions of the aid.
- e. Organizations conducting studies for, or on behalf of, educational agencies or institutions, including, but not limited to, studies to develop, validate, or administer predictive tests.
- f. Accrediting organizations for the purpose of carrying out their accrediting functions.
- g. Parents of a dependent student, as defined in Section 152 of the Internal Revenue Code of 1954.
- h. Those as directed by a judicial order or lawfully issued subpoena, provided that reasonable effort is made to notify the parent of the student or eligible student of the order or subpoena prior to compliance herewith, unless the subpoena or judicial order directs that the disclosure not occur.
- i. A court of law, if relevant to an action brought by the parents of the child against the school unit, or brought by the school unit against the child or child's parents.
- j. Appropriate parties in a health or safety emergency provided that knowledge of the information is necessary to protect the health or safety of the student or other individuals. This disclosure may include release of appropriate information to school officials in other school units about disciplinary action taken against a student for conduct that posed a significant risk to the safety or well being of that student or other members of the school community, if the officials in the other school unit have a legitimate educational interest in the behaviors of the student.
- k. Criminal justice agencies or other agencies that by court order or agreement is responsible for the

juvenile in circumstances as described in 20-A  
M.R.S.A. ' 6001(3).

1. Other circumstances specifically permitted by law.
3. Directory information may be disclosed without parental consent about former students.
4. a. MSAD No. 54 reserves the right to make public at its discretion personally identifiable information from the education records of a student if that information has been designated as directory information as that term is defined under subparagraph two of section II of this policy, unless the parent of the student or the eligible student informs the school in writing by **October 1<sup>st</sup>** for the upcoming year or within thirty (30) days after enrollment, whichever is later, that such personally identifiable information is not to be designated as directory information with respect to that student.

Under the “No Child Left Behind Act of 2001,” military recruiters and/or institutions of higher education are entitled to receive the names, addresses, and telephone numbers of secondary students provided that MSAD No. 54 has notified parents of their right to request that no such information be released without their prior written consent. The school unit has a duty to comply with any such request.

- b. Under Maine law, MSAD No. 54 shall not publish on the Internet without written parental consent any information, whether directory or otherwise, that identifies a student, including but not limited to the student’s full name, photograph, personal biography, e-mail address, home address, date of birth, social security number, and parents’ name.
- B. All disclosures of information under this section will comply with regulations and guidelines provided by the Federal Government and the Maine Department of Education.
  - C. The school will maintain a record of disclosures of personally identifiable information from the education records of a student and will permit a parent or eligible student to inspect that record, except that such record shall not include disclosures to the parent of a student or an eligible student, disclosures pursuant to written consent, disclosures to school officials or disclosures of directory information.

## VI. REQUEST TO AMEND EDUCATION RECORDS

1. All parents of students and eligible students may seek correction of education records of the student through a request to amend the record on the grounds that it

is inaccurate, misleading, or in violation of the privacy or other rights of the student. The school shall, within fifteen (15) days of receipt of the request, either amend the information in accordance with the parent's request or inform the parents of its refusal to amend the information and advise the parent of the opportunity for a hearing.

2. If the request is denied, the parent of the student or the eligible student shall be entitled to a hearing, upon request. The hearing shall be held within a reasonable period of time from the time the school receives the request, and the parent of the student or the eligible student shall be given advance notice of the date, place, and time of the hearing. The Superintendent may designate an individual to conduct the hearing. The individual may be an employee of the school unit but may not have a direct interest in the outcome of the hearing. The parent of the student or the eligible student shall be afforded a full and fair opportunity to present evidence relevant to the issues raised and may be assisted or represented by individuals of his/her choice at his/her own expense, including an attorney. The school shall make its decision in writing within a reasonable period of time. The decision of the school shall include a summary of the evidence and the reasons for the decision.
3. If, as a result of the hearing, the school decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, it shall amend the education records of the student accordingly and so inform the parent of the student or the eligible student in writing.
4. If, as a result of the hearing, the school decides that the information is not inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, it shall inform the parent or eligible student of the right to place in the education records of the student a statement commenting upon the contested information in the education records and/or setting forth any reasons for disagreeing with the decision of the school.
5. Any explanation placed in the education record of the student under the preceding paragraph shall be maintained by the school as part of the education records of the student as long as the record or contested portion is maintained by the school, and if the education records of the student or the contested portion is disclosed by the school to any party, the explanation shall also be disclosed to that party.

## VII. STUDENT RIGHTS

When a student becomes an eligible student, the rights accorded to and the consent required of the parent of the student shall thereafter transfer to the eligible student.

## VIII. LIMITATIONS ON WAIVERS

A parent of a student or an eligible student may waive any of his or her rights regarding confidentiality of educational records as set forth in this policy and in the Act, but such a waiver

shall be in writing and signed by the parent or student as appropriate. The school may not require that a parent of a student, or a student, waive his or her rights.

A waiver under this section may be revoked with respect to any actions occurring after the revocation. A revocation under this paragraph must be in writing. If a parent of a student executes a waiver under this section, that waiver may be revoked by the student any time after he or she becomes an eligible student.

## IX. FEES

The school shall provide copies of education records to parents of students or eligible students upon request. The cost of producing copies of the record, if desired, to the parent of the student or the eligible student will be ten cents (\$0.10) per page copied, plus postage. This fee, however, will not prohibit a parent's or eligible student's opportunity for access to the records if they are unable to pay for such copies. There will be no charge to search for or to retrieve the education records of a student.

## X. LIMITATION OF DESTRUCTION OF EDUCATION RECORDS

The school may destroy parts of an education record of a student when they are no longer deemed useful, subject to the following exceptions:

1. The school may not destroy any education record if there is any outstanding request to inspect or review such records.
2. The record of access maintained shall be retained for as long as the education record to which it pertains is maintained.
3. The school shall inform parents of students with disabilities when education records are no longer needed to provide educational services to the student or to demonstrate that the school has provided the student with a free appropriate public education as required by law. At that point, the records shall be destroyed at the request of the parents and may be turned over to parents or eligible student upon their request.
4. A permanent record of a special education student's name, address, phone number, grades, attendance record, classes attended, and grade and year completed shall be maintained without time limitations.
5. High school transcripts of all students shall be kept in perpetuity.

## XI. COMPLAINT PROCEDURE

The Secretary of the United States Department of Education maintains an office that will investigate, process and review complaints, which may be filed concerning alleged violations of the provisions of the Act. Complaints regarding violations of rights accorded parents and eligible students may be submitted in writing to the following address:

Family Policy Compliance Office  
Department of Education  
400 Maryland Avenue, S.W.  
Washington, D.C. 20202

Legal Reference: 20 U.S.C. ' 1232g; 34 C.F.R. Part 99  
"No Child Left Behind Act of 2001" § 9528  
20-A M.R.S.A. ' 6001, 6001-B  
Chap. 101, ' 15 (Maine Dept. of Ed. Rule)  
Chap. 125, § 12.01 (Maine Dept. of Ed. Rule)

Adopted: \_\_\_\_\_