

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

**347-Rule (1)**

**I. DEFINITION OF TERMS**

“Student records” are defined as all records relating to an individual student, 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 to persons involved in the psychological treatment of a student.

“Progress records” are defined as those student records, which include the student’s grades, a statement of the courses the student has taken, the student’s attendance records, the student’s immunization/lead screening records, and records of the student’s extracurricular activities.

A. “Behavioral records” are defined as those student records which include psychological tests, personality evaluations, records of conversations, any written statements relating to a student’s behavior, tests relating specifically to a student’s achievement or measurement of ability, physical health records other than immunization records, student assistance records, law enforcement officer records, court records, and any other student records which are not progress records.

1. Under the rules implementing Chapter 115, Subchapter V, PI 11.37(2)(e), the student behavioral records include referral information (including notices and forms); Individualized Education Program (IEP) Team evaluations; individual reports and IEP Team findings and reports; individualized education programs; placement decisions and signed parental consent or refusal for evaluation; medical evaluations and prescriptions required to substantiate health treatment services; medical evaluations used to substantiate a handicapping condition; and physician’s statement required for provision of special education homebound instructional services.

2. "Law enforcement unit records" include those records maintained by a law enforcement unit of the District that were created for purposes of law enforcement. A "law enforcement unit of the District" is an individual, office, department, division or other component of the District that is authorized by the Board of Education to do any of the following: (1) enforce any law or ordinance, or refer to the appropriate authorities as a matter for enforcement of any law or ordinance against any person other than the school district, and/or (2) maintain the physical security and safety of a public school. It also includes records or other information obtained from a law enforcement agency relating to: (1) the use, possession or distribution of alcohol or a controlled substance 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 any State or Federal criminal laws, and (4) the act for which a juvenile enrolled in the District was adjudged delinquent. The exchange of information with law enforcement is subject to State and Federal law. Only the Superintendent or his/her designees are authorized to supervise, determine and/or engage in the lawful exchange of law enforcement records or pupil records. Upon receipt of the records, the Superintendent or designee may inform the student named in the records and the parent(s)/guardian(s) of a minor student named in the records of the information, unless the information is specifically received pursuant to Wis. Stats. §48.396(1) or §938.396(1)(m)(a) (Re-disclosure of law enforcement record information provided in matters under the Children's Code and Juvenile Code is specifically prohibited).
3. "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. Any other Juvenile Court records other than the above may not be disclosed except by the order of the Court.

4. "Student physical health care records" are defined as those student records that 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 designated state education agency or officer.
  5. "Student patient records" include all records relating to the health of a student which are not included in the "student physical health care records" definition above. This includes health records prepared by or under the supervision of a health care provider.
  6. "Parent" means parent, legal guardian or guardian ad litem. Stepparents may be accorded the same rights of parents if designated by any of the above.
  7. "Adult Student" means a student who has attained the age of 18.
- B. Under the definition of "directory data", the District has elected not to designate any of the following information as directory data pursuant to §118.125(b)(j):
- "Directory Data" – The Board of Education may designate the following information as student directory data, but by policy, has declined to designate any of the following as directory data: student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and athletics, weight and height of members of athletic teams, photographs, degrees and awards received, and the name of the school most recently attended by the student.
- C. Informed Written Consent must include all of the following:
1. the name of the student whose record is being disclosed.
  2. the type of information to be disclosed.
  3. the name of the person(s) making the disclosure.
  4. the purpose of the disclosure.
  5. the individual, agency, or organization to which disclosure may be made.
  6. the signature of the student, if an adult, or the parent/guardian of a minor student.
  7. the date on which the consent is signed.
  8. the time period during which the consent is effective.

## II. PARENT ACCESS TO RECORDS

A parent, regardless of whether the parent has legal custody of the child, shall have access to a child's medical, dental, and school records unless the parent has been denied access to such records as outlined by State law (e.g. denied periods of physical placement with the child, ordered by the Court).

## III. CONFIDENTIALITY AND ACCESS TO RECORDS

### A. Release of Student Progress and Behavioral Records (Other Than Student Patient Records and Directory Data)

All student progress and behavioral records are confidential and will not be released except as follows:

1. A student, or the parent(s)/guardian(s) of a minor student, shall, upon request, be shown and provided with a copy of the student's progress records.
2. An adult student, or the parent(s)/guardian(s) of a minor student, shall, upon request, be shown, in the presence of a person qualified to explain and interpret the records, the student's behavioral records. Such student or parent(s)/guardian(s) shall, upon request, be provided with a copy of the behavioral records.
3. The judge or officer of any court of Wisconsin or the United States shall, upon request, be provided with a copy of all progress records of a student who is the subject of any proceeding in such court.
4. If school attendance is a condition of a student's dispositional order under §48.355(2)(b)7 or §938.358(2), the District shall notify the county department that is responsible for supervising the student within five days after any violation of the condition by the student.
5. 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 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.
  - a. Pupil records shall be made available to persons employed by the district, including law enforcement officers who are individually designated by the school board and assigned to the district where there is a legitimate safety or educational interest.

- b. Pupil records may be disclosed for any purpose concerning the juvenile justice system and the system's ability to effectively serve a pupil prior to adjudication provided the records are not disclosed unless otherwise authorized by law, such as through court order or other State or Federal statute.
  - c. Under State law, the District is required to disclose pertinent pupil records to an investigating law enforcement agency or district attorney if the person to whom the records are disclosed certifies in writing that the records concern the juvenile justice system and the system's ability to effectively serve the pupil relate to an ongoing investigation or pending delinquency petition and will not be disclosed to any other person except as otherwise authorized by law.
6. The District may disclose student records to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of any individual. In making this determination, the District may take into account the totality of the circumstances pertaining to 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 student records to any person whose knowledge of the information is necessary to protect the health or safety of the student or other individuals. The District shall record the following information when it discloses student record information under this exception: (1) the articulable and significant threat to the health or safety of a student or other individuals that formed the basis for the disclosure, and (2) the parties to whom the District disclosed the information.
7. Student records shall be made available to District employees who are required by the State to hold a teacher's license and to other District officials only if they have a legitimate educational or safety interest in the records.
- a. Law enforcement Alcohol and Drug Abuse (AODA) record information obtained by the District must be made available to District employees designated to provide alcohol and other drug abuse programs and must be used to provide such programs for students. The information may not be used as the sole basis for suspending or expelling a student from school.

- b. Law enforcement weapons possession record information obtained by the District, which relate to a District student, may be made available to District employees who are required by the State to hold a teacher's license, and to other District officials determined to have legitimate educational or safety interests in the information. The information may not be used as the sole basis for suspending or expelling a student from school.
- c. Law enforcement weapons possession record information obtained by the District which relate to a person who is not a District student may be made available to District employees who are required by the State to hold a teacher's license and to other District officials determined to have legitimate safety interests in the information.
- d. Law enforcement delinquency-related record information obtained by the District must be made available to District employees who are required by the State to hold a teacher's license, District officials determined to have legitimate educational or safety interests in the information, and District employees who have been designated by the Board to provide treatment programs. The information must be used for legitimate educational or safety purposes and to provide treatment programs for students and cannot be used as the sole basis for suspending or expelling a student from school.
- e. 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 or 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 or as the sole basis for taking any other disciplinary action against a student, including actions under the District's athletic/activity code.

A Board member or District employee may not be held personally liable for any damages caused by failure to make student record disclosures to District employees as outlined above unless the person acted with actual malice in failing to disclose the information. The District also may not be held liable for any damages caused by nondisclosure unless the District or its agent acted with gross negligence or reckless, wanton or intentional misconduct in failing to disclose the records.

Upon the informed written consent of an adult student, or the parent(s)/guardian(s) of a minor student, the District shall make available to the person named in the consent form, the student's progress records or such portions of his/her behavioral records as determined by the person authorizing the release. Law enforcement officer records may not be made available under this exception unless specifically identified by the adult student or by the parent(s)/guardian(s) of a minor student in the written permission.

8. 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.
9. The DPI or any public officer may be provided with any information required by law. 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.
10. Notwithstanding their confidentiality, student records may be used in suspension and expulsion proceedings and by the multidisciplinary team.
11. Information from a student's immunization records shall be made available to State and local health officers to carry out immunization requirements.

12. The district board of the technical college district in which the District is located or, for verification of eligibility for public assistance, the Department of Health and Family Services, the Department of Industry, Labor and Job Development, or a county department under sections 46.215, 46.22 or 46.23 of the Wisconsin State Statutes shall, upon request, be provided with the names of students who have withdrawn from the public school prior to graduation.
13. Personally identifiable information from an adult student's records may be disclosed to the student's parent(s)/guardian(s) without the adult student's informed written consent, if the adult student is a dependent of his/her parent(s) or guardian(s) under the Internal Revenue Code. An exception shall be made when an adult student has informed the school, in writing, that the information may not be disclosed.
14. A student's records shall be disclosed in compliance with a court-ordered educational plan after making a reasonable effort to notify the student's parent(s)/guardian(s).
15. The names of students who reside in the District, who are at least 16 years of age, 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, developmental disabilities, alcoholism and drug abuse) shall be reported to the appropriate county departments under sections 51.42 and 51.437 on or before August 15 of each year.
16. The District shall, upon request, provide student disciplinary records necessary for purposes of open 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.

B. Student Patient Health Care Records

1. Confidentiality and Release. All patient health care records shall remain confidential. Except as otherwise provided, student patient records may only be released to persons specifically designated in the state patient health care records laws, or to other persons with the informed consent of the patient, or a person authorized by the patient. Any part of a student health care record that concerns the results of a test for the presence of HIV or antibody to HIV (the virus which causes acquired immune deficiency syndrome – AIDS), shall be confidential and may be disclosed only with the informed written consent of the test subject.
  
2. Access Without Informed Consent  
Patient health care records shall be released upon request without informed consent in the following circumstances:
  - a. Health Care Providers. Health care providers, or those working under the supervision of health care providers, may have access to pupil patient health care records if necessary for the performance of their duties if:
    - i. The person is rendering assistance to the patient.
    - ii. The person is being consulted regarding the health of the patient.
    - iii. The life or health of the patient appears to be in danger and the information contained in the patient health care records may aid the person in rendering assistance.
    - iv. The person prepares or stores records for the purpose of the preparation or storage of those records.
  
3. Others  
To a District employee or agent, with regard to patient health care records maintained by the District by which he or she is employed or is an agent, if:
  - a. Access to the records is necessary to comply with a requirement in Federal or State law.
  - b. The employee or agent has responsibility for preparation or storage of records.
    - i. County protective staff investigating claims of abuse and neglect.
    - ii. To the extent that the records are needed for billing, collection, or payment of claims.

C. Designation of Directory Data

Under the definition of “directory data”, the District has elected not to designate any of the permissible information as directory data pursuant to §118.125(b)(j).

Notice shall be published in the official designated District newspaper prior to the beginning of school each year. In addition, a notice shall be printed in the student and/or parent handbooks and fall registration materials.

The District shall, upon request, provide any representative of a law enforcement agency, district attorney or corporation counsel, county department under sections 46.215, 46.22 or 46.23 or a court of record or municipal court with such directory data information relating to any such student enrolled in the District for the purpose of enforcing that student’s school attendance, to respond to a health or safety emergency, or to aid in the investigation of alleged criminal or delinquent activity by a student enrolled in the District.

Administrators have the discretion to refuse the release of individual student phone numbers, date of birth, and addresses for the safety of the student, subject to state and federal law governing health and safety emergencies.

IV. TRANSFER OF RECORDS

Within five working days, the District shall transfer to another school or school district all student records relating to a specific student for purposes of student enrollment or transfer if it has received written notice from:

- A. an adult student, or the parent(s)/guardian(s) of a minor student, that the student intends to enroll in the other school;
- B. the other school district that the student has enrolled; or
- C. a court that the student has been placed in a juvenile correctional facility or secured childcare institution. Law enforcement records, court records, student patient health care records, and AODA records all require written release by parent(s)/guardian(s) or adult student. Third-party records need to be requested directly from the source.

The District does not maintain all daily student class assignments or tests as pupil records and does not maintain all daily incidental correspondence between parents and staff (whether paper or electronic means). Pupil records received by the District when students transfer from other school districts will be treated in the same manner as originally generated even if transmitted via electronic mail. For example, if the records were originally in a paper format and scanned for email transmission, upon receipt by the District, the records will be returned to a paper format for the student's pupil record file.

#### V. RECORDS MAINTENANCE/RETENTION

The building principal is the primary custodian of all student records in his/her building.

- A. Law enforcement officer record information and student patient records shall be maintained separate from the student's other records.
- B. Unless there is a written request for the records to be transferred to another educational institution or court ordered placement, the student's progress records will be maintained by the District for at least five years.
- C. Behavioral records shall be maintained in the high school for one year from the date the student graduates or last attends school in the District. Behavior records may be maintained during the entire period of time the student is enrolled in the District. With the written permission of an adult student, or the parent(s)/guardian(s) of a minor student, behavioral records may be maintained for five years from the date of graduation or last school attendance.

#### VI. AMENDMENT OF RECORDS

The parent(s)/guardian(s) of a minor student or an adult student who believes that information contained in educational records of the student is inaccurate or misleading or violates the privacy or other rights of the student may request in writing that this information be amended. The principal will review the request to determine if the request has merit and decide whether to allow or disallow the request.

#### VII. COMPLAINT PROCEDURE

An adult student or parent/guardian of a minor student who feels there has been a violation of the rights accorded them under Federal law may submit a written complaint to the Family Policy and Regulations Office, U.S. Department of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20201.

VIII. ANNUAL NOTICE

The District shall notify parent(s)/guardian(s) and adult students of their rights to inspect, review and obtain copies, at their expense, of the student's records; the existence of the student records policy and procedures and where copies can be obtained; and, their right to file a complaint with the Family Policy and Regulations Office of the Department of Education.

Legal References:

Wisconsin State Statutes 48.396(2m), 115.85(4), 118.125, 118.126, 118.127, 118.51(8), 118.52(10), 146.81-146.84, 252.15, 767.24(7), 938.342(lr), 938.396 and 2009 WI Act 309

Family Educational Rights and Privacy Act (20 USC Section 1232g, 34 CFR Part 99)

No Child Left Behind Act of 2001 (Section 9528)

Protection of Pupil Rights Provision of General Education Provisions Act (20 USC 1232h)

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