

MENOMINEE INDIAN SCHOOL DISTRICT

347 Rule

**GUIDELINES FOR THE MAINTENANCE AND
CONFIDENTIALITY OF STUDENT RECORDS**

A. DEFINITIONS

1. "Student records" include all records relating to an individual student, regardless of format, other than notes or records maintained for personal use by teachers or other certified personnel which are not available to others, and records necessary for and available only to persons involved in the psychological treatment of a student.
2. "Progress records" include a statement of courses taken by the student, the student's grades, the student's immunization records, the student's attendance record and records of the student's extracurricular activities.
3. "Behavioral records" include standardized achievement tests, psychological tests, personality evaluations, records of conversations, written statements relating specifically to an individual student's behavior, student physical health records other than his/her immunization records, law enforcement records and any other student records that are not progress records.
 - a. "Law enforcement records" include those records and other information obtained from a law enforcement agency relating to: (1) the use, possession or distribution of alcohol or a controlled substance (AOD) by a student enrolled in the District, (2) the illegal possession of a dangerous weapon by a child, (3) an act for which a District student was taken into custody based on the law enforcement officer's belief that he/she violated or was violating certain specified laws, and (4) the act for which a juvenile enrolled in the District was adjudged delinquent. The law enforcement agency may provide such record information to the District on its own initiative or on the request of the

District Administrator or designee, subject to the agency's official policy. Once the record information is received, the student named in the records and the parent/guardian of any minor student named in the records shall be notified of the information.

- b. "Court records" include those records received from a court clerk concerning a juvenile enrolled in the District who: (1) has had a petition filed with a court alleging that he/she has committed a delinquent act that would be a felony if committed by an adult, (2) has been adjudged delinquent, (3) has school attendance as a condition of his/her court dispositional order, or (4) has been found to have committed a delinquent act at the request of or for the benefit of a criminal gang that would be a felony if committed by an adult, and has been adjudged delinquent on that basis.
4. "Student physical health records" include basic health information about a student, including the student's immunization records, an emergency medical card, a log of first-aid and medicine administered to the student, an athletic permit card, a record concerning the student's ability to participate in an education program, the results of any routine screening test such as for hearing, vision or scoliosis, and any follow-up to such test, and any other basic health information as determined by the State Superintendent of Public Instruction.
5. "Patient health care records" include all records relating to the health of a student prepared by or under the supervision of a health care provider which are not included in the "student physical health records" definition above.
6. "Directory data, as designated by the Board of Education, includes a student's name, address, telephone number, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height

of members of athletic teams, dates of attendance, photographs, degrees and awards and the name of the school most recently attended by the student.

7. "Disclosure" means to permit access to or the release, transfer of other communication of personally identifiable information contained in education records to any party, by any means, including oral, written or electronic means.

B. CONFIDENTIALITY

All student progress and behavioral records maintained by the District shall be confidential with the following exceptions:

1. General Access

- a. A student or the parent/guardian of a minor student shall, upon request, be provided with a copy of the student's progress records.
- b. An adult student or the parent/guardian of a minor student shall, upon request, be shown the student's behavioral records in the presence of a person qualified to explain and interpret the records. Such a student or parent/guardian shall, upon request, be provided with a copy of the behavioral records.
- c. The judge of any court of Wisconsin or of the United States shall, upon request, be provided by the Board Clerk or designee with a copy of all progress records of a student who is the subject of any proceeding in such court. The District shall make a reasonable effort to notify the parent/guardian or adult student of the order in advance of compliance therewith, except as otherwise provided by law. Upon court order, the school shall disclose to a law enforcement agency or fire investigator the student records of a student as necessary for the agency or investigator to pursue an investigation of alleged delinquent or criminal activity,

including arson or terrorism. The agency or investigator may use the student records only for the purpose of its investigation and may make the student records available only to employees of the agency or investigator who are working on the investigation.

- d. If school attendance is a condition of a student's dispositional order under section 48.355(2)(b)7 or 938.358(2), the Board shall notify the county department that is responsible for supervising the student within five days after any violation of the condition by the student.
- e. A law enforcement agency shall be provided a copy of a student's attendance record if the law enforcement agency certifies in writing that the student is under investigation for truancy or for allegedly committing a criminal or delinquent act and that the law enforcement agency will not further disclose the student's attendance record information except as permitted by law. When a student's attendance record is disclosed to a law enforcement agency for purposes of truancy, the student's parent/guardian shall be notified of that disclosure as soon as practicable after the disclosure.
- f. A fire investigator shall be provided a copy of a student's attendance record if the fire investigator certifies in writing that: (1) the student is under investigation for arson, (2) the student's attendance record is necessary for the fire investigator to pursue his/her investigation, and disclose the student's attendance record only for the purpose of pursuing that investigation.
- g. Student records shall be made available to school officials who have been determined by the Board to have legitimate educational interests, including safety interests, in such records. A "school official" is a person employed by the

District who is required by the Department of Public Instruction (DPI) to hold a license; a person who is employed by or working on behalf of the District as an administrator, supervisor, instructor or support staff member (including health or medical staff and police-school liaison personnel); a person serving on the Board; a person or company with whom the District has contracted to perform a specific 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/her tasks. A school official has a "legitimate educational interest" if the official needs to review a student record in order to fulfill his/her professional or District responsibility.

- (1) Law enforcement records received by the District may be made available to those school officials with legitimate educational interests, including safety interests, in the information. If law enforcement record information obtained by the District relates to a District student, the information may also be disclosed to those District employees who have been designated by the Board to receive that information for the purpose of providing treatment programs for District students. The information may not be used as the sole basis for suspending or expelling a student from school, or as the sole basis for taking any other disciplinary action against a student, including action under the District's athletic code.
- (2) Court records obtained by the District must be disclosed to District employees who work directly with the juvenile named in the records or who have been determined by the Board to have legitimate educational interests, including safety interests, in the information. An employee cannot further

disclose the information, and the information cannot be used as the sole basis for suspending or expelling a student from school.

- h. Upon the written permission of an adult student or the parent/guardian of a minor student, the school shall make available to the person named in the permission form the student's progress records or such portion of his/her behavioral records as determined by the person authorizing the release. Law enforcement records may not be made available under this exception unless specifically identified by the adult student or by the parent/guardian of a minor student in the written request.
- i. Student records shall be provided to a court in response to a subpoena by parties to an action for in camera inspection, to be used only for purposes of impeachment of any witness who has testified in the action. The court may turn said records or parts thereof over to parties in the action or their attorneys if said records would be relevant and material to a witness's credibility or competency. The District shall make a reasonable effort to notify the parents/guardians or adult student of the subpoena in advance of compliance therewith, except when otherwise provided by law.
- j. The District may provide the DPI or any public officer with information required under Chapters 115 to 121 of the state statutes. Upon request, the Board shall provide the DPI with any student record information that relates to an audit or evaluation of a federal or state-supported program or that is required to determine compliance with state law provisions.
- k. Notwithstanding their confidential status, student records may be used in suspension and expulsion proceedings and by the individualized education program (IEP) team in accordance with state and federal law.

- l. Information from a student's immunization records shall be made available to state and local health officials to carry out immunization requirements.
- m. Upon request, the Board Clerk or designee shall provide the names of students who have withdrawn from school prior to graduation to the technical college district board in which the public school is located or, for verification of eligibility for public assistance, to the department of health and family services (DHFS), the department of workforce development (DWD) or a county department under sections 46.215, 46.22 or 46.23 of the state statutes.
- n. A student's records shall be disclosed in compliance with a court order under s. 48.236(4)(a), 48.345(12)(b), 938.34(7d)(b), 938.396(1m)(c) or (d or 938.78(2)(b)2 after a reasonable effort has been made to notify the student's parent/guardian.
- o. In response to a court order, the District shall provide to the court the names of all persons known by the District to be dropouts and who reside within the county in which the circuit court or the municipality court is located.
- p. Annually, on or before August 15, the District shall report to the appropriate community services boards established under sections 51.42 and 51.437 the names of students who reside in the District, who are 16 years of age or older, who are not expected to be enrolled in an educational program two years from the date of the report and who may require services under sections 51.42 or 51.437 (community mental health, development disabilities, alcoholism and drug abuse). The parent(s)/guardian of such students shall be contacted to obtain informed consent prior to making such a report.

- q. Personally identifiable information from the student records of an adult student may be disclosed to the parent of the adult student without the written consent of the adult student if the adult student is a dependent of his/her parent for tax purposes (under the Federal Internal Revenue Code, 26 USC). This may be done unless the adult student has informed the school, in writing, that the information may not be disclosed.
- r. The District shall, upon request, provide student disciplinary records necessary for purposes of student enrollment in another public school district as permitted by law. These records may include:
 - (1) a copy of any expulsion findings and orders or records of any pending disciplinary proceedings involving the student;
 - (2) a written explanation of the reasons for the expulsion or pending disciplinary proceedings; and
 - (3) the length of the term of the expulsion or the possible outcomes of the pending disciplinary proceedings.

2. Access to Directory Data

Except as otherwise provided below, directory data may be disclosed to any person after the school has:

- (a) notified the parent, legal guardian or guardian ad litem of the categories of information which it has designated as directory data with respect to each student,
- (b) informed such persons that they have 14 days to inform the school that all or any part of the directory data may not be released without their prior consent, and
- (c) allowed 14 days for such persons to inform the school, in writing, (a letter to the District Administrator's office) of all the directory data items they refuse to permit the District to designate as directory data about that student. At the end of his 143 day period,

each student's records will be appropriately marked by the records custodian to indicate items the District will designate as directory data about the student. This designation will remain in effect until it is modified by the written direction of the student's parent, guardian or guardian ad litem or the adult student.

- a. If the District has followed the notification procedure outlined above, and the parent/guardian or adult student does not object to the directory data being released, the Board Clerk or designee shall, upon request, provide the name and address of each student expected to graduate from high school in the current school year to the technical college district board.

3. Access to Patient Health Care Records

All student patient health care records shall remain confidential. They may be released only to persons specifically designated in state law or to other persons with the informed consent of the patient or a person authorized by the patient. Student patient health care records maintained by the District may only be released without informed consent to a District employee or agent if any of the following apply:

- a. The employee or agent has responsibility for the preparation or storage of patient health care records.
- b. Access to patient health care records is necessary to comply with a requirement in federal or state law.

Any record that concerns the results of a test for the presence of HIV or antibody to HIV (the virus which causes acquired immunodeficiency syndrome - AIDS) shall be confidential and may be disclosed only with the informed written consent of the test subject.

C. RECORDS MAINTENANCE/DISCLOSURE

1. While students are attending school, their records will be maintained in the school of attendance. Upon transfer of the student to another school operated by the District, the records shall be transferred to that school. When the student ceases to be enrolled in a school operated by the District, his/her records will be transferred to the central administrative office. Patient health care records and law enforcement records shall be maintained separately from a student's other records.
2. The building principal shall have primary responsibility for maintaining the confidentiality of all student records kept at that school. All requests for inspection or for transfer to another school or school district should be directed to the building principal who will determine whether inspection or transfer is permitted under state and federal law and these guidelines. The building principal or his/her qualified designee shall be present to interpret behavioral records when inspection is made under Section B(1)(b) above. Upon transfer of student records to the central administrative office, the District Administrator or his/her qualified designee shall assume these duties.
3. To examine records, parents/guardians shall contact the principal to set up an appointment.
4. A record of each request for access to and each disclosure of personally identifiable information from the education records of a student shall be maintained with such student's records, except when the request is from or the disclosure is to the following person/party:
 - The parent/guardian or adult students;
 - A school official;
 - A party with written consent from the parent/guardian or adult student;

- A party seeking directory data; or
- A party seeking or receiving the records as directed by a federal grand jury or other law enforcement subpoena and the issuing court or other issuing agency has ordered that the existence or the contents of the subpoena or the information in response to the subpoena not be disclosed.

D. TRANSFER OF RECORDS

Student records relating to a specific student shall be transferred to another school or school district upon receipt of written notice from:

1. an adult student, or the parent/guardian of a minor student, that the student intends to enroll in the other school or school district;
2. another school or school district that the student has enrolled; or,
3. a court that a student has been placed in a secured correctional facility, secured child caring institution or a secured group home.

E. AMENDMENT OF RECORDS

1. A parent/guardian or adult student who believes that information contained in the student's records is inaccurate, misleading, or otherwise in violation of the student's rights of privacy may request the District to amend the records. Such request shall be addressed in writing to the building principal for recommendation to the District Administrator for action. Within a reasonable time after receiving the request, the District shall decide whether to amend the records in accordance with the request and inform the parent/guardian or adult student of the decision.
2. If the District refuses to amend the records, it shall inform the parent/guardian or adult student of the refusal and advise him/her of the right to a

hearing before the Board. The request for the hearing shall be filed in writing with the District Administrator. The parent/guardian or adult student shall be given notice of the date, place and time of the hearing reasonably in advance of the hearing.

- a. The Board shall appoint an individual who does not have a direct interest in the outcome to conduct the hearing.
- b. The parent/guardian or adult student shall be afforded the opportunity to present relevant evidence and may be assisted or represented by individuals of his/her choice at his/her own expense, including an attorney.
- c. The District's decision shall be based solely upon the evidence presented and shall include a summary of the evidence and the reason for the decision.
- d. The hearing shall be held and the parent(s)/guardian or adult student informed of the District's decision in writing within a reasonable period of time after the hearing.
- e. If the District decides that the information is inaccurate, misleading or otherwise in violation of the student's privacy rights, the education records of the student shall be amended accordingly.
- f. If the District decides that the information is not inaccurate, misleading or otherwise in violation of the student's privacy rights, the District shall inform the parent/guardian or adult student of the right to place a statement commenting upon the information in the education records and/or describing reasons for disagreeing with the decision of the District.

F. RECORDS RETENTION

Records that are transferred to the central administrative office when the student ceases to be enrolled shall be maintained as follows:

1. All behavioral records will be destroyed one year after the date the student graduates from or last attends a school in the District unless the student, or the parent/guardian of a minor student, gives permission that the records may be maintained for a longer period of time. Where such written permission is received, behavioral records shall be maintained for the time period specified in the written permission or, if no such time period is noted, for as long as the District's needs require.
2. Student progress records shall be retained (e.g. five years, permanently) after the student ceases to be enrolled in the District.
3. The District shall not destroy any educational records of a student if there is an outstanding request to inspect and review them.

G. COMPLAINTS REGARDING ALLEGED NONCOMPLIANCE WITH FEDERAL REQUIREMENTS

Adult students or parents of minor students may file a complaint with the Family Policy Compliance Office of the U.S. Department of Education for alleged District noncompliance with requirements of the Federal Family Educational Rights and Privacy Act (FERPA).

H. ANNUAL NOTICE

Parents/guardians and adult students shall be notified annually of the following: (1) their rights to inspect and review student records; (2) their rights to request the amendment of the student's school records if they believe the records are inaccurate, misleading or otherwise in violation of the student's rights of privacy; (3) their rights to consent to the disclosure of the student's school records, except to the extent

state and federal law authorizes disclosure without consent; (4) the categories of student record information which have been designated as directory data and their right to deny the release of such information; and, (5) their right to file a complaint with the Family Policy Compliance Office of the U.S. Department of Education.

Parent/guardians of secondary school students shall also be notified of their option to request the district not to release the secondary school student's name, address or telephone listing to military recruiters or institutions of higher education without prior written parent consent.

Within the first three weeks of each school year, the District shall publish the notice in the official District newspaper. When a student transfers into the District after the above notice has been given, the student and his/her parent(s)/guardian shall receive a copy of the notice at the time and place of enrollment.

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