

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

5100.1

5100.1

STUDENT RECORDS: CONFIDENTIALITY AND FAMILY EDUCATIONAL RIGHTS

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Commented [TAS1]: A Table of Contents has been added to give the reader a quick outline of the policy.

INTRODUCTION

I.

STUDENT RECORDS ARE OFFICIAL AND CONFIDENTIAL DOCUMENTS PROTECTED BY FLORIDA STATUTES 1002.22, 1002.221 AND THE FEDERAL FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA). FERPA, ALSO KNOWN AS THE BUCKLEY AMENDMENT, DEFINES EDUCATIONAL RECORDS AS ALL RECORDS THAT SCHOOLS OR EDUCATIONAL AGENCIES MAINTAIN ABOUT WHICH ARE DIRECTLY RELATED TO A STUDENT'S (SOME EXCEPTIONS APPLY, SEE SECTION II.B. BELOW).

FERPA GIVES PARENTS THE RIGHT TO REVIEW, ~~CONFIRM,~~ AND QUESTION THE ACCURACY OF EDUCATIONAL RECORDS. THESE RIGHTS, IN MOST INSTANCES, TRANSFER TO THE STUDENT WHEN THE STUDENT TURNS EIGHTEEN YEARS OLD. FOR STUDENTS AGE 18 OR OVER WHO ARE ADJUDGED INCOMPETENT OR UNABLE TO MAKE CERTAIN DECISIONS, THE PROVISIONS OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT (I.D.E.A.) SHALL BE COMPLIED WITH AS SET FORTH IN POLICY 6000.4, EXCEPTIONAL STUDENT EDUCATION POLICIES & PROCEDURES.

THE PRIMARY RIGHTS UNDER FERPA ARE:

- A. THE RIGHT TO INSPECT AND REVIEW EDUCATION RECORDS
- B. THE RIGHT TO SEEK TO AMEND EDUCATIONAL RECORDS THAT ARE INACCURATE, MISLEADING, OR IN VIOLATION OF THE STUDENT'S PRIVACY RIGHTS
- C. THE RIGHT TO HAVE LIMITED CONTROL OVER THE DISCLOSURE OF INFORMATION FROM EDUCATIONAL RECORDS

Commented [TAS2]: This clarifying language aligns with FERPA.

OTHER BOARD POLICIES ADDRESS STUDENT INFORMATION. POLICY 5100.2, STUDENT RECORDS: TRANSFER, RETENTION AND DISPOSAL, DEFINES THE PROCESS FOR TRANSFERRING, RETAINING AND DISPOSING OF EDUCATIONAL RECORDS.

POLICY 4019, PROTECTED HEALTH INFORMATION, ADDRESSES INDIVIDUALLY IDENTIFIABLE HEALTH INFORMATION COVERED BY THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA).

EDUCATION RECORDS, INCLUDING HEALTH RECORDS, ARE INDIVIDUALLY IDENTIFIABLE STUDENT RECORDS COVERED PROTECTED BY FERPA ARE AND EXEMPT FROM MEETING THE REQUIREMENTS OF THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA) (SEE SECTION III.C. BELOW). UNLESS THOSE RECORDS ARE PROVIDED TO OTHER AGENCIES, SUCH AS MEDICAID OR THE CHILDREN'S SERVICES BOARD, FOR THE PURPOSE OF GENERATING FUNDING.

EDUCATION RECORDS ARE CONFIDENTIAL AND EXEMPT FROM THE FLORIDA PUBLIC RECORDS ACT (CHAPTER 119). SEE 1002.221, F.S.

AUTHORITY: U.S. Code (20 USC 1232G)
CFR for Title 34, Part 99
Individuals with Disabilities Education Act
F.S. 119.07 and 1001.41; F.S. 1002.22
No Child Left Behind Act of 2001, Section 9528
Protection of Pupil Rights Amendment (PPRA) (20 U.S.C. Section 1232h; CFR Part 98)
POLICY ADOPTED: 11/13/69
POLICY READOPTED: 9/5/74
POLICY AMENDED: 4/21/77; 10/5/78; 3/14/89; 8/20/96; 1/12/99; 4/20/04

Commented [TAS3]: This language is being deleted. The HIPAA Notice regarding Students and Family Medical / Mental Health Records in the Code of Student Conduct (Policy 5.8) contains up-to-date information on disclosures covered by HIPAA.

Commented [TAS4]: Citations moved to the end of the policy.

RULES:

II. DEFINITIONS:

- **A. Educational records** are records maintained by a school district or by an individual or entity acting for the school district that contain information directly related to a student. Educational records include, but are not limited to, school health records; a student's social security number; student's identification number, academic work completed; level of achievement records including grades, grade point average (GPA) and standardized achievement test scores; interim reports; enrollment documents; transcripts; academic improvement plans; intervention records; attendance data; evaluation reports that include standardized intelligence, aptitude and psychological test scores/results; interest inventory results; psychological files; Exceptional Student Education (ESE) files; disciplinary records, including suspension and expulsion records; family biographical background information; parent/teacher conference reports; special program eligibility; teacher or counselor ratings and observations; verified reports of serious or recurrent behavior patterns; records used in expulsion hearings; and any other evidence, knowledge, or counselor information recorded in any medium, including but not limited to, handwriting,

typewriting, print, magnetic tapes, film, computer media, video or audio tape, microfilm and microfiche, and digital records. Psychological files (including psychological evaluations created and/or maintained by school district staff); therapy and counseling records (including psychosocial assessments, therapeutic treatment plans, and therapy progress notes created and/or maintained by school district staff); and school (guidance) counseling records are also education records protected under FERPA as well as state laws, including Chapters 490 and 491, F.S.

Commented [TAS5]: Expanded listing of types of educational records.

B. Records that are not considered educational records under FERPA include:

1. Records, such as personal notes, that are kept in the sole possession of the maker of the record, that are used only as a memory aid and not accessible or revealed to anyone except a temporary substitute of the maker of the records;
2. Records created and maintained by a school or school district's law enforcement unit for a law enforcement purpose; and
3. Employment records of students which relate exclusively to their capacity as employees and are not available for use for any other purpose;
4. Treatment records of eligible students (see definition of eligible student in section I. G. below) that are (a) made or maintained by a physician, psychiatrist, psychologist, mental health professional, nurse, or other recognized professional or paraprofessional acting in his or her professional capacity or assisting in a paraprofessional capacity; (b) made, maintained or used only in connection with the treatment of a student; and (c) disclosed only to individuals providing the treatment;
5. Records created or received by The School Board of Broward County, Florida (SBBC) after an individual is no longer a student in attendance and that are not directly related to the individual's attendance as a student; and
6. Grades on peer-graded papers before they are collected and recorded by a teacher.
7. Emails not maintained in student's permanent file.

Commented [TAS6]: Expanded listing of records NOT covered by FERPA.

C. Parent means either or both parents of a student and includes a natural biological and/or adoptive parent, a guardian, foster parent, or an individual acting as a parent in the absence of a parent or guardian any person in a parental relationship to a student, or any person exercising supervisory authority over a student in place of the parent. This includes parents of a dependent student as defined by the Internal Revenue Service Code 152 of 1986. Also included: a properly appointed surrogate parent for a student with disabilities. (See Section IVH, Review of Education Records, for further clarification.) Schools may presume that both parents have authority to inspect, review and obtain copies of the education records and information about a student unless the school has received evidence that there is a legally binding instrument or court order which revokes that right.

Commented [TVC7]: The FERPA definition of "parent" at 34 CFR 99.3 states, "'Parent' means a parent of a student and includes a natural parent..." The Family Policy Compliance Office has confirmed the District may use the substitute phrase "biological and/or adoptive" for the term "natural."

Commented [TAS8]: Aligns with 1000.21(5),F.S.

D. Personally identifiable information includes, but is not limited to, a student's name, parents' or other family members' names, street address or email address of the student or student's family, telephone number, personal identifier such as a social security number or student I.D. number, biometric record, student's date of birth, place of birth, mother's maiden name, photographs, and a list of personal

characteristics or other information that would make the student's identity easily traceable, and information requested by a person who the school or District reasonably believes knows the identity of the student to whom the education record relates.

♦**E. School official** is a person employed by the district as an administrator, supervisor, instructor, or support staff member (including health and medical staff and law enforcement unit personnel); a person serving on the School Board; a person or company with whom the district has contracted to perform a special task that would normally be performed by SBBC personnel (such as an attorney, auditor, medical consultant or therapist); a clerical or paraprofessional staff member assisting another school official in performing his or her professional tasks. **CAUTION: Volunteers (including parents assisting at the school) and students assisting teachers and other staff are not "school officials" and are not permitted to have access to other students' personally identifiable information.**

♦**F. Legitimate educational interest** ~~is when~~ means a school official's needs to review an education record in order to fulfill his or her professional responsibility.

G. An eligible student is a student who has ~~turned~~reached 18 years of age or ~~is attending an institution of a student who has not yet turned 18 but who has graduated from high school and attends a~~ postsecondary education institution. Eligible students also include married students, emancipated minors or students who have a child regardless of whether or not the student has turned 18 years of age (Chapter 743, F.S.). ~~For students eligible under the Individuals with Disabilities Education Act (I.D.E.A.), refer to School Board Policy 6000.4.~~

H. Directory information is personally identifiable information that would not generally be considered harmful or an invasion of privacy if disclosed. FERPA allows nonconsensual disclosure of designated directory information if the parent or eligible student does not opt out of the disclosure of directory information. The types of information SBBC designates as "directory information" – as well as the recipients and purposes for the disclosure – are listed in the FERPA Notice found in Policy 5.8, Code of Student Conduct.

I. De-identification means the removal (redaction) of all personally identifiable information from a student's record. The educational institution or other party shall make a reasonable determination that a student's identity is not personally identifiable, whether through single or multiple releases, and taking into account other reasonably available information.

♦ **J. Maintain** means filing, storing, or retaining student records in the student's permanent cumulative record or in the locations designated pursuant to Rule 6A-1.0955(6)(e), F.A.C.

K. Informal hearing means a meeting scheduled by a designated school official (or designee) during which the student and/or parent has an opportunity to voice his or

Commented [TAS9]: This definition was added to make the reader aware of this "subset" of education records that are less sensitive in nature. The types of "directory information" are designated by the Board in the FERPA Notice in Policy 5.8. The FERPA Notice is referenced in Section III (A) of Policy 5100.1

Commented [TAS10]: Added definition – the process of de-identifying is referenced in Section IV. E. and Section VI .B (14 and 15).

Commented [TAS11]: Added definition to clarify this essential process pertaining to "education records."

her concerns, facts and present evidence in support thereof, prior to the school official making a determination on the issue.

Commented [TAS12]: Added definition to clarify this process pertaining to amending education records (see Section V. D and E.)

III. ANNUAL NOTIFICATION OF RIGHTS:

The Code of Student Conduct ~~provides the will be used annually to~~ notifications to parents and eligible students of their privacy rights, which include the following notices:

A. FERPA Notice:

~~• their right to inspect and review records;
their right to request amendment of records;
their right to consent to disclosure, with certain exceptions;
their right to file a complaint with the U.S. Department of Education;
the procedure to inspect and review records;
the procedure for requesting amendment of records; and
a statement that education records may be disclosed to school officials without prior written consent, including the definitions of "school officials" and "legitimate educational interest";
a list of organizations to which the district intends to release students' names, addresses and telephone numbers without seeking prior written consent. (Parents will be notified they have a right to request their child's information not be released and will be told the process for making the request.)~~

B. Protection of Pupil Rights Amendment (PPRA) Notice (separate procedures for this notice are available at browardschools.com/privacyinformation);

C. Health Insurance Portability and Accountability Act (HIPAA Notice); and

D. Collection, Use and Disclosure of Social Security Numbers of Students;

~~The Code of Student Conduct, including each privacy-~~ The notice, is will be available in English, Haitian-Creole, Portuguese and Spanish at browardschools.com/privacyinformation. For notices in other languages, an alternative method of notice will be provided.

Commented [TAS13]: Deleting FERPA rights -- already listed in FERPA Notice (Policy 5.8) and in Section I of Policy 5100.1.

Commented [TAS14]: Expanded list -- now includes the District's four (4) privacy notices pertaining to student records that appear in the Code of Student Conduct (Policy 5.8).

IV. REVIEW OF EDUCATION RECORDS

- A. The principal is responsible for **informing employees of confidentiality requirements** on an annual basis. This may be accomplished ~~by~~ through the reviewing ~~the FERPA Notice in~~ of the Code of Student Conduct.
- B. A parent or eligible student must notify the school in writing of their request to review education~~at~~ records. Parents/eligible students shall complete and sign the Parental Request to Access Student Records form, available at browardschools.com/privacyinformation. This form shall be filed at each school or District location maintaining the requested record for review. Parents who wish to have their child's records reviewed by another person of their choosing must notify the school of ~~the~~ specific request in writing.

- C. The school must **comply with the request** ~~from~~ of a parent or eligible student to review records **within a reasonable period of time not to exceed 30 calendar days** in accordance with ~~Florida State Board of Education Rule 6A-1.0955(6)(b), Florida Administrative Code.~~
~~(Florida's law is more restrictive than the 45-day federal requirement.)~~
- D. The school **may not destroy records if a request for access is pending**, even if the school has been notified by the Records Retention Department that the records can be destroyed pursuant to the Florida retention schedules.
- E. If the **records contain information on more than one student**, the parent may inspect, review or be informed of only the specific information about his or her child, unless the records are de-identified in compliance with FERPA.
- F. When a **parent reviews a record, he/she must be accompanied by an official of the school** who shall be responsible for ascertaining that the student record or file is not altered in any way and that nothing is added to nor taken from the file at the time of the review.
- G. Parents must be given access to student records pertaining to their child. Schools may charge parents a fee for copies of education records at the rate of 15 cents for a one-sided document or 20 cents for a two-sided document. Schools are required to give parents copies of records, without charge, only if failure to do so would effectively deny access to the parent to inspect and review (e.g., parent is physically or geographically unable to come to the school to review records).
~~Schools may charge parents a fee for copies of education records at the rate of 15 cents for a one-sided document or 20 cents for a two-sided document~~
- H. A **non-custodial parent** has the same rights to access information and review records as a custodial parent unless there is a court order or legally binding document that specifically revokes these rights.
- I. ~~A stepparent who is present in the home on a day-to-day basis, and meets the definition of "parent" (in Section II.C.) with the child and natural parent, has the same records access rights as the natural biological and/or adoptive parent when the natural parent is not available. Conversely, a stepparent who is not present on a day-to-day basis in the home of the child has no right to access the child's records.~~
~~A parent of a student with a disability has the right to have a representative of the parent inspect and review the records. The request to have a representative of the parent review the records must be in writing.~~
- J. When a student becomes an **eligible student** (see definition ~~of eligible student~~ in section II. G.), the rights accorded to, and consent required of, parents transfer from the parents to the student. The prior consent of the eligible student would be required to disclose the records. However, prior consent by the eligible student is not required for schools to disclose information from the educational record to the parents if the eligible student is a dependent student as defined in section 152 of the Internal Revenue Code of 1986. (In general, "dependent" means a son or daughter or a stepson or stepdaughter for whom the parent provides over half of the child's support for the calendar year.) The school may presume an eligible student is dependent under the Internal Revenue Code of 1986 unless the school has been provided documentation that the student is not a "dependent student." ~~Parents requesting to review records under this provision will provide the school with documentation of the student's dependent status. Parents of a dependent student have a right to review but not to receive copies of educational records unless the eligible student has provided written consent for the parents to receive copies.~~

Commented [TAS15]: Deleted language – because all parents have the right to have a representative inspect and review records. See Section II.C, definition of "parent."

- K. Pursuant to Rule 6A-1.0955(6)(e), F.A.C., a listing of the types and locations of education records SBBC maintains and the titles and addresses of the officials responsible for those records (*Education Records – Types & Locations*) is available at browardschools.com/privacyinformation.

Commented [TAS16]: Education records are not only maintained at schools. This document lists the various types of education records maintained throughout the District.

RIGHT OF NOTICE FOR PARENTS OF STUDENTS WHO ARE DISABLED IN ACCORDANCE WITH THE INDIVIDUALS WITH DISABILITY EDUCATION ACT (IDEA) AND WHO HAVE REACHED THE AGE OF 18

The Individuals with Disabilities Education Act (IDEA) is federal legislation that protects the rights of students with disabilities. When a student reaches the age of 18, is considered competent, and is considered disabled in accordance with IDEA, the rights related to educational records transfer from the parent to the student. However, IDEA still requires the school district to notify both the student and the parent of any notices required by IDEA. (An exception to this jointly held right is when a student has turned 18 years of age and is incarcerated in a juvenile justice facility or county jail. Under these circumstances, parents no longer retain the right to notice.) These IDEA required notices include: notices of IEP meetings; notices of changes in the identification, evaluation, placement or provision of a free appropriate education; procedural safeguard notifications for initial evaluations, IEP meetings, reevaluations and due process hearings; and the notice required to inform the parent and student of the transfer of rights. Although parents of students who have reached the age of 18 jointly hold the right of notice, the parents do not retain the other rights that have transferred to the student and thus will require the student's permission to review records (unless the student is a dependent in accordance with Internal Revenue Code Section 152), participate in IEP meetings, obtain an independent evaluation, request a due process hearing, etc.

Commented [TAS17]: This information on IDEA is being deleted, as Policy 6000.4, Exceptional Student Education Policies & Procedures (which is referenced in Section I, the Introduction to 5100.1) contains the current IDEA policies.

V. AMENDING EDUCATIONAL RECORDS

Each school principal shall ensure the information maintained as part of a student's record is accurate (Rule 6A-1.0955(6)(1), F.A.C.).

The procedures for amending a student's educational records are:

- A. The parent or eligible student must identify, in writing to the principal, the portion of the record believed to be inaccurate, misleading, or a violation of the privacy rights of the student;
- B. The principal must decide within a reasonable period of time whether or not to amend the record as requested (principals need to confer with appropriate ~~school~~District officials prior to amending ~~or deleting~~ any records that may be required for audit and/or ESE documentation);
- C. If the principal decides to amend the record, the principal must make certain that the agreed upon changes are made to copies of the student's record that may be held outside of the cumulative file (e.g., Psychological Services file);
- D. If the principal decides not to amend, the principal must inform the parents in writing of the decision and their right to an informal hearing;
- E. If an informal hearing is held, it shall include the following:
 1. A.—The informal hearing shall be held within a reasonable period of time after the school has received the request, and the parent of the student or the

- ~~adult~~eligible student shall be given notice of the date, place and time reasonably in advance of the informal hearing.
2. ~~B.~~—The informal hearing shall be conducted and the decision rendered by ~~an~~the designated school official or other impartial third party (who did not participate in the decision at issue and does not have any direct interest in the outcome). ~~Staff members who have knowledge of the events or~~ records shall be available at the hearing.
 3. ~~C.~~—The parent of the student or the ~~adult~~eligible student shall be afforded a full and fair opportunity to present evidence relevant to the issues raised and may be assisted or represented by individuals of his or her choice at his or her own expense, including an attorney.
 4. ~~D.~~—The decision shall be rendered in writing within a reasonable period of time after the conclusion of the informal hearing.
 5. ~~E.~~—The decision shall be based solely upon the evidence presented at the informal hearing and shall include a written summary of the evidence and the reasons for the decision.

Commented [TAS18]: Clarifying language to ensure an impartial hearing.

If ~~After~~ the informal hearing ~~is held, if the~~ decision ~~is~~~~continues to be~~ not to amend the records, the parents ~~or eligible student~~ have a right to ~~submit~~~~insert~~ a statement of disagreement in the record. The parent's original request to amend the record and any statements submitted will be placed in the student's file. This statement must be maintained with the contested part of the record and disclosed whenever the corresponding part of the student record is released.

If, as a result of the informal hearing, it is determined that the ~~information~~record is inaccurate, misleading or a violation of the privacy rights of the student, the school will amend the record and inform the parent or eligible student in writing of the amendment.

VI. DISCLOSURE OF EDUCATIONAL RECORDS

- ~~+~~A. **Conditions for Prior Consent:** Except as provided below, a parent or eligible student shall provide a signed and dated written consent before a school may disclose education records to third parties. The consent must:
1. Specify the records that may be disclosed;
 2. State the purpose of the disclosure; and
 3. Identify the party or class of parties to whom the disclosure may be made.

Parents and eligible students shall utilize the *Authorization for Release and/or Request for Information form, available at browardschools.com/privacyinformation.*

- B. **Exceptions (when prior consent is not required):** Pursuant to FERPA, certain student identifiable information may be disclosed without the prior consent of the parent/eligible student under limited conditions. Those conditions are listed at 34 C.F.R. section 99.31(a), which are summarized below.
1. Disclosure to school officials (see definition in section II.E.) who have been determined to have legitimate educational interests, including

Commented [TAS19]: The following revisions on FERPA-compliant disclosures without consent align with current FERPA law. This list of exceptions now contains numbering to make it more user-friendly. It replaces its counterpart in the previous version of 5100.1.

contractors, consultants, and others who perform functions or services that would otherwise be provided by District employees, who are under direct control of the District, and who are prohibited from redisclosing the personally identifiable information from education records. The District is required to use reasonable efforts – such as the use of passwords – to ensure that school officials access only those records in which they have legitimate educational interests.

2. Certain authorized disclosures to school officials of other institutions for purposes of student transfer or student enrollment (subject to the requirements of FERPA 99.34).
3. Certain disclosures to authorized federal, state and local officials, including educational authorities, and for audits or evaluations of federal and state supported programs (subject to requirements of FERPA 99.35 and written agreements).
4. Certain authorized disclosures in connection with financial aid, defined as payment of funds conditioned on the student’s attendance at an educational institution (in compliance with FERPA 99.31(a)(4)).
5. Disclosures to State and local officials and authorities who are parties to an interagency agreement in compliance with Chapter 985, Florida Statutes, concerning sharing information with the Juvenile Justice System, in compliance with FERPA 99.38.
6. Certain authorized disclosures to organizations conducting studies for or on behalf of SBBC (subject to specific requirements set forth in FERPA 99.31(a)(6) and written agreements).
7. Disclosures to accrediting organizations to carry out accrediting functions.
8. Disclosures to parents of a dependent student (Internal Revenue Code, section 152). Schools may presume that a parent of the student has authority to inspect and review education records of a student unless the school has been provided documentation that the student is not a “dependent student.”
9. Disclosures to comply with judicial orders or lawfully issued subpoenas if certain specific requirements set forth in FERPA 99.31(a)(9)(i)&(ii) are met. Parents and eligible students must be given advance notice of SBBC's intent to comply with the order or subpoena in 10 days, so the parent or eligible student may seek protective action. (A template, *Notice of Intent to Comply with Subpoena/Court Order*, is available at browardschools.com/privacyinformation.) If the parent files an objection with the court or tribunal within 10 days of mailing of the notice of intent to comply, the student records shall not be produced pending resolution of the objections by the court or tribunal. However, no notice is required if the parent is a party to a child abuse, neglect, or dependency proceeding and the order is issued in that proceeding (for example, a court order

Commented [TAS20]: The current policy refers to providing the parent with advance notice. Added: a reference to the District’s official template notification letter, so schools may provide notice in a uniform manner.

appointing a guardian ad litem) (20 U.S.C. 1232g(b)(2)). Likewise, no notice is required if the subpoena or court order is confidential and prohibits disclosure to parents or eligible students of the existence of and the response to the subpoena.

10. Specified disclosures in connection with an articulable and significant threat to the health or safety of students or others if the disclosure is necessary to protect the health or safety of the student or other individuals in compliance with FERPA 99.36.
11. Disclosures of information designated as “directory information” in compliance with FERPA 99.37.
12. Disclosures are to the eligible student or to the parents of minor students (FERPA 99.31(a)(12)).
13. Disclosures made in legal proceedings (court or administrative) where the school district is a party and the disclosures are made in compliance with FERPA 99.31(a)(9)(iii)(A and B).
14. Disclosures of redacted information (after removal of all personally identifiable information) provided that the identity cannot be ascertained from other “reasonably available information” (FERPA 99.31(b)(1). See definition of **de-identification** in section II.I.)
15. Disclosures of redacted student identifiable information for purposes of educational research (when the requirements set forth at FERPA 99.31(b)(2) are met).
16. Disclosures are to an agency caseworker or representative of a state or local child welfare agency, or tribal organization, when the agency is legally responsible for the care and protection of the student (20 USC 1232g(b)(1)).

- ~~2. Schools do not need prior consent when records are released:
 - ~~A. to school officials with a legitimate education interest;~~
 - ~~I. to schools, including private or parochial schools, or institutions of postsecondary education in which a student seeks or intends to enroll;~~
 - ~~I. to federal, state, and local authorities involving an audit or evaluation of compliance with education program requirements;~~
 - ~~II. to the United States Secretary of Health and Human Services, the United States Secretary of Education, the Director of the National Institute of Education, the Assistant Secretary for Education, the Comptroller General of the United States, or state or local educational authorities who are authorized to receive such information subject to the conditions set forth in applicable federal statutes and regulations of the U.S. Department of Health and Human Services or in applicable state statutes and rules of the State Board of Education.~~
 - ~~B. To authorized representatives of institutions in connection with a student’s application for, or receipt of, financial aid;~~
 - ~~—to organizations conducting studies for or on behalf of education institutions when such studies are conducted in a manner that will not permit the personal identification of the student and their parents other than to representatives of~~~~

- such organizations and if such information will be destroyed when no longer needed for the purpose of conducting such studies;
- to parents of a dependent student as defined by the Internal Revenue Services Code 152 of 1986. Schools may presume that either parent of the student has authority to inspect, review and obtain copies of the educational records of a student unless the school has been provided with evidence that there is a legally binding instrument or court order governing such matters as divorce, separation or custody which provides to the contrary;
- to accrediting organizations;
- to comply with a judicial order or subpoena (after providing the parent with notice of the intent to comply with the judicial order or subpoena);
- in a health or safety emergency if knowledge of the information is necessary to protect the health or safety of the student or other. Factors to be taken into account include the seriousness of the threat to health and safety, the need for the information to meet the emergency, whether the parties to whom the information is disclosed are in a position to deal with the emergency and the extent to which time is of the essence in dealing with the emergency;
- to the parent of a student who is not an eligible student (See Section I. G.) or to the student;
- to a properly appointed surrogate parent for a student with disabilities
- to a properly appointed guardian ad litem
- to state or local officials in connection with serving the student under the juvenile justice system in accordance with an interagency agreement as required by Section 228.093 Florida Statutes; and
- when a school district initiates legal action against a parent or when a parent initiates legal action against a school district. In such circumstances, the school district may disclose to the court, without court order or subpoena, the educational records of the student that are relevant for the school district to proceed with legal action as the plaintiff or to defend itself;

3. **Disclosure to the juvenile justice system:** The requirements for disclosure to the juvenile justice system, without written consent, are:

- The disclosure must be related to the juvenile justice system's ability to "effectively serve" the student whose records are released;
- The disclosure must concern the juvenile justice system's ability to serve the student **prior to adjudication**. Also, the officials to whom the information is disclosed must certify, in writing, that the records **will not be redisclosed** to any other party except as provided by state law; and
- The disclosure must be in accordance with an **interagency agreement** with the juvenile justice system or the disclosure cannot be made;

4. **Disclosure of student names, addresses and telephone numbers to designated organizations:** With prior notice through the Code of Student Conduct but without prior written consent, a list of high school students' names, addresses and telephone numbers will be provided, upon request, to:

- the District Commander or Senior Officer of the regional offices of the Armed Services, including the United States Coast Guard, for their use in mailing notices to students in regard to opportunities available to them in United States

Commented [TAS21]: This list of exceptions to consent is replaced by a more current list to align with FERPA law.

Commented [TAS22]: This information has been revised and has been moved to Section VI.B.(5).

~~Armed Services. Confidentiality of the list shall be protected by the armed services personnel responsible for such lists.~~

~~Institutions of higher education. Confidentiality of the list shall be protected by the higher education personnel responsible for such lists.~~

~~Annual notification of the potential release of names, addresses and telephone numbers will be provided through the Code of Student Conduct, and parents and high school students will be notified of their right to request that a student's information not be released for this purpose.~~

Commented [TAS23]: This disclosure is pursuant to the No Child Left Behind Act, described in the FERPA Notice in the Code of Student Conduct (Policy 5.8). The FERPA Notice is referenced in Policy 5100.1 in Section III.A.

VII. RECORDKEEPING REQUIREMENTS RELATED TO REQUESTS AND DISCLOSURES

A. Access log requirement: A school must maintain a record of each request for access to, and each disclosure ~~of, personally identifiable information from,~~ an educational record. The log:

1. ~~M~~ must be maintained as long as the record is maintained;
2. ~~M~~ must include the individuals who have requested information from the record; ~~—Must include individuals who have~~ received information from the records; and
3. ~~—~~ records; and
4. ~~M~~ must include the legitimate ~~educational~~ interest individuals had in receiving the information.

The FERPA Disclosure Log is available at browardschools.com/privacyinformation.

Commented [TAS24]: Although the access log requirement is already included in this policy, now the District has an official form so the log itself will be uniform, District wide.

B. Exceptions to access log requirement: This access log requirement does not apply if the request was from, or the disclosure was made to:

1. ~~A~~ parent or eligible student,
2. ~~A~~ school official with a legitimate educational interest,
3. ~~A party who has an individual with~~ written consent from the parent or eligible student,
4. ~~A party seeking directory information, and~~ an individual with a lawfully issued enforcement subpoena or court order prohibiting disclosure to parents or eligible students of which specifies that the existence or contents of and the response to the subpoena or court order will not be disclosed.
- 5.

~~Records used in expulsion hearings: Public records of expulsion hearings may not contain any personally identifiable information on students who are the focus of the expulsion hearings.~~

Commented [TAS25]: All education records (personally identifiable student information) are confidential and exempt from the Florida Public Records Act, a statement now added to Section I of this policy.

VIII. REDISCLOSURE OF INFORMATION AND PENALTY

A. Requirement to notify receiving parties/agencies: When disclosing information from public school educational records in accordance with FERPA, the school must ~~should~~ inform the receiving party in writing that the information may not be further

disclosed, and the receiving party may use the information only for the purposes for which the disclosure was made. **Exceptions** to the requirement to notify the receiving agency of redisclosure prohibitions include when the:

1. ~~Disc~~losure is to the parent, eligible student or parents of “dependent students” as defined by the Internal Revenue Code 152 of 1986;
2. ~~R~~eceiving parties or individuals ~~discloses~~ information on behalf of the school district and meets the criteria for disclosure without prior consent and has appropriately recorded the disclosure; ~~and when the~~
3. ~~D~~isclosure is in response to a court order or lawfully issued subpoena.

~~B. B. Penalty for improper redisclosure:~~ ~~Disclosures to individuals that improperly redisclose educational records are not permitted for a period of five years. This penalty for improper disclosure does not apply to school officials within the educational agency. Pursuant to FERPA 99.67(c), if the Family Policy Compliance Office (FPCO) determines that a third party outside of SBBC improperly redisclosed personally identifiable information from education records in violation of FERPA 99.33, SBBC may not allow that third party to access personally identifiable information from education records for at least five years.~~

Commented [TAS26]: Revision language to align with FERPA and include citations.

IX. SAFEGUARDING EDUCATION RECORDS

A. Responsibility:

The school principal or designee shall be responsible for protecting the privacy and security of all student records maintained in the school. When student records are maintained at non-school locations (i.e. psychological services, records retention, etc.), the Director or designee of each non-school location shall be responsible for the privacy and security of those student records. Records shall be stored and accessed in a manner to prevent unauthorized or unintentional access.

Commented [TAS27]: This aligns with Rule 6A-1.0955, F.A.C.

B. Electronic records:

All District employees are required to adhere to Policy 5306 (School and District Technology Usage) and to Information Security Guidelines.

Physical security: adequate building security must be provided for the protection of all physical and logical BCPS computer assets and especially sensitive applications and data.

System security: Data must be protected by defining specific users or groups to specific system resources. All requests for access by outside agencies or entities must be approved by the Office of the General Counsel and Privacy Officer.

C. Paper records:

Hard copies of student records (i.e. the CUM folder) shall be stored in a secure area where access is limited to authorized personnel (Principal, Guidance Director, Registrar, Administrator or Designee).

Commented [TAS28]: This entire section adds a safeguarding component to the Policy.

X. ENFORCEMENT

Parents and eligible students have the right to file a complaint with the Family Policy Compliance Office, U.S. Department of Education, 400 Maryland Avenue, S.W., Washington, DC 20202, concerning alleged failures by the school district to comply with the requirements of the Family Educational Rights and Privacy Act. Parents and eligible students may also contact SBBC's Privacy Officer at (754) 321-1914 to discuss any concerns.

Commented [TAS29]: Adds specific contact information for parents and eligible students to exercise their right to file a FERPA-related complaint to the Family Policy Compliance Office (FPCO); also adds the District's Privacy Officer contact information. Parents and eligible students may wish to contact the Privacy Officer prior to contacting FPCO to resolve a concern.

STATUTORY AUTHORITY: F.S. 1001.41 & 1001.42

LAWS IMPLEMENTED: Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g
34 CFR Part 99 et. seq.
No Child Left Behind Act of 2001, 20 U.S.C. 6301 et. seq.
Protection of Pupil Rights Amendment (PPRA), 20 U.S.C. § 1232h;
34 CFR Part 98
Chapters 490; 491; 743; 1000.21 (5); 1002.22; and 1002.221, Florida Statutes
6A-1.0955(6)(b)(e), Florida Administrative Code.

POLICY ADOPTED: 11/13/69

POLICY READOPTED: 9/5/74

POLICY AMENDED: 4/21/77; 10/5/78; 3/14/89; 8/20/96; 1/12/99, 4/20/04.