

CHAPTER: STUDENTS

TITLE: RELEASE OF EDUCATIONAL RECORDS

This policy and the procedures included within it are designed to meet the provisions of the federal Family Education Rights and Privacy Act (the "FERPA") and West Virginia Board of Education Policy 4350 -West Virginia Procedures for the Collection, Maintenance and Disclosure of Student Data. The Calhoun County School District is committed to implement the policy and follow the procedures.

The Board of Education authorizes its superintendent to inform parents, students, and the public of the policy. The superintendent shall also exercise administrative resources to implement the policy and to deal with individuals who violate it.

In case a parent of a student, an eligible student, or a citizen of the Calhoun County School District believes that the district is violating the FERPA or the West Virginia Procedures, that person has a right to file a complaint with the United States Department of Education. On the date this policy was adopted, the address for the United States Department of Education is:

**The Family Policy Compliance Office Department of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202**

The inspection, disclosure, and correction of information contained in the education records of students who receive special education and related services are also subject to the provisions of the Individuals with Disabilities Education Act, Public Law 94-142, as amended; Chapter 18, Article 20, of the West Virginia Code, as amended, "Education of Exceptional Children"; West Virginia Board of Education Policy 2419, "Regulations for the Education of Exceptional Students"; and any policy adopted by the Calhoun County School District to implement Policy 2419. Any conflict between the provisions of this policy and the provisions of such other statutes and policies shall be resolved by following the provisions of the other statutes and policies.

Definitions

For the purposes of this policy, the Calhoun County School District has used the following definitions of terms.

Student – any person who attends or has attended a program of instruction sponsored by the Calhoun County School District.

Eligible student – a student, or former student, who has reached age 18 or is attending a postsecondary school.

Parent – either natural parent of a student (unless the district has been provided with evidence that the parent's rights under the FERPA or the West Virginia Procedures have been removed by a legally binding document or court order); a guardian; or an individual acting as a parent or guardian in the absence of the student's parent or guardian.

Education records – any record (in handwriting, print, tape, film, or other medium) maintained by the Calhoun County School District, an employee of the district, or an agent of the district which is directly related to a student except:

1. A personal record kept by a school staff member which meets the following tests:
 - a. It was made as a personal memory aid.

- b. It is in the personal possession of the individual who made it.
 - c. Information contained in it has never been revealed or made available to any other person except the maker's temporary substitute.
2. An employment record which is used only in relation to a student's employment by the Calhoun County School District. (Employment for this purpose does not include activities for which a student receives a grade or credit in a course.)
3. Alumni records which relate to the student after he or she no longer attends classes provided by the Calhoun County School District and which do not relate to the person as a student.
4. A record created, maintained, or used in the treatment of an eligible student by a physician, psychiatrist, psychologist, or other professional or paraprofessional, but only if the record has not been disclosed to anyone other than persons providing treatment or an appropriate professional of the student's choice. ("Treatment" does not include activities which are part of the student's remedial education or a program of instruction.)

Personally identifiable information – any data or information that makes the subject of a record known. This includes the student's name, the student's parent's or other family member's name, the student's address, the student's social security number, a student number, a list of personal characteristics, or any other information which would make the student's identity known or easily traceable.

Annual Notification

Within the first three weeks of each school year, the Calhoun County School District shall publish in at least one newspaper of general circulation in Calhoun County, West Virginia, a notice to parents and eligible students of their rights under the FERPA, the West Virginia Procedures, and this policy. The school district shall also during that time send home with each student or mail to each student's home a listing of these rights in a letter, notice, newsletter, or handbook. A similar listing shall be provided to a student's parent or an eligible student when the student enrolls in the district after the third week of the school year.

The notice shall include the following:

1. A statement of the right of a student's parent or an eligible student to inspect and review the student's education records.
2. A statement of the intent of the Calhoun County School District to limit the disclosure of information contained in a student's education records except: (1) by the prior written consent of the student's parent or the eligible student, (2) as directory information, or, (3) under certain limited circumstances, as permitted by the FERPA or the West Virginia Procedures.
3. A statement of the right of a student's parent or an eligible student to seek to correct parts of the student's education record which he or she believes to be inaccurate, misleading, or in violation of student rights. If the school district decides not to alter the record according to the parent's or eligible student's request, this right includes the right to a hearing to present evidence that the record should be changed.
4. A statement of the right of any person to file a complaint with the United States Department of Education and the West Virginia Superintendent of Schools if the Calhoun County School District violates the FERPA or the West Virginia Procedures.
5. The procedure that a student's parent or an eligible student should follow to review and obtain copies of this policy, and the locations where copies may be reviewed and obtained.

6. The district will arrange to provide translations of the notice to non-English speaking parents in their native language.

Statement of Rights

A student's parent or an eligible student has the following rights under the FERPA and the West Virginia

Procedures:

1. The right to inspect and review the student's education records.
2. The right to exercise a limited control over other people's access to the student's education records.
3. The right to seek to correct the student's education records, in a hearing if necessary.
4. The right to report violations of the FERPA and the West Virginia Procedures to the United States Department of Education and the West Virginia Superintendent of Schools.
5. The right to be informed about rights which were established in the FERPA and the West Virginia Procedures.

All rights and protections given to a student's parent under the FERPA, the West Virginia Procedures, and this policy shall be taken away from the parents and transferred to the student when the student reaches age 18 or enrolls in a postsecondary school. The student then becomes and "eligible student"

Locations of Education Records

On the date this policy was adopted, the locations and custodians of education records were as follows:

Procedure to Inspect Education Records

A student's parents or an eligible student may inspect and review the student's education records upon request. In some circumstances, it may be mutually more convenient for the record custodian to provide copies of records. The fee for copies is set forth below.

Since a student's records may be maintained in several locations, the school principal may offer to collect copies of records or the records themselves from locations other than a student's school. This will permit the parent or eligible student to inspect the copies or records at one site. However, if a student's parent or an eligible student wishes to inspect records where they are maintained, the school principal will make every effort to accommodate their wishes.

A student's parent or an eligible student must first submit to the student's school principal a written request which identifies as precisely as possible the record or records he or she wishes to inspect.

The principal (or other custodian) shall then contact the student's parent or the eligible student to discuss how access will be arranged (e.g., by providing copies, by providing for review at the exact location of the records, or by bringing the records to a single site).

The principal (or other custodian) shall make the needed arrangements as promptly as possible and notify the student's parent or the eligible student of the time and place where the records may be inspected. This procedure must be completed in 45 days or less from the receipt of the request for access.

TYPE	LOCATION	CUSTODIAN
Permanent Record File	Home School	Home School Principal
Statewide Assessment Records	Home School	Home School Principal
Special Education Records	Administration Bldg. 540 Alan B. Mollohan Dr. Mt. Zion, WV 26151	Director of Special Programs
Medical Records	Home School or Calhoun Middle High School 50 Underwood Circle Mt. Zion, WV 26151	School Nurse
Inactive Education Records	Home School or Administration Bldg. 540 Alan B. Mollohan Dr. Mt. Zion, WV 26151	Superintendent
Duplicates of some of the above	Home School	Home School Principal
Occasional Records (student education records not identified above)	Principal will collect and make available at student's school	Home School Principal

If for any valid reason such as working hours, distance between record location sites, or health, the student's parent or the eligible student cannot personally inspect and review a student's education record, the Calhoun County School District will arrange for the student's parent or the eligible student to obtain copies of the record. The fee for copies of records is set forth below.

When a record contains information about students other than the parent's child or the eligible student, the student's parent or the eligible student shall not inspect and review the records of the other students.

The FERPA and the West Virginia Procedures require the school district to provide copies of records:

1. When the refusal to provide copies effectively denies access to the records by a student's parent or by an eligible student.
2. At the request of the student's parent or the eligible student, when the school district has provided the records to third parties with the prior consent of the parent or eligible student.
3. At the request of the student's parent or the eligible student, when the school district has forwarded the records to another school where the student seeks or intends to enroll.

The fee for copies does not and cannot include the cost to search for and retrieve the education record of a student. The school district is prohibited by the FERPA and the West Virginia Procedures from charging any fee for search and retrieval.

Directory Information

The Calhoun County School District proposes to designate the following personally identifiable information contained in the education records of students as “directory information,” and it shall disclose that information without prior written consent.

1. The student’s name.
2. The names of the student’s parents.
3. The student’s address.
4. The student’s date of birth.
5. The student’s class designation (i.e. 1st grade, 10th grade, etc.)
6. The student’s extra curricular participation.
7. The student’s achievement awards or honors.
8. The student’s weight and height if a member of an athletic team.
9. The student’s photograph.
10. The school or school district the student attended before he or she enrolled in the Calhoun County School District.

Within the first three weeks of each school year, the Calhoun County School District shall notify students, parents, and general public of the above list, or a revised list, of the items of information it proposes to designate as directory information. This information is available on the Calhoun County Schools website.

After receiving notice, a student’s parent or an eligible student shall have two weeks to notify the Calhoun County Superintendent of Schools, in writing, of any or all of the items he or she refuses to permit the district to designate as directory information about that student.

By law, the name, address, and telephone listing of secondary students are designated as directory information to military recruiters. Parents have the opportunity to opt out of this requirement by following the procedure outlined above.

At the end of the two-week period, student records shall be appropriately marked by the records custodians to reflect any items of information which a student’s parent or an eligible student has refused to permit the district to designate as directory information about that student. This designation shall remain in effect until it is modified in writing by the student’s parent or the eligible student.

Use of Student Education Records

To carry out their responsibilities, school officials shall have access to student education records for legitimate educational purposes. The Calhoun County School District shall use the following criteria to determine who school officials are. An official is:

1. A member, officer, or employee of the Calhoun County Board of Education.
2. For the period of his or her performance as a contractor, a person under contract to the school board to perform a special task such as a school board attorney, an auditor, or a psychologist.

School officials who meet the criteria listed above shall have access to a student’s education records if the officials have a legitimate educational interest in doing so. A “legitimate educational interest” is the official’s need to know in order to:

1. Perform an administrative task required by the school employee’s position

description or by the person's contract with the school district.

2. Perform a supervisory or instructional task directly related to the student's education.
3. Perform a service or benefit for the student or the student's family such as health care, counseling, student job placement, or student financial aid.

Only with the prior written consent of a student's parent or an eligible student shall the school district release information from, or permit access to, a student's education record, except that the school district may make disclosure without prior written consent:

1. To officers of another school, school district, or postsecondary school in which a student seeks or intends to enroll. The Calhoun County School District need not further notify a student's parent or an eligible student prior to such a transfer of records. Parents of students an eligible student have a right to obtain copies of records transferred under this provision.
2. To certain Federal and State officials when they need information in order to audit or enforce legal conditions related to federally supported education programs in the district.
3. To parties who provide or may provide financial aid to a student to:
 - a. Establish the student's eligibility for the aid.
 - b. Determine the amount of financial aid.
 - c. Establish the conditions for the receipt of the financial aid.
 - d. Enforce the agreement between the provider and the receiver of financial aid.
4. To state or local officials to whom information is specifically required to be disclosed by a state law adopted before November 19, 1974.
5. To organizations conducting studies on the schools district's behalf to develop tests, administer student aid, or improve instruction.
6. To organizations to carry out their accrediting functions
7. To the parent of an eligible student if the parent claims the student as a dependent as defined by the current Internal Revenue Code. (This exception applies even though the parent may have lost other rights under the FERPA and the West Virginia Procedures when the student turned 18 or enrolled in a postsecondary school.)
8. To comply with a judicial order or lawfully issued subpoena. The school district shall make reasonable effort to notify the student's parent or the eligible student before making a disclosure under this provision.
9. If the disclosure is an item of directory information and the student's parent or the eligible student has not refused to allow the district to designate that item as directory information for that student.

The Calhoun County School District permits any of its school officials to make a needed disclosure from student education records in a health or safety emergency if:

1. The official deems the disclosure to be warranted by the seriousness of the threat to the health or safety of the student or other person.
2. The information is necessary and needed to meet the emergency.

3. The person to whom the information is to be disclosed is qualified and in a position to deal with the emergency.
4. Time is an important and limiting factor in dealing with the emergency.

The Calhoun County School district may release information from a student's education record if the student's parent or the eligible student gives prior written consent for the disclosure. The written consent must include at least:

1. A specification of the record to be released.
2. The reasons for the disclosure.
3. The person or the organization or the class of persons or organizations to whom the disclosure it to be made.
4. The signature or the student's parent or the eligible student.
5. The date of the consent and, if appropriate, a date when the consent is to be terminated.

The student's parent or the eligible student may obtain a copy of any records disclosed under this provision.

The Calhoun County School District shall not release information contained in a student's education records, except directory information, to any third parties except its own officials, unless those parties agree that the information will not be redisclosed except as the FERPA or the West Virginia Procedures permit or when the student's parent or the eligible student consents to such redisclosure.

Records of Requests for Access and Disclosures Made From Education Records

With the exceptions listed below, the Calhoun County School District shall maintain an accurate record of all requests it receives to disclose information from, or to permit access to, a student's education records. With the same exceptions, the school district shall maintain an accurate record of information it discloses from, and access it permits to, such records.

The record of requests and access shall be kept with, but will not be a part of, each student's permanent record file. It will be available only to the record custodian, the eligible student, the parent of the student, or to federal, state, or local officials for the purpose of auditing or enforcing federally supported educational programs.

The record will include at least:

1. The name of the person or agency that made the request.
2. The interest the person or agency had in the information.
3. The date the person or agency made the request.
4. Whether the request was granted and, if it was, the date access was permitted or disclosure made.

The school district shall maintain this record as long as the school district maintains the student's education record. The record shall not include requests for access or access granted to a student's parent or an eligible student, requests for access or access granted to officials of the Calhoun County School District who have a legitimate educational interest in the record, requests for or disclosures of information contained in the student's education record if the request is accompanied by the prior written consent of the student's parent or the eligible student or the disclosure is authorized by such prior consent, or requests for or disclosures of directory information designated for that student.

Procedures to Seek to Correct Education Records

A student's parent or the eligible student has a right to seek to change any part of the student's record he or she believes to be inaccurate, misleading, or in violation of student rights.

For the purpose of this procedure to seek to correct education records, the term "incorrect," when used to describe a record, means that the record is inaccurate, misleading, or in violation of student rights. The term "correct" means that a record is accurate, not misleading, and not in violation of student rights. Also, the term "requester" means a student's parent, or the eligible student, who asks the school district to correct a record.

To establish an orderly process to review and correct an education record for a requester, the school district may make a decision to comply with the request for change at any of several levels in the procedure.

First level decision – When a student's parent or an eligible student finds an item in the student's education record which he or she believes is inaccurate, misleading or in violation of student rights, he or she should immediately ask the record custodian to correct it. If the record is incorrect because of an obvious error and it is a simple matter to make the record change at this level, the record custodian shall make the correction. However, if the record is changed at this level, the method and result must satisfy the requester.

If the custodian cannot change the record to the requester's satisfaction or the record does not appear to be obviously incorrect, the custodian shall:

1. provide the requester a copy of the questioned record at no cost,
2. ask the requester to initiate a written request for the change, and
3. follow the procedure for a second level decision.

Second level decision – At this level the requester must make a written request to correct a student's education records. The written request shall identify the item the requester believes is incorrect and state whether the requester believes the item:

1. is inaccurate and why,
2. is misleading and why, or
3. violates student rights and why.

The request must be dated and signed by the requester.

Within two weeks after the record custodian receives a written request, the custodian shall study the request, discuss it with other school officials (the person who made the record or those who may have a professional concern about the school district's response to the request), make a decision to comply or decline to comply with the request, and complete the appropriate steps to notify the requester or move the request to the next level for a decision.

If, as a result of this review and discussion, the record custodian decides the record should be corrected, he or she shall effect the change and notify the requester in writing that the change has been made. Each such notice must include an invitation for the requester to inspect and review the student's education record to make certain the record is in order and the correction is satisfactory.

If the custodian decides the record is correct, he or she shall so advise the requester in writing and transmit to the Calhoun County Superintendent of Schools the requester's written request and a summary of the custodian's findings in the matter.

Third level decision – The superintendent shall review the material provided by the record custodian and, if necessary discuss the matter with other officials such as the school attorney. The superintendent shall then make a decision concerning the request and complete the steps at this decision level. Ordinarily, this level of the procedure should be completed within two weeks. If it will take longer, the superintendent must notify the requester in writing of the reasons for the delay and a date when the decision will be made. If the superintendent decides the record is incorrect and should be changed, the superintendent shall advise the record custodian to make the changes. The record custodian shall in such case advise the requester of the change as he or she would if the change had been made at the second level.

If the superintendent decides the record is correct, he or she shall send a letter to requester which must include:

1. The superintendent's decision that the record is correct and the basis for the decision.
2. Notice that the requester has a right to ask for a hearing at which the requester may present evidence to show that the record is incorrect, and notice that the district will grant such a hearing if required.
3. Instructions for the requester to notify in writing the superintendent, or an official the superintendent designates, to request a hearing and to propose acceptable hearing dates and times. (The school district shall not be bound by any dates and times suggested by the requester, but will make a genuine attempt to set a mutually agreeable date and time for any hearing.)
4. Advice that the requester may be represented or assisted in the hearing by other parties, including an attorney, at the requester's expense.

Fourth level decision – After the requester has in writing requested a hearing and made known his or her wishes concerning the time and place for the hearing, the superintendent shall in writing notify the requester when and where the hearing will be held and who the superintendent has designated as the hearing officer. This notice shall be given within seven days after the hearing request is received and seven days in advance of the hearing. The hearing officer may be any party, including an official of the school district, who does not have a direct interest in the outcome of the hearing.

At the hearing, the hearing officer shall provide the requester a full and reasonable opportunity to present material evidence and testimony to demonstrate that the questioned part of the student's education record is incorrect as shown in the written request for a change in the record (second level). The superintendent or the superintendent's representative shall be given an opportunity to demonstrate that the questioned part of the student's education record is correct.

Within seven days after the hearing, the hearing officer shall submit to the superintendent and the requester or the requester's representative a written summary of the evidence submitted at the hearing. Along with the summary, the hearing officer shall make a recommendation that the record should be changed or remain

unchanged, together with reasons for the recommendation. The recommendation shall be based solely on the evidence presented at the hearing.

The superintendent shall prepare the school district's decision within seven days after receiving the hearing officer's recommendation. The decision shall respond to the hearing examiner's recommendation and shall be based solely on the evidence presented at the hearing. The superintendent may overrule the hearing officer, but only if the superintendent believes that the hearing officer's recommendation is not consistent with the evidence presented at the hearing. As a result of the school district's decision, the superintendent shall take one of the following actions:

1. If the decision is that the school district will change the record, the superintendent shall instruct the record custodian to correct the record. The record custodian will correct the record and notify the requester as at the second level.
2. If the decision is that the school district shall not change the record, the superintendent will prepare a written notice to the requester which will include:
 - a. The school district's decision that the record is correct and will not be changed.
 - b. A written statement of the reasons for the district's decision.
 - c. Advice to the requester that he or she may place in the student's education record an explanatory statement which states the reasons the requester disagrees with the school district's decision and/or the reasons he or she believes the record is incorrect.

Final administrative step in the procedure – When the Calhoun County School District receives an explanatory statement from a requester after a fourth level decision is made, the school district shall maintain that statement as part of the student's education record as long as the school district maintains the questioned part of the record. The statement shall be attached to the questioned part of the record and whenever the questioned part of the record is disclosed, the explanatory statement will also be disclosed.

REFERENCE: SBP 4350; SBP2419

ADOPTED: 04/05/99

REVISED: 08/18/03, 3/11/13