

**LEARNER RECORDS
NOTICE OF RIGHTS**

The Family Educational Rights and Privacy Act (FERPA) affords parents, guardians and learners who are 18 years of age or older ("eligible learners") certain rights with respect to the learner's education records. These rights are:

1. The right to inspect and review the learner's education records within 45 days after the day the District receives a request for access. Parents or eligible learners should submit to the school principal a written request that identifies the records they wish to inspect. The school official will make arrangements for access and notify the parent or eligible learner of the time and place where the records may be inspected.
2. The right to request the amendment of the learner's education records that the parent or eligible learner believes are inaccurate, misleading, or otherwise in violation of the learner's privacy rights under FERPA. Parents or eligible learners who wish to ask the District to amend a record should write to the school principal, clearly identify the part of the record they want changed, and specify why it should be changed. If the school decides not to amend the record as requested by the parent or eligible learner, the school will notify the parent or eligible learner of the decision and of their right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the parent or eligible learner when notified of the right to a hearing.
3. The right to provide written consent before the school discloses personally identifiable information (PII) from the learner's education records, except to the extent that FERPA authorizes disclosure without consent. 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 as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel) or a person serving on the school board. A school official also may include a volunteer or contractor outside of the school who performs an institutional service of function for which the school would otherwise use its own employees and who is under the direct control of the school with respect to the use and maintenance of PII from education records, such as an attorney, auditor, medical consultant, or therapist; a parent or learner volunteering to serve on an official committee, such as a disciplinary or grievance committee; or a parent, learner, or other volunteer 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. Upon request, the school discloses education records without consent to officials of another school district in which a learner seeks or intends to enroll, or is already enrolled if the disclosure is for purposes of the learner's enrollment or transfer.
4. The right to file a complaint with the U.S. Department of Education concerning alleged failures by the District to comply with the requirements of FERPA. The name and address of the Office that administers FERPA are:

~~Family Policy Compliance Office~~ Student Privacy Policy Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-8520
<https://studentprivacy.ed.gov>

FERPA permits the disclosure of Personally Identifiable Information (PII) from learners' education records, without consent of the parent or eligible learner, if the disclosure meets certain conditions. Except for disclosures to school officials, disclosures related to some judicial orders or lawfully issued

subpoenas, disclosures of directory information, and disclosures to the parent or eligible learner, FERPA regulations require the school to record the disclosure. Parents and eligible learners have a right to inspect and review the record of disclosures. The District may disclose PII from the education records of a learner without obtaining prior written consent of the parents or the eligible learner –

- To other school officials, including teachers, within the educational agency or institution whom the school has determined to have legitimate educational interests. This includes contractors, consultants, volunteers, or other parties to whom the school has outsourced institutional services or functions, provided that certain conditions are met.
- To officials of another school, school system, or institution of postsecondary education where the learner seeks or intends to enroll, or where the learner is already enrolled if the disclosure is for purposes related to the learner’s enrollment or transfer, subject to certain requirements.
- To authorized representatives of the U. S. Comptroller General, the U. S. Attorney General, the U.S. Secretary of Education, or State and local educational authorities, such as the State educational agency in the parent or eligible learner’s State (SEA). Disclosures under this provision may be made, subject to the requirements of §99.35, in connection with an audit or evaluation of Federal- or State-supported education programs, or for the enforcement of or compliance with Federal legal requirements that relate to those programs. These entities may make further disclosures of PII to outside entities that are designated by them as their authorized representatives to conduct any audit, evaluation, or enforcement or compliance activity on their behalf.
- **In connection with financial aid for which the student has applied or which the student has received, if the information is necessary to determine eligibility for the aid, determine the amount of the aid, determine the conditions for the aid, or enforce the terms and conditions of the aid.**
- To State and local officials or authorities to whom information is specifically allowed to be reported or disclosed by a State statute that concerns the juvenile justice system and the system’s ability to effectively serve, prior to adjudication, the learner whose records were released, subject to certain limitations.
- To organizations conducting studies for, or on behalf of, the school, in order to:
 - Develop, validate, or administer predictive tests;
 - Administer learner aid programs; or
 - Improve instruction.
- To accrediting organizations to carry out their accrediting functions.
- To parents of a learner if the learner is a dependent for IRS tax purposes.
- To comply with a judicial order or lawfully issued subpoena.
- To appropriate officials in connection with a health or safety emergency, subject to certain limitations.
- Information the school has designated as “directory information.”

Legal References:

[ARSD 24:43:09:02](#) (Student records)

[SDCL 13-3-51](#) (Data reporting and record systems)

[SDCL 13-3-51.1](#) (Definitions regarding privacy of records)

- [SDCL 13-3-51.2](#) (Information not subject to survey, analysis, or evaluation without consent)
- [SDCL 13-3-51.3](#) (Prohibition against reporting personally identifiable information)
- [SDCL 13-3-51.4](#) (Department to develop security measures to protect personally identifiable information)
- [SDCL 13-3-51.5](#) (Disclosure of aggregate data otherwise allowed)
- [SDCL 13-3-51.6](#) (Disclosure of aggregate data necessary for impact aid)
- [CFR Title 34 Part 99](#) (Family Educational Rights and Privacy ACT (FERPA))
- [CFR Title 20 §1232g](#) (Family Educational Rights and Privacy ACT (FERPA))

Cross References:

- ILB - State Required Assessments**
- KBA - Public's Right to Know**

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