

Student Records/Release of Information on Students

In recognition of the confidential nature of student education records, no person or agency may access student education records without prior written consent from the student's parent/guardian or the eligible student, except as set forth in law and this policy.

The executive director or designee shall provide for the proper administration of student records in accordance with law, including the implementation of safeguard measures or procedures regarding access to and disclosure of student education records.

Content and custody of student education records

The executive director is the official custodian of records in BOCES educational programs.

Student education records in all formats and media, including photographic and electronic, are those records that relate directly to a student. Student education records may contain, but will not necessarily be limited to, the following information: identifying data; academic work completed; level of achievement (grades, standardized achievement test scores); attendance data; scores on standardized intelligence, aptitude and psychological tests; interest inventory results; health and medical information; family background information; teacher or counselor ratings and observations; reports of serious or recurrent behavior patterns and any Individualized Education Program (IEP).

Nothing in this policy shall prevent administrators, teachers or staff from disclosing information derived from personal knowledge or observation and not derived from a student's education records.

In accordance with applicable law, requests for inspection and review of student education records, requests for copies of such records, and disclosure of personally identifiable information therein shall be maintained as a part of each student's education record.

BOCES personnel shall use reasonable methods to authenticate the identity of parents, students, school officials, and any other party to whom they disclose student education records. Authentication of identity prior to disclosure of electronic records through passwords or other security measures shall be required.

Access to student education records by parents and eligible students

A parent/guardian ("parent") has the right to inspect and review his or her child's education records, if the student is under 18 years of age. If a student is 18 years old or older ("eligible student"), the student may inspect or review his or her own education records and provide written consent for disclosure of such records and personally identifiable information therein. However, the parent is also entitled to access his/her child's education records, despite the lack of written consent from the eligible student, if the eligible student is a dependent for federal income tax purposes or the disclosure is in connection with a health or safety emergency. Access to

student education records by parents or eligible students shall be in accordance with the regulation accompanying this policy.

Request to amend student education records

A parent or eligible student may ask the BOCES to amend a student education record they believe is inaccurate, misleading or otherwise violates the privacy rights of the student. Student grades cannot be challenged pursuant to this policy. Requests to amend a student education record shall be in accordance with the regulation accompanying this policy.

Disclosure with written consent

Whenever the BOCES is required by law or policy to seek written consent prior to disclosing personally identifiable information from a student's education record, the notice provided to the parent or eligible student shall contain the following:

- a. The specific records to be disclosed;
- b. The specific reasons for such disclosure;
- c. The specific identity of any person, agency or organization requesting such information and the intended uses of the information;
- d. The method or manner by which the records will be disclosed; and
- e. The right to review or receive a copy of the records to be disclosed.

The parent's or eligible student's consent shall only be valid for the specific instance for which it was given. Consent for a student to participate in any course, BOCES activity, special education program or in any other BOCES program shall not constitute the specific written consent required by this policy.

All signed consent forms shall be retained by the BOCES.

Disclosure without written consent

The BOCES may disclose student education records or personally identifiable information contained therein without written consent of the parent or eligible student if the disclosure meets one of the following conditions:

1. The disclosure is to a school official having a legitimate educational interest in the student education record or the personally identifiable information contained therein. In accordance with law, only those school officials who have a legitimate educational interest as described in this policy shall be permitted access to specific student education records.
 - a. For purposes of this policy, a "school official" is a person employed by the BOCES, or school district that the student is attending, as an administrator, special service provider, teacher or support staff member (including health or medical staff and law enforcement unit personnel); a person serving on the Board of Directors; or a person or company with whom the BOCES has

outsourced services or functions it would otherwise use its own employees to perform (such as an attorney, auditor, consultant or therapist); or an intern assisting another school official in performing his or her tasks.

- b. A school official has a “legitimate educational interest” if disclosure to the school official is: (1) necessary for that official to perform appropriate tasks that are specified in his or her position description or by a contract agreement; (2) used within the context of official BOCES business and not for purposes extraneous to the official’s areas of responsibility; (3) relevant to the accomplishment of some task or to a determination about the student; and (4) consistent with the purposes for which the data are maintained.
2. The disclosure is to officials of another school, school system or postsecondary institution that has requested the records and in which the student seeks or intends to enroll, or has enrolled. Any records sent during the student’s application or transfer period may be supplemented, updated or corrected as necessary.
3. The disclosure is to authorized representatives of the Comptroller General of the United States, the Attorney General of the United States, the Secretary of the U.S. Department of Education, or state and local educational authorities.
4. The disclosure is in connection with a student’s application for, or receipt of, financial aid.
5. The disclosure is to state and local officials and concerns the juvenile justice system’s ability to effectively serve, prior to adjudication, the student whose records are disclosed as provided under the Colorado Open Records Act and Colorado Children’s Code. Such records and personally identifiable information shall only be disclosed upon written certification by the officials that the records and information will not be disclosed to any other party, except as specifically authorized or required by law, without the prior written consent of the parent or eligible student.
6. The disclosure is to organizations conducting studies for, or on behalf of, educational agencies or institutions to develop, validate or administer predictive tests; to administer student aid programs; or to improve instruction.
7. The disclosure is to accrediting organizations for accrediting functions.
8. The disclosure is to the parent of an eligible student and the student is a dependent for IRS tax purposes.
9. The disclosure is in connection with an emergency, if knowledge of the information is necessary to protect the health or safety of the student or others.
10. The disclosure is to comply with a judicial order or lawful subpoena. The BOCES shall make a reasonable effort to notify the parent or eligible student prior to complying with the order or subpoena unless:
 - a. The court order or subpoena prohibits such notification; or

- b. The parent is a party to a court proceeding involving child abuse and neglect or dependency matters and the court order is issued in the context of that proceeding.
11. The disclosure is to the Secretary of Agriculture, or authorized representative from the USDA Food and Nutrition Service or contractors acting on behalf of the USDA Food and Nutrition Service, for the purposes of conducting program monitoring, evaluations and performance measurements of state and local educational agencies receiving funding or providing benefits of program(s) authorized under the National School Lunch Act or Child Nutrition Act.
12. The disclosure is to an agency caseworker or other representative of a state or local child welfare agency or tribal organization who has the right to access the student's case plan because such agency or organization is legally responsible, in accordance with applicable state or tribal law, for the care and protection of the student.
13. The disclosure is of "directory information" as defined by this policy.

Disclosure of directory information

Directory information may also be disclosed without written consent of the parent or eligible student. "Directory information" means information contained in a student's education record that would not generally be considered harmful or an invasion of privacy if disclosed. Directory information which may be released includes but is not limited to the student's name, email address, photograph, 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, grade level, enrollment status, degrees, honors and awards received, the most recent previous education agency or institution attended by the student, and other similar information. Directory information also includes a student identification number or other unique personal identifier displayed on a student ID badge or used by the student to access or communicate in electronic systems, but only if the identifier cannot be used to gain access to student education records except when used in conjunction with one or more factors that authenticate the user's identity, such as a password known only by the authorized user.

Student telephone numbers and addresses shall not be disclosed pursuant to this section.

The parent or eligible student has the right to refuse to permit the designation of any or all of the categories of directory information if such refusal is received in writing in the office of the applicable BOCES administrator where the student is in attendance no later than September 15th, or the following Monday if September 15th is a Saturday or Sunday.

Disclosure to military recruiting officers

Names, addresses and home telephone numbers, as well as directory information, of secondary school students shall be released to military recruiting officers within 90 days of the request, unless a parent or student submits a written request that such information not be released. Reasonable and customary actual expenses directly

incurred by the BOCES in furnishing this information will be paid by the requesting service.

Disclosure to Medicaid

In the event that the BOCES is currently claiming Medicaid for covered services, in all cases in which a student is enrolled in the Colorado Medicaid program, the BOCES shall release directory information consisting of the student's name, date of birth and gender to Health Care Policy and Financing (Colorado's Medicaid agency) to verify Medicaid eligibility of students. The BOCES shall obtain written consent annually from a parent before the release of any non-directory information required for billing. To accomplish this, the BOCES shall include a consent form with IEP packet materials.

The BOCES or its member district may use a third-party Medicaid claiming service for the release of information to HCPF, which service will be considered a "school official" under paragraph 1.a. above.

Governing law

The BOCES shall comply with the Family Educational Rights and Privacy Act (FERPA) and its regulations as well as state law governing the confidentiality of student education records. The BOCES shall be entitled to take all actions and exercise all options authorized under the law.

In the event this policy or accompanying regulation does not address a provision in applicable state or federal law, or is inconsistent with or in conflict with applicable state or federal law, the provisions of applicable state or federal law shall control.

Annual notification of rights; Member District Responsibility

The BOCES has no schools or programs apart from or separate from the schools and educational programs of its member school districts. Each of the member districts will notify parents and eligible students of their rights pursuant to this policy at the beginning of each academic year. For notice to parents or eligible students with disabilities or whose primary or home language is other than English, the format or method of notice will be modified so it is reasonably likely to inform them of their rights.

A copy of the Family Educational Rights and Privacy Act, and this policy and accompanying regulation and exhibit may be obtained from the office of the executive director or BOCES administrator, or in the administrative office of any member school district, during normal business hours.

Adopted: January 12, 2017

LEGAL REFS.: 20 U.S.C. 1232g (*Family Educational Rights and Privacy Act*)
20 U.S.C. 1415 (*IDEIA procedural safeguards, including parent right to access student records*)

20 U.S.C. 7908 (*military recruiter information contained in No Child Left Behind Act of 2001*)

34 C.F.R. 99.1 *et seq.* (*FERPA regulations*)

34 C.F.R. 300.610 *et seq.* (*IDEIA regulations concerning confidentiality of student education records*)

C.R.S. 19-1-303 and 304 (*records and information sharing under Colorado Children's Code*)

C.R.S. 24-72-204(3)(e) (*student records and information sharing under Colorado Open Records Act*)

C.R.S. 25.5-1-116 (*confidentiality of HCPF records*)