

POLICY TITLE: STUDENT AND FAMILY PRIVACY RIGHTS

Surveys - General

Surveys requesting personal information from students, as well as any other instrument used to collect personal information from students, must advance or relate to the Agency's educational objectives as identified in Board policy. This applies to all surveys, regardless of whether the student answering the questions can be identified and regardless of who created the survey.

Personally identifiable information from student education records may be disclosed to an educational agency or institution in order to:

1. Develop, validate, or administer predictive tests;
2. Administer student aid programs; or
3. Improve instruction.

In such cases, the school or Agency shall enter into a written agreement with the receiving organization. The study must not allow identification of individual parents or students by anyone other than representatives of the organization with legitimate interests in the information and the information must be destroyed when it is no longer needed for study purposes.

Surveys Created by a Third Party

Before the Agency administers or distributes a survey created by a third party to a student, the student's parent(s)/guardian(s) may inspect the survey upon request and within a reasonable time of their request.

This section applies to every survey:

1. That is created by a person or entity other than a Agency official, staff member, or student;
2. Regardless of whether the student answering the questions can be identified; and
3. Regardless of the subject matter of the questions.

Surveys Requesting Personal Information

School officials and staff members shall not request, nor disclose, the identity of any student who completes ANY survey containing one (1) or more of the following items:

1. Political affiliations or beliefs of the student or the student's parent/guardian;
2. Mental or psychological problems of the student or the student's family;

3. Behavior or attitudes about sex;
4. Illegal, anti-social, self-incriminating, or demeaning behavior;
5. Critical appraisals of other individuals with whom students have close family relationships;
6. Legally recognized privileged or analogous relationships, such as those with lawyers, physicians, and ministers;
7. Religious practices, affiliations, or beliefs of the student or the student's parent/guardian; or
8. Income, other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program.

The student's parent(s)/guardian(s) may:

1. Inspect the survey within a reasonable time of the request, and/or
2. Refuse to allow their child to participate in any survey requesting personal information. The school shall not penalize any student whose parent(s)/guardian(s) exercise this option.

Instructional Material

A student's parent(s)/guardian(s) may, within a reasonable time of the request, inspect any instructional material used as part of their child's educational curriculum.

The term "instructional material," for purposes of this policy, means instructional content that is provided to a student, regardless of its format, printed or representational materials, audio-visual materials, and materials in electronic or digital formats (such as materials accessible through the Internet). The term does not include academic tests or academic assessments.

Collection of Personal Information from Students for Marketing Prohibited

The term "personal information," for purposes of this section only, means individually identifiable information including:

1. A student's or parent's first and last name;
2. A home or other physical address, including street name and the name of the city or town;
3. Telephone number; or
4. A Social Security identification number.

The Agency shall not collect, disclose, or use student personal information for the purpose of marketing or selling that information or otherwise providing that information to others for that purpose.

The Agency, however, is not prohibited from collecting, disclosing, or using personal information collected from students for the exclusive purpose of developing, evaluating,

or providing educational products or services for, or to, students or educational institutions such as the following:

1. College or other post-secondary education recruitment or military recruitment;
2. Book clubs, magazines, and programs providing access to low-cost literary products;
3. Curriculum and instructional materials used by elementary schools and secondary schools;
4. Tests and assessments to provide cognitive, evaluative, diagnostic, clinical, aptitude, or achievement information about students (or to generate other statistically useful data for the purpose of securing such tests and assessments) and the subsequent analysis and public release of the aggregate data from such tests and assessments;
5. The sale by students of products or services to raise funds for school-related or education-related activities; and
6. Student recognition programs.

Notification of Rights and Procedures

The Superintendent or designee shall notify students' parents/guardians of:

1. This policy as well as its availability from the Agency office upon request;
2. How to opt their child out of participation in activities as provided in this policy;
3. The approximate dates during the school year when a survey requesting personal information, as described above, is scheduled or expected to be scheduled;
4. How to request access to any survey or other material described in this policy.

This notification shall be given parents/guardians at least annually at the beginning of the school year and within a reasonable period after any substantive change in this policy.

The rights provided to parents/guardians in this policy transfer to the student, when the student turns eighteen (18) years of age or is an emancipated minor.

Student Records

School student records are confidential, and information from them shall not be released other than as provided by law. Federal and state laws grant certain rights to parents and students, including the right to inspect, copy, and challenge school records. The information contained in school student records shall be kept current, accurate, clear, and relevant. All information maintained concerning a student receiving special education services shall be directly related to the provision of services to that child. The Agency may release directory information as permitted by law, but parents shall have the right to object to the release of information regarding their child. Military recruiters and institutions of higher education may request and receive the names, addresses,

and telephone numbers of all high school students, unless the parent(s) notifies the school not to release this information.

The Superintendent shall implement this policy consistent with State and federal law and may develop administrative procedures to assure compliance with State and federal law. The Superintendent or a designee shall inform staff members of this policy, and shall inform students and their parents of it, as well as their rights regarding student school records.

Maintenance of School Student Records

The Agency shall maintain a record for each student that shall contain information, including but not limited to the following:

1. Birth certificate;
2. Proof of residency;
3. Unique student identifier;
4. Basic identifying information;
5. Academic transcripts;
6. Immunization records;
7. Attendance records;
8. Intelligence and aptitude scores;
9. Psychological reports;
10. Achievement test results;
11. Participation in extracurricular activities;
12. Honors and awards;
13. Verified reports or information from non-educational persons;
14. Verified information of clear relevance to the student's education;
15. Log pertaining to release of student's record; and
16. Disciplinary information.

Information in student files shall be maintained as described in Policy 8605.

Records for a special education student with disabilities who graduates or permanently withdraws from the Agency, including eligibility documentation, IEPs, consents, and written notices will, for at least six years, be maintained until such time or when the Agency has been given written consent from the parent(s) and/or adult former student to destroy the records or transfer the records to the parent(s) or to the student if the student has succeeded to the rights of the parents. Such written records of individual students are confidential and shall be shredded under supervision of the staff member responsible for the records if not released to the parent(s) and/or adult former student. The records manager should maintain a log that documents the date of destruction or release of records.

The Agency's public records custodian, in conjunction with the Superintendent and their designee shall be responsible for the maintenance, retention, or destruction of a

student's records, in accordance with the Agency's procedure established by the Superintendent.

The unique student identifier is a number issued and assigned by the State Department of Education to each student currently enrolled or who will be enrolled. The unique student identifier shall follow the student from each school Agency or local educational agency (LEA) or upon return to a school Agency or LEA after an absence no matter the length of absence.

Access to Student Records

The Agency shall grant access to student records as follows:

1. The Agency or any Agency employee shall not release, disclose, or grant access to information found in any student record except under the conditions set forth in this policy and consistent with the provisions of State and federal law.
2. The parents of a student under 18 years of age shall be entitled to inspect and copy information in the child's school records. Such requests shall be made in writing and directed to the records custodian. Access to the records shall be granted within 15 days of the Agency's receipt of such a request.

Where the parents are divorced or separated, both shall be permitted to inspect and copy the student's school records unless a court order indicates otherwise. The Agency shall send copies of the following to both parents at either one's request, unless a court order indicates otherwise or parental rights have been terminated by court order or parental agreement:

Academic progress reports or records;
Health reports;
Notices of parent-teacher conferences;
School calendars distributed to parents/guardians; and
Notices about open houses and other major school events, including pupil-parent interaction.

When the student reaches 18 years of age, graduates from high school, marries, enters military service, or becomes legally emancipated all rights and privileges accorded to the parent become exclusively those of the student. The parents of dependent students, as defined by the Internal Revenue Service (i.e. student termed dependent for income tax purposes) may have access to student educational records if the parents establish, via either a copy of the applicable tax forms and/or a Parental Affidavit for Educational Records attesting to the student's dependent status.

Access shall not be granted to the parent or the student to confidential letters and recommendations concerning the admission to a post-secondary educational

institution, applications for employment, or the receipt of an honor or award, if the student has waived his or her right of access, after being advised of his or her right to obtain the names of all persons making such confidential letters or statements.

3. The Agency may grant access to, or release information from, student records to employees or officials of the Agency or the Idaho State Board of Education, provided a current, demonstrable, educational or administrative need is shown, without parental consent or notification. Access in such cases shall be limited to the satisfaction of that need.
4. For purposes of an audit or evaluation by a federal or State-supported education program, and to comply with federal requirements related to such a program. The receiving entity must be a State or educational authority or another entity allowed by the Family Educational Rights and Privacy Act (FERPA), or must be an authorized representative of such an entity.

For each new audit, evaluation, or enforcement effort, the Agency shall enter into a written agreement when designating anyone other than its employee as its authorized representative. The Agency shall be responsible for using reasonable methods to ensure, to the greatest extent practicable, that the authorized representative:

- Uses the personal information only for the authorized purpose;
- Protects the personal information from further unauthorized disclosures or other uses; and
- Destroys the personal information when it is no longer needed for the authorized purpose. Such destruction shall be effected by any specified time period set forth in the written agreement.

5. The Agency may grant access to, or release information from, student records without parental consent or notification to any person, for the purpose of research, statistical reporting, or planning, provided that no student or parent can be identified from the information released, and the person to whom the information is released signs an affidavit agreeing to comply with all applicable statutes and rules pertaining to school student records. Any such release in this regard shall be consistent with Idaho Code and Policy 3575 relating to the limitations on the release of student data.
6. The Agency shall grant access to, or release information from, a student's records pursuant to a court order or appropriate subpoena. In most instances, the parent/qualified student shall be given prompt written notice of such order/subpoena, a general statement of the documents which will be released, and the proposed date of release of the documentation requested. However, there are very limited circumstances under the USA Patriot Act where schools are required to disclose information without notice to the parent or student to the

Attorney General of the United States upon an ex parte order in connection with the investigation or prosecution of terrorism crimes or other such specified situations when the court order prohibits disclosure (i.e. Federal Grand Jury Subpoena or Law Enforcement Subpoena wherein such order indicates disclosure is not permitted).

7. The Agency shall grant access to or release information from any student record as specifically required by federal or State statute.
8. The Agency shall grant access to, or release information from, student records to any person possessing a written, dated consent, signed by the parent or eligible student with particularity as to whom the records may be released, the information or record to be released, and the reason for the release. One copy of the consent form will be kept in the records, and one copy shall be mailed to the parent or eligible student by the Superintendent. Whenever the Agency requests the consent to release certain records, the records custodian shall inform the parent or eligible student of the right to limit such consent to specific portions of information in the records.
9. The Agency may release student records to the Superintendent or an official with similar responsibilities in a school in which the student has enrolled or intends to enroll, upon written request from such official.
10. Prior to the release of any records or information under items 6, 7, 8, and 9 above, the Agency shall provide prompt written notice to the parents or eligible student of this intended action except as specified in item 6. This notification shall include a statement concerning the nature and substance of the records to be released and the right to inspect, copy, and challenge the contents.
11. The Agency may release student records or information in connection with an emergency, without parental consent, if the knowledge of such information is necessary to protect the health or safety of the student or other persons. The records custodian shall make this decision taking into consideration the nature of the emergency, the seriousness of the threat to the health and safety of the student or other persons, the need for such records to meet the emergency, and whether the persons to whom such records are released are in a position to deal with the emergency. Any release that is made must be narrowly tailored considering the immediacy, magnitude, and specificity of the information concerning the emergency and the information should only be released to those persons whose knowledge of the information is necessary to provide immediate protection of the health and safety of the student or other individuals (i.e. law enforcement, public health officials, trained medical personnel). The exception is temporarily limited to the period of the emergency and does not allow for a blanket release of personally identifiable information from a student's records. The Agency shall notify the parents or eligible student as soon as possible of the information released; the date of the release; the person, agency, or organization

to which the release was made; and the purpose of the release and the same information shall be recorded in the student's record log.

12. The Agency will comply with an *ex parte* order requiring it to permit the U.S. Attorney General or designee to have access to a student's school records without notice to or consent of the student's parent(s)/guardian(s).
13. The Agency may charge a fee for copying information in the student's records. No parent or student shall be precluded from copying information because of financial hardship. See Policy 4260 for information regarding the Agency copy fee schedule.
14. A log of all releases of information from student records, including all instances of access granted, whether or not records were copied, shall be kept and maintained as part of such records. This log shall be maintained for the life of the student record and shall be accessible only to the parent or eligible student, records custodian, or other such person. The log of release shall include:
 - Information released or made accessible;
 - The name and signature of the records custodian;
 - The name and position of the person requesting the release or access;
 - The legitimate interests the parties had in requesting or obtaining the information;
 - The date of the release or grant of access;
 - A copy of any consent to such release; and
 - Any additional information required by State or federal law.

Directory Information

The Agency may release certain directory information regarding students, except that parents may prohibit such a release. Directory information shall be limited to:

1. Name;
2. Address;
3. Gender;
4. Grade level;
5. Birth date and place;
6. Parents'/guardians' names and addresses;
7. Academic awards, degrees, and honors;
8. Information in relation to school-sponsored activities, organizations, and athletics;
9. Major field of study; and
10. Period of attendance in school.

The notification to parents and students concerning school records will inform them of their right to object to the release of directory information.

Military Recruiters/Institutions of Higher Education

Pursuant to federal law, the Agency is required to release the names, addresses, and telephone numbers of all high school students to military recruiters and institutions of higher education upon request. The notification to parents and students concerning school records will inform them of their right to object to the release of this information.

Student Record Challenges

The parents may challenge the accuracy, relevancy, or propriety of the records, except for grades, and references to expulsions or out-of-school suspensions, if the challenge is made when the student's school records are being forwarded to another school. They have the right to request a hearing at which each party has:

- The right to present evidence and to call witnesses;
- The right to cross-examine witnesses;
- The right to counsel;
- The right to a written statement of any decision and the reasons therefore; and
- The right to appeal an adverse decision to an administrative tribunal or official, to be established or designated by the State Board.

The parents may insert a written statement of reasonable length describing their position on disputed information. The school will include a statement in any release of the information in dispute.

LEGAL REFERENCE:

- 20 U.S.C. 1232(h) Protection of Pupil Rights
- 20 U.S.C. § 1232g, *et seq.* Family Education Right to Privacy Act (FERPA)
- 34 C.F.R. Part 99 Implementing FERPA
- I.C. § 33-133 Idaho Student Data Accessibility, Transparency, and Accountability Act - Definitions — Student Data — Use and Limitations — Penalties
- I.C. § 33-209 Attendance at Schools — Transfer of Student Records — Duties
- I.C. § 33-717A Divorce Actions - Parents' Access to Records and Information

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