

WEST ALLEGHENY SCHOOL DISTRICT

SECTION: 6402

TITLE: Confidentiality of Special Education Student Information

ADOPTED: April 2003

REVISED: December 2019

<p>1. Authority</p>	<p>The Board recognizes the need to protect the confidentiality of personally identifiable information in the education records of students with disabilities.</p> <p>The district shall maintain a system of safeguards to protect the confidentiality of students' educational records and personally identifiable information when collecting, retaining, disclosing and destroying student special education records, in accordance with Board policy, state requirements, and federal and state law and regulations.</p> <p>The rights provided by this policy apply to parents/guardians of students who receive special education programming and services from the district or an outside program provided through the district.</p>
<p>2. Definitions</p>	<p>Destruction shall mean the physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.</p> <p>Disclosure shall mean to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record.</p> <p>Education Records, for purposes of this policy, shall include the records and information covered under the definition of education records in the Family Educational Rights and Privacy Act (FERPA) and its implementing regulations.</p> <p>Personally identifiable information includes, but is not limited to:</p> <ol style="list-style-type: none">1. The name of a student, the student's parents/guardians or other family members.2. The address of the student or student's family.3. A personal identifier, such as the student's social security number, student number, or biometric record.4. Other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name.5. Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.

<p>3. Delegation of Responsibility</p>	<p>6. Information requested by a person who the district reasonably believes knows the identity of the student to whom the education record relates.</p> <p><u>Parental Access Rights</u></p> <p>The district shall permit parents/guardians to inspect and review any education records relating to their child(ren) that are collected, retained, or used by the district in connection with providing special education services to the student.</p> <p>The district shall comply with a parental request to inspect and review education records without unnecessary delay and before any meeting regarding an Individualized Education Program (IEP); any impartial due process hearing relating to the identification, evaluation, educational placement, or the provision of a free and appropriate public education (FAPE) to a student; a hearing related to the discipline of the student; and a resolution meeting.</p> <p>The district shall presume a parent/guardian has authority to inspect and review records relating to his/her child unless it has been provided documentation that the requesting parent/guardian does not have this authority under applicable state law.</p> <p>The district shall comply with a parental request for review within forty-five (45) days following receipt of the request.</p> <p>A parent's/guardian's right to inspect and review education records includes the right to:</p> <ol style="list-style-type: none"> 1. A response from the district to reasonable requests for explanations and interpretations of the records; 2. Request that the district provide copies of the records if failure to provide copies would effectively prevent the parent/guardian from exercising the right to inspect and review the records; and 3. Have a representative inspect and review the records. <p>If an education record includes information on more than one (1) student, the parents/guardians shall have access only to the information relating to their child or shall be informed of the information in the record.</p> <p>The district shall provide parents/guardians, upon request, a list of the types and locations of education records collected, maintained, or used by the district.</p> <p><u>Fees</u></p> <p>The district may charge a fee for copies of records that are made for parents/guardians so long as the fee does not effectively prevent parents/guardians from exercising their right to inspect and review those records.</p> <p>The district shall not charge a fee to search for or to retrieve information in response to a parental request.</p> <p><u>Record of Access</u></p>
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The district shall keep a record of parties obtaining access to education records collected, maintained, or used in providing special education to students with disabilities, except access by parents/guardians and authorized district employees.

The district's record of access shall include the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

Amendment of Records Upon Parental Request

If a parent/guardian believes that information in the student's education records is inaccurate, misleading or violates the privacy or other rights of the student, the parent/guardian may request that the district amend the information.

The district shall decide whether to amend the information within a reasonable period of time from receipt of the request.

If the district declines to amend the information in accordance with a parental request, the district shall inform the parent/guardian of the refusal and advise the parent/guardian of the right to a hearing.

Records Hearing

The district shall, on request, provide parents/guardians with an opportunity for a hearing to challenge information in the student's education records to ensure that the information is not inaccurate, misleading, or otherwise in violation of the student's privacy or other rights. The district recognizes that parents/guardians who believe that there is a due process violation relating to an alleged violation of confidentiality may also request a special education due process hearing.

Hearing Procedures

A hearing to challenge information in education records must meet the following requirements:

1. The district shall hold the hearing within a reasonable time after receiving the request for a hearing.
2. The district shall give the parent/guardian reasonable advanced written notice of the date, time, and place of the hearing.
3. The hearing may be conducted by any individual, including a district official, who does not have a direct interest in the outcome of the hearing.
4. The district shall give the parent/guardian a full and fair opportunity to present relevant evidence. The parent/guardian may, at his/her own expense, be assisted or represented by one (1) or more individuals of his/her choice, including an attorney.
5. The district shall inform parents/guardians of its decision in writing within a reasonable period of time after the hearing.

6. The 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.

Result of Hearing

If, as a result of the hearing, the district decides that the information is inaccurate, misleading, or otherwise in violation of the student's privacy or other rights, the district shall amend the information accordingly and inform the parent/guardian in writing.

If, as a result of the hearing, the district decides that the information is not inaccurate, misleading, or otherwise in violation of the student's privacy or other rights, the district shall inform the parent/guardian of the parent's/guardian's right to place in the student's records a statement commenting on the information and/or providing any reasons for disagreeing with the district's decision.

Any explanation placed in the student's records shall be:

1. Maintained by the district as part of the student's records as long as the record or contested portion is maintained by the district; and
2. Included with the record or contested portion if the record or contested portion are disclosed to any party.

Storage, Retention and Destruction of Information

The district shall store all education records and personally identifiable information of students receiving special education services in such a way as to protect the confidentiality and integrity of the records and information, prevent unauthorized access to and disclosure of records and information, and ensure compliance with other legal and regulatory requirements regarding records retention.

The district shall maintain, for public inspection, a current listing of the names and positions of those district employees who have access to personally identifiable information.

In order to comply with state compliance monitoring requirements, the district shall maintain education records for students receiving special education services for at least six (6) years.

The district shall inform parents/guardians when personally identifiable information collected, maintained, or used is no longer needed to provide educational services to the student. After notice, such information shall be destroyed upon parental request.

No education record shall be destroyed if there is an outstanding request to inspect or review the record or if a litigation hold exists.

The district shall maintain a permanent record of the student's name, address, and phone number, his/her grades, attendance record, classes attended, grade level completed, and year completed.

The district shall ensure the destruction of education records in a manner that protects the confidentiality and privacy rights of the student and his/her family.

Disclosure to Third Parties

The district shall obtain parental consent before disclosing personally identifiable information to parties other than school district officials with a legitimate educational interest or other educational institutions that provide special education services to the student for the purposes of meeting a requirement of law or regulation unless the information is contained in education records and the disclosure is permitted without parental consent under law and regulations.

Parental consent must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services.

If a student is enrolled, or is going to enroll in a private school that is not located in the district of the parent's/guardian's residence, parental consent must be obtained before any personally identifiable information about the student is released between officials in the district where the private school is located and officials in the district of the parent's/guardian's residence.

Release of Disciplinary Information for Eligible Children

In the event that it is necessary for the District to report a crime allegedly committed by an eligible student to local law enforcement, the District shall ensure that the student's special education and disciplinary records are transmitted for consideration by the local law enforcement. However, such transmission shall only be done to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act (FERPA).

4. Legal

- 34 CFR 300.611-300.627
- 34 CFR 300.520
- 34 CFR 300.625
- 34 CFR 300.611
- 34 CFR 99.3
- 20 U.S.C. 1232g
- 34 CFR 300.32
- 34 CFR 99.10
- 34 CFR 300.613
- 34 CFR 99.4
- 34 CFR 99.12
- 34 CFR 300.615
- 34 CFR 300.616
- 34 CFR 99.11
- 34 CFR 300.617
- 34 CFR 300.614
- 34 CFR 99.20
- 34 CFR 300.618
- 34 CFR 99.21
- 34 CFR 300.510-300.516
- 34 CFR 300.619
- 34 CFR 99.22
- 34 CFR 300.621
- 34 CFR 300.620
- 34 CFR 300.623
- 34 CFR 300.624
- 34 CFR 99.30
- 34 CFR 99.31

	<p>34 CFR 300.154 34 CFR 300.622 20 U.S.C. 1400 et seq 34 CFR Part 99 34 CFR Part 300 Bureau of Special Education Letter to School Entities on Retention of Records, Dated November 9, 2009 Pennsylvania Department of Education Individuals With Disabilities Education Act Part B LEA Policies and Procedures under 34 CFR §§300.101 - 300.176 (2009)</p>
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~~6402 Pupil records are an inherent part of a student's formal education in a public school setting. They are used by authorized district personnel to collect, maintain and disseminate pertinent information.~~

~~6402.1 Student Records are, by nature, confidential and privileged; therefore, administrators, counselors, specialists, teachers and members of the secretarial staff shall abide by the District's policy pertaining to the collection of data, maintenance of educational records and the dissemination of information. This policy has been prepared to insure the privacy rights of both parents and the student in the collection, maintenance, release and destruction of these records. Toward that end, this policy incorporates provisions from the Regulations of the State Board of Education on Pupil Records, the Family Educational Rights and Privacy Act of 1974, and the confidentiality Regulations for Special Education.~~

~~6402.2 Annual Notice~~

~~The West Allegheny School District is required each year to provide notice to parents that fully describe the rights with respect to a child's educational records. Educational records are records that are directly related to a student and are maintained by the District. Educational records contain personally identifiable information such as the student's name, the name of the student's parent or other family members, the student or student's family's address, personal identifiers such as the student's social security number, personal characteristics regarding the student, and other information making the student's identity easily traceable. This information is important and useful for the District and is used for the operation of the educational system and to assure the provision of an appropriate education to the child.~~

~~Collection of Data (22Pa Code §12.33)~~

~~The District begins from the fundamental principle that no information should be collected from students without the prior informed consent of the child and/or his parents. However, it will not always be practical or possible to obtain the separate consent of every parent for every data gathering process. Although rigid formulae for the distinction between when individual written consent for the collection of data is required and when it is not would be appropriate, the district will consider two contrasting benchmarks:~~

- ~~a. Specific individual consent is ordinarily not required for group aptitude and achievement testing (whether standardized or informal) and reporting grades or skills and knowledge in subject matter areas within the customary school curricula.~~
- ~~b. However, individual assessments, such as intelligence, achievement, behavior, etc. will only be conducted with parent permission as well as the collection of information not directly relevant for educational purposes.~~

~~6402.3 Maintenance of Data~~

- ~~a. Category "A" data: Includes official administrative records that constitute the minimum personal data necessary for the operation of the educational system and includes identifying data such as name and address; birth date; academic work completed; level of achievement such as grades and standardized achievement test scores; and attendance records.~~

~~These records will be maintained for 100 years.~~

- b. ~~Category “B” data: includes verified information of clear importance, but not absolutely necessary to the school over time, in helping the child or in protecting others such as scores on standardized intelligence and aptitude tests, interest inventory results, health records, family background information, systematically gathered teacher or counselor ratings or observations and verified reports of serious or recurrent behavior patterns.~~

~~The District will give serious consideration to the elimination of unnecessary Category “B” data at periodic intervals; for example at points of transition from elementary to junior high school and from junior high to high school. In any case, these records will be destroyed when the student leaves school.~~

- c. ~~Category “C” data: Includes potentially useful information but not yet verified or clearly needed beyond the immediate present such as personality test results and unevaluated reports of teachers, counselor and others which may be needed in ongoing investigations and disciplinary or counseling actions.~~

~~This data will be reviewed at least annually and destroyed as soon as their usefulness is ended or transferred to Category “B” data if the continuing usefulness of the information is clearly demonstrated and the validity has been verified.~~

- c. ~~For students who have been identified as eligible for special education services, the District shall inform the parents when personally identifiable information that has been collected, maintained or used for special education services and the provision of a free, appropriate public education is no longer needed to provide educational services to the child.~~

~~This data will be reviewed at least annually and destroyed as soon as their usefulness is ended or transferred to Category “B” data if the continuing usefulness of the information is clearly demonstrated and the validity has been verified.~~

- d. ~~For students who have been identified as eligible for special education services, the district shall inform the parents when personally identifiable information that has been collected, maintained or used for special education services and the provision of a free, appropriate public education is no longer needed to provide educational services to the child.~~

6402.4 Disclosure to Third Parties

~~The West Allegheny School District fully complies with the Family Educational Rights and Privacy Act (FERPA) with regard to the dissemination of personally identifiable information of students. Therefore, parents have the right to consent to disclosures of personally identifiable information contained in the student’s education records, except to the extent that FERPA authorizes disclosure without consent.~~

~~The District’s annual notice shall specify and explain the FERPA exceptions to parental consent for the disclosure of information including to school officials with a legitimate educational interest; directory information or information to a school in which the child is attending or seeks to attend.~~

6402.5 Access rights

~~In addition to the right to refuse the release of directory information, the Family Educational Rights and Privacy Act (FERPA) affords parents the right to inspect and review the student's education records. The District shall comply with a written request without unnecessary delay and in any case within 45 days of the day of the District receives a request for access. This district will permit either parent to inspect and review their child's educational record unless the District has received a Court Order or other documentation advising that the parent does not have such authority.~~

~~The right to inspect and review records includes the right to:~~

- ~~a. a response from the District to reasonable requests for explanations and interpretations of the record;~~
- ~~b. request that the District provide copies of the records containing information about the child if failure to provide copies would effectively prevent the parents from inspection or review. The annual notice shall set forth any fees that the District may charge for copies;~~
- ~~c. the right to have a representative of the parent inspect and review the records.~~

6402.6 Amendment of Records

~~The parents have the right to request the amendments of the student's education records that the parent believes are inaccurate or misleading or violate the privacy or other rights of the child. Parents may ask the West Allegheny School District to amend a record that they believe is inaccurate or misleading. If the District decides not to amend the record as requested by the parent, the District will notify the parent of the decision and advise them of their right to a hearing regarding the request for amendment. The hearing shall provide the parent with the opportunity to challenge the information in the educational record to assure that it is not inaccurate or misleading or otherwise in violation of the privacy or other rights of the child.~~

~~If as a result of the hearing, the District decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, it shall amend the information accordingly and so inform the parent in writing. If as a result of the hearing, the District decides that the information is not inaccurate, misleading or otherwise in violation of the privacy or other rights of the child, it shall inform the parent of the right to place in the record it maintains on the child a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency. It shall be maintained as part of the record of the child.~~

6402.7 Responsibility for Ensuring Confidentiality

~~The annual notice shall designate the specific person responsible for ensuring the confidentiality of student records. The Building Principal shall be responsible for student records in his or her individual building. The Coordinator of Pupil Personnel Services will ensure the confidentiality of educational records for eligible students.~~

6402.8 Release of Disciplinary Information for Eligible Children

~~In the event that it is necessary for the District to report a crime allegedly committed by an eligible student to local law enforcement, the District shall ensure that the student's special education and disciplinary records are transmitted for consideration by the local~~

law enforcement. However, such transmission shall only be done to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act (FERPA).