

4.13 – PRIVACY OF STUDENTS' RECORDS/DIRECTORY INFORMATION - School Board Policy

Except when a court order regarding a student has been presented to the district to the contrary, all students' education records are available for inspection and copying by the parents of his/her student who is under the age of eighteen (18). At the age of eighteen (18), the right to inspect and copy a student's records transfers to the student. A student's parent or the student, if over the age of 18, requesting to review the student's education records will be allowed to do so within no more than forty-five (45) days of the request. The district forwards education records, including disciplinary records, to schools that have requested them and in which the student seeks or intends to enroll, or is already so long as the disclosure is for purposes related to the student's enrollment or transfer.

The district shall receive written permission before releasing education records to any agency or individual not authorized by law to receive and/or view the education records without prior parental permission. The District shall maintain a record of requests by such agencies or individuals for access to, and each disclosure of, personally identifiable information (PII) from the education records of each student. Disclosure of education records is authorized by law to school officials with legitimate educational interests. A personal record kept by a school staff member is **not** considered an education record if it meets the following tests.

- It is in the sole possession of the individual who made it;
- It is used only as a personal memory aid, and
- Information contained in it has never been revealed or made available to any other person, except the maker's temporary substitute.

For this policy a school official is a person employed by the school as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel); a person serving on the school board; a person or company with whom the school 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.

For this policy, a school official has a legitimate educational interest if the official needs to review an education record to fulfill his or her professional responsibility, contracted duty, or duty of elected office.

In addition to releasing PII to school officials without permission, the District may disclose PII from the education records of students in foster care placement to the student's caseworker or the caseworker's representative without getting prior consent of the parent (or the student if the student is over eighteen (18)). For the District to release the student's PII without getting permission:

- The student must be in foster care;
- The individual to whom the PII will be released must have legal access to the student's case plan; and
- The Arkansas Department of Human Services, or a sub-agency of the Department, must be legally responsible for the care and protection of the student.

The District discloses PII from an education record to appropriate parties, including parents, in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals. The Superintendent or designee shall determine who will have access to and the responsibility for disclosing information in emergencies.

When deciding whether to release PII in a health or safety emergency, the District may take into account the totality of the circumstances of a threat to the health or safety of a student or other individuals. If the District determines that there is an articulable and significant threat to the health or safety of a student or other individuals, it may disclose information from education records to any person whose knowledge of the information is necessary to protect the health or safety of the student or other individuals.

For purposes of this policy, the Nemo Vista School District does not distinguish between a custodial and non-custodial parent concerning gaining access to a student's records. Unless a court order

restricting such access has been presented to the district to the contrary, the fact of a person's status as a parent or guardian alone enables that parent or guardian to review and copy their child's records.

If there exists a court order that directs that a parent not have access to a student or his records, the parent or guardian, person acting in loco parentis, or an agent of the Department of Human Services must present a file-marked copy of such order to the building principal and the superintendent. The school will make good-faith efforts to act by such court order, but the failure to do so does not impose legal liability upon the school. The actual responsibility for the enforcement of such court orders rests with the parents or guardians, their attorneys, and the court that issued the order.

A parent or guardian does not have the right to remove any material from a student's records, but such a parent or guardian may challenge the accuracy of a record. The right to challenge the accuracy of a record does not include the right to dispute a grade, disciplinary rulings, disability placements, or other such determinations, which must be done only through the appropriate teacher and/or administrator, the decision of whom is final. A challenge to the accuracy of material contained in a student's file must be initiated with the building principal, with an appeal available to the superintendent or his designee. The challenge shall identify the part of the student's record that the parent wants changed and specify why he/she believes it is inaccurate or misleading. If the school determines not to amend the record as requested, the school will notify the requesting parents or students of the decision and inform them of their right to a hearing regarding the request for amending the record. The parent or eligible student will be provided information regarding the hearing procedure when notified of the right to a hearing.

Unless the parent or guardian of a student (or student, if above the age of eighteen [18]) objects, directory information about a student may be made available to the public, military recruiters, post-secondary educational institutions, prospective employers of those students, as well as school publications such as annual yearbooks and graduation announcements. "Directory information" includes, but is not limited to, a student's name, address, telephone number, electronic mail address, photograph, date and place of birth, dates of attendance, his/her placement on the honor roll (or the receipt of other types of honors), as well as his/her participation in school clubs and extracurricular activities, among others. If the student participates in inherently public activities (for example, basketball, football, or other interscholastic activities), the publication of such information will be beyond the control of the District.

A student's name and photograph will only be displayed on the district or school's web page after receiving the written permission of the student's parent or the student if over the age of 18.

The form for objecting to making directory information available is located in the back of this (student) handbook and must be completed and signed by the parent or age-eligible student and filed with the building principal's office no later than ten (10) school days after the beginning of each school year or 10 days from the date student is enrolled in school. Failure to file an objection by that time is considered a specific grant of permission. The district is required to continue to honor any signed opt-out form for any student no longer in attendance at the district.

The right to opt out of the disclosure of directory information under FERPA does not prevent the District from disclosing or requiring a student to disclose the student's name, identifier, or institutional email address in a class in which the student is enrolled.

Parents and students over the age of 18 who believe the district has failed to comply with the requirements for the lawful release of student records may file a complaint with the U.S. Department of Education at

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

The District shall ensure that all contracts that disclose or make available student personally identifiable information to vendors, including school service contract providers, school service on-demand providers, and other third parties, including without limitation subcontractors of contract providers, include express provisions that safeguard the privacy and security of student personally identifiable information that meet the requirements under A.C.A. § 6-18-2601 et seq.

The District shall maintain a list of the school service contract providers that the District contracts with for school services that include or make available student personally identifiable information. The list shall be updated at least once at the beginning of each semester and provided to parents upon request.

Legal Reference: A.C.A. § 6-18-2601 et seq. A.C.A. § 9-28-113 (b) (6) 20 U.S.C. § 1232g 20 U.S.C. § 7908
34 CFR, §§, 99.3, 99.7, 99.21, 99.22, 99.30, 99.31, 99.32, 99.33, 99.34, 99.35, 99.36, 99.37, 99.63, 99
Cross References: 5.20 – District Web Site 5.20.1—Web Site Privacy Policy
5.20F1 – Permission to Display Photo of Student on Website 4.34---Communicable Diseases and Parasites
Date Adopted: Oct. 2010 Last Revised: July 2023