

**FAMILY EDUCATIONAL RIGHTS & PRIVACY ACT (FERPA) & MANAGEMENT
OF STUDENT RECORDS POLICY**

DEFINITIONS (§ 99.3, 20 U.S.C. 1232g)

For the purposes of this policy, the following definitions apply:

Biometric Record: is defined as a record of one or more measurable biological or behavioral characteristics that can be used for automated recognition of an individual. Examples include fingerprints, retina and iris patterns, voiceprints, DNA sequence, facial characteristics, and handwriting.

Directory Information: Information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed, such as but not limited to Student Name; Address; Telephone Listing; Electronic Mail Address; Photographs, Videos, and Electronic Images; Date and Place of Birth; Grade Level, Enrollment Status, and Dates of Attendance; Major Field of Study; Participation in Officially Recognized Activities such as Sports and Clubs; Sports Activity Sheets, Weight and Height of Members of Athletic Teams; Degrees, Honors, Recognition Lists, and Awards Received, and GPA may be published; the Most Recent Previous School, School District, or Institution Attended; Playbills, School Yearbook, and Graduation Programs; Student ID number, User ID, or other unique personal identifier—that is displayed on a student ID badge used by the student for purposes of accessing or to communicate in electronic systems, but only if the identifier cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user’s identity, such as a PIN, password, or other factor known or possessed only by the authorized user; A student ID number or other unique personal identifier. (20 U.S.C. 1232g(a)(5)(A))

Eligible Student or Appropriate Student: A student who has attained 18 years of age, or is married, or is attending an institution or post-secondary education.

Educational Record: Records directly related to a student and maintained by this school district or by a party acting on behalf of the District. (20 U.S.C. 1232g(a)(4))

Electronic/Video/Images/Photographs Surveillance: means video/digital components or images of multi-media surveillance systems, including but not limited to, cameras, recording units, tapes, CD/DVDs, camera phones, tablets, etc. All electronic surveillance shall be limited to video without recording sound so as to prevent any violation of Idaho wiretapping statutes.

Law Enforcement Unit: is an individual, office, department, division, or other component of this school district, such as a unit of commissioned police officers or noncommissioned security guards, that is officially authorized or designated by this school district to (1) enforce any federal, state or local law, or refer to appropriate authorities a matter for enforcement of any law against any individual or organization, other than the school district; or (2) maintain the physical security and safety of schools in the District.

Legitimate Educational Interest: is defined as the performance of education- or discipline-related tasks in connection with a student, providing educational services to a student or a student’s family, or performing administrative or other educational responsibilities prescribed by the school or the District. A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional duties.

Parent, Noncustodial Parent, & Surrogate Parent: Includes a natural parent, guardian, or an individual acting in the absence of a parent or a guardian, who is providing the student with food, clothing, discipline, and guidance on a day-to-day basis in the home environment.

Mountain Home School District No. 193 (MHSD) shall give full rights under the Act to either parent including a noncustodial parent, unless the District has been provided with evidence that there is a court order, State Statute, or legally binding document relating to such matters as divorce, separation, or custody that specifically revokes these rights. (20 U.S.C. 1232g)

In addition to the definition of “parent” found in FERPA, surrogate parents are also defined as “parent” for purposes of reviewing education records. The IDEA further broadens the definition of “parent” to individuals acting in the place of a parent or legal guardian, such as a grandparent or stepparent with whom the child lives.

School Official: Any person employed by the District in administrative, counseling, supervisory, academic/instruction, and the instructional and support staff to those positions (including health or medical staff, and law enforcement unit personnel); a person serving on the Board; a person or company with whom the District has outsourced services or functions it would otherwise use its own employees to perform (such as attorney, auditor, medical consultant, or therapist); or a parent(s)/guardian(s) or student serving on an official committee such as a disciplinary or grievance committee; or a parent, student, or other volunteer assisting another school official in performing his/her tasks. (20 U.S.C. 1232g(b)(1)(D))

Student: means any individual who is attending or who has attended any schools within the school district.

Personally Identifiable Information (PII): Includes, but is not limited to the name of student/parent/other family member(s); the address of the student or his/her family; personal identifier such as social security number, student number, or biometric record; student's date of birth, place of birth, and mother's maiden name; list of personal characteristics, or other information that would make the student’s identity easily traceable. (20 U.S.C. 1232g)

Disclosure: Permit access to or the release, transfer, or other communication of personally identifiable information contained in education records to any party by any means, including oral, written, or electronic. (20 U.S.C. 1232g(b)(1) and (b)(2))

ANNUAL NOTIFICATION REQUIREMENTS

The District will provide parents and eligible students annual notification of their rights under Family Educational Rights and Privacy Act (FERPA). The annual notice will contain information

regarding the right to inspect their children’s records, the right to seek an amendment of a record, the right to consent to disclosures of personally identifiable information (PII), with certain exceptions, and the right to file a complaint with the U.S. Department of Education.

EDUCATIONAL RECORDS

Educational records include, but are not limited to, the cumulative file, special education records, and disciplinary records. Records may also include, but are not limited to, any of the following: academic work completed (courses taken, transcript); level of achievement (grades, portfolios, performance assessments, scores on standardized achievement tests, etc.); attendance data; scores of standardized intelligence, aptitude, and psychological tests (and protocols of the same if they include PII); records of teachers, counselors, medical personnel, and psychologists working directly with a student if disclosed to others; interest inventory results; observations and verified reports of serious or recurring behavior patterns; videotapes and audiotapes; health data including medical assessments; family background information; transportation records; and student records maintained by agencies and individuals contracting with the District).

Educational records do not include records that are kept in the sole possession of the maker of the record, are used as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record. Education records do not include emails, unless the emails have been printed off and are maintained in a student’s education record.

The cumulative file of each student is maintained at the building level for this school district. The building principal, individual teachers, and special education personnel may also have a file containing particular educational records.

RETENTION AND DESTRUCTION OF EDUCATIONAL RECORDS

The District will perpetually maintain a permanent record for each student including, the student’s name, address, phone number, grades, classes attended, immunization records, test scores, attendance records, grade level, and year completed. Additional information contained in the record may be destroyed or redacted after a period of at least five (5) years after the student disenrolls from the District if appropriate. The permanent record may be kept in any format and medium determined feasible by the board. (20 U.S.C. 1232g)

Written records of individual students are confidential and will be shredded or destroyed as appropriate under supervision of the staff member responsible for the records. The records manager will maintain a log that documents the date of destruction of any educational records.

RIGHT TO INSPECT EDUCATIONAL RECORDS (20 U.S.C. 1232g(b)(1) and (b)(4)(A))

Parents or eligible students may inspect and review educational records. This District will comply with a request for access to records within a reasonable period of time, but in no case more than forty-five (45) calendar days after it has received the request. This District will respond to reasonable requests for explanations and interpretations of the records. (20 U.S.C. 1232g(b)(1) and (b)(4)(A))

If circumstances effectively prevent the parent or eligible student from exercising the right to inspect and review the student's education records, MHSD shall provide the parent or eligible student with a copy of the records requested; or make other arrangements for the parent or eligible student to inspect and review the requested records. The District may charge the parent or eligible student the actual costs for copying the records unless payment of such cost is determined to effectively preclude the parent or eligible student from having access to the educational records. (20 U.S.C. 1232g(a)(1))

The District will not destroy requested educational records if there is an outstanding request to inspect and review the records. (20 U.S.C. 1232g(a)(1) (A) and (B))

DISCLOSURE OF STUDENT RECORDS TO PARENTS & NONCUSTODIAL PARENT
(20 U.S.C. 1232g)

Under FERPA and state law (I.C. 32-717A), both parents, including the non-custodial parent, are given full rights, unless the school district has been provided with evidence that there is a court order, State Statute, or legally binding document relating to such matters as divorce, separation, or custody that specifically revokes these rights. The rights contained in this section are denied to any person against whom an order of protection has been entered concerning a student. (20 U.S.C. 1232g)

A noncustodial parent's access to records and information pertaining to his or her minor child will not be denied solely because the parent is not the child's custodial parent. However, information concerning a minor child's home address will be deleted from all records supplied to a noncustodial parent if the custodial parent has advised the District in writing to do so.

PERSONALLY IDENTIFIABLE INFORMATION (PII) (34 CFR § 99.31)

Personally identifiable information (PII) will not be released from an educational record without the prior written consent of the parent or eligible student, except under specific circumstances. PII includes, but is not limited to:

1. The student's name;
2. The name of the student's parent or other family members;
3. The address of the student or student's family;
4. A personal identifier such as the student's social security number, student number, or biometric record;
5. Other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name;

6. A list of personal characteristics that would make the student’s identification easily traceable;
7. Health or medical information, including immunization records; or
8. Other information that would make the student’s identity easily traceable.

RELEASE OF PII WITHOUT PRIOR CONSENT (34 CFR § 99.31)

Personally identifiable information may be disclosed without prior written consent of the parent or eligible student under the following conditions:

1. To teachers or other school officials who have a legitimate educational interest.
2. To officials of another school, school system, or institution of post-secondary education where the student seeks or intends to enroll or where the student is enrolled. (20 U.S.C. 1232g(b)(1)(B))
3. To authorized representatives of federal, state, and local educational authorities; in connection with audit or evaluation of federal- or state-supported education programs, or for the enforcement of or compliance with federal legal requirements related to those programs.
4. In connection to the application for or receipt of financial aid. (20 U.S.C. 1232a(b)(1)(D))
5. State and local juvenile justice systems or their officials.
6. To an agency caseworker or other representative of a state or local child welfare agency, or tribal organization, when the state or tribal organization is legally responsible for the care and protection of the student.
7. To organizations conducting studies, for or on behalf, of the District to develop, validate, or administer predictive tests, administer student aid programs, or improve instruction.
8. To accrediting organizations to carry out their accrediting functions.
9. To parents of an eligible student if the student is a dependent for Internal Revenue Service (IRS) tax purposes.
10. To comply with a judicial order or lawful subpoena. (20 U.S.C. 1232g(b)(4)(B))
11. To appropriate officials in connection with a health or safety emergency.
12. To a party seeking information that this District has designated as “directory information.”
13. To the parent or eligible student.

ACCESS LOG

This District will maintain a record of each request for access to and each disclosure of PII from the educational record of each student. This access log will be maintained with the student's educational records as long as the records are maintained. The access log will specify the individuals who have requested or received PII from the educational records and the legitimate educational interest the parties had in requesting or obtaining the information. If the information was released without prior parental consent, the specific exception for such consent will also be set forth.

A record will not be kept when a student's record is accessed by the parent or eligible student or a school official with legitimate educational interest, a written consent has been received from the parent or eligible student, a request is received for directory information only, or the District is ordered to not disclose the request for records.

DIRECTORY INFORMATION (20 U.S.C. 1232g(a)(5)(A))

Directory information includes, but is not limited to:

1. Student name;
2. Address;
3. Telephone listing;
4. Electronic mail address (e-mail);
5. Electronic Surveillance/Images including, but not limited to, video and photographs of students used by the District for recognition of student achievement and community relations, including, but not limited to, publication in the District's or school's newsletters, in the school setting, and on the District's or school's website;
 - a. Student electronic surveillance/images and names may be considered directory information by themselves, but when combined they create the potential to violate FERPA and State Law.
 - b. Student electronic surveillance/images in combination with other PII, such as the student's name, class, subject, etc., MAY NOT be used by the school district for publication on the District or school's website if a reasonable person in the school community, who does not have a personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.
 - Avoid the use of any electronic surveillance/images that can identify individual students. A safe compromise is to only use images taken from behind students.

- If a student(s) electronic surveillance/image must be used, don't use the student's name in the file name and don't refer to the student by name, even their first name, in the caption under the photo or in the post.
 - Names, especially full names, should not be used, and if they are, the names need to be kept separate from the images.
- c. Electronic Surveillance/Images of students in common areas recorded for the purpose of maintaining the physical security and safety of the school; to the extent electronic surveillance/images exist, they may be a public record or may become an education record pursuant the District's Video Surveillance Policy. The District reserves the right to edit, including concealing identities, any electronic surveillance recordings to comply with applicable state and federal law prior to any release or disclosure.
6. Date and place of birth;
 7. Major field of study;
 8. Grade level;
 9. Enrollment status;
 10. Participation in officially recognized activities such as sports;
 11. Weight and height of members of athletic teams;
 12. Dates of attendance;
 13. Degrees, honors, and awards received;
 14. The most recent previous school, school district, or institution attended; and
 15. A student identification number, user identification, or other unique personal identifier, used for purposes of accessing or communicating in electronic systems or displayed on a student ID badge, but only if the identifier cannot be used to access education records, except when used in conjunction with one or more factors that authenticate the user's identity, such as a personal identification number (PIN), password or other factor known or possessed only by the authorized user, student ID number, user ID, or other unique personal identifier used by the student for purposes of accessing or communicating in electronic systems, but only if the identifier cannot be used to gain access to education records.

****Parents and eligible students may not, by opting out of directory information, prevent an LEA or school from requiring a student to wear or present a student ID or badge.

DISCLOSURE OF DIRECTORY INFORMATION (20 U.S.C. 1232g(a)(5)(A)(B))

This District may disclose directory information without prior written consent after giving public notice annually to parents of students in attendance and eligible students in attendance that:

1. All information in the definition of directory information as set forth in this policy has been designated as directory information by this District.
2. A parent or eligible student has the right to refuse to allow this District to designate any or all of the types of information about the student as directory information, except that the District cannot be prevented from disclosing or requiring a student to disclose the student's name, identifier, or email address in a class in which the student is enrolled, or prevent the District from requiring a student to wear, to display publicly, or to disclose a student identification card or badge that contains directory information.
3. A parent or eligible student must notify MHSD in writing, or use the REQUEST OF NON-DISCLOSURE OF DIRECTORY INFORMATION FORM that the parent or eligible student does not want any or all of those types of information about the student released within thirty (30) calendar days after receiving notice that directory information may be disclosed, which is published annually in the local newspaper in the month of July or August and permanently published on the school district website.
4. Federal Law requires that the District will provide, on a request made by military recruiters or an institution of higher education, access to secondary school students' names, addresses, and telephone listings unless a parent or secondary school student requests, in writing, that the student's name, address, and telephone listing not be released without prior written parental consent.

The District may disclose directory information about former students without notice. However, the District will continue to honor any valid request to opt-out of the disclosure of directory information made while a student was in attendance unless the student rescinds the opt-out request.

PROCEDURE TO AMEND RECORDS (§ 99.20)(20 U.S.C. 1232g(a)(2))

If a parent or eligible student believes that the educational records relating to the student contain information that is inaccurate, misleading, or in violation of the student's right of privacy, they may seek to amend the record in writing, by clearly identifying the part of the record they want changed and specify why it should be changed. The right to seek amendment or to challenge school student records does not apply to: (1) academic grades of their child, and (2) references to expulsions or out-of-school suspensions, if the challenge is made at the time the student's school student records are forwarded to another school to which the student is transferring, or(3) an individual's opinion (unless the grade or the opinion has been inaccurately recorded) or the school district's decision to create or maintain particular education records. When a request to amend educational records is received, it will be in writing and the following procedure will be followed:

Review Process

1. Within thirty calendar (30) days of receiving the written request to amend the record, MHSD, through its designee, will determine whether the information contained in a record is inaccurate, misleading, or in violation of the student’s right of privacy. If the District determines that the requested amendment is appropriate, it will correct the record and provide written notice of the changes to the parent or eligible student. (20 U.S.C. 1232g(a)(2))
2. If the District determines that the information in the student’s education record is not inaccurate, misleading, or in violation of the student’s right of privacy, it will inform the parent or eligible student, in writing, of its decision and the reasons why it denied the request to amend the record, and the right to a hearing. (20 U.S.C. 1232g(a)(2))

Hearing Process (20 U.S.C. 1232g(a)(2))

1. The parent or eligible student, on request, has an opportunity for a hearing to challenge the contents of the student’s educational records on the grounds that the information contained in the educational records is inaccurate, misleading, or in violation of the privacy rights of the student.
2. The District will hold the requested hearing within thirty (30) school days after it receives a request for the hearing. Notice of the date, time, and place will be given to the parent or eligible student at least ten (10) school days prior to the hearing.
3. Any individual, including a district employee who does not have a direct interest in its outcome, may conduct the hearing. The parent or eligible student will be given a full and fair opportunity to present evidence relevant to the issues raised at the hearing. The parent or eligible student may, at their own expense, be assisted or represented by an individual of his or her own choice, including an attorney.
4. The individual conducting the hearing is not bound by common law or by the rules of evidence. Evidence will be admitted and given weight only if it is the kind of evidence which reasonable persons are accustomed to relying on in the conduct of serious affairs.
5. The hearing officer will make his/her decision in writing within fourteen (14) school days after the close of the hearing. The decision will be based solely on the evidence presented at the hearing and will include a summary of the evidence and the reasons for the decision. The hearing officer’s decision will be the final decision of the District.
6. If the hearing officer concludes that the information being contested is inaccurate, misleading, or otherwise in violation of the privacy rights of the student, the District will amend the records at issue and inform the parent or eligible student of the amendment in writing.
7. If the hearing officer concludes that the information in the educational record is not inaccurate, misleading, or otherwise in violation of the privacy rights of the student, the

District will inform the parent or the eligible student of the right to place a statement in the record commenting on the contested information stating why he or she disagrees with the District's decision. If such a statement is received by the District, it will remain as part of the record for as long as the student's record is maintained, and the statement will be disclosed whenever the District discloses the portion of the record to which the statement relates. (20 U.S.C. 1232g(a)(2))

LAW ENFORCEMENT UNIT

The District may designate one or more law enforcement units as provided under FERPA. A law enforcement unit may consist of a single individual and need not be a law enforcement officer. All school security records including, but not limited to, school security campus or school bus videotapes, records relating to weapons screening devices, visitor logs, and any records of interviews relating to potential violations of the law may be maintained by the law enforcement unit. These records are not deemed to be educational records.

The District may disclose any law enforcement unit records, files, documents, and other materials pertaining to the investigation of a violation of the law to a law enforcement agency or the Idaho Department of Health and Welfare. The disclosure of such records to a law enforcement agency or the Idaho Department of Health and Welfare does not prohibit the use of those records for educational purposes such as student discipline.

SPECIAL EDUCATION RECORDS

This District recognizes the right of parents of students with disabilities and eligible students with disabilities to inspect and review educational records relating to the student that are collected, maintained, or used by this District.

The District will also comply with a request to inspect and review such records without unnecessary delay, and:

1. In no event more than forty-five (45) calendar days after the request has been made;
2. Before any meeting regarding the student's individualized education program (IEP);
3. Before any hearing relating to the identification, evaluation, or educational placement of the student or the provision of a free appropriate public education (FAPE) to the student; or
4. Before a resolution session.

The right of parents of students with disabilities and eligible students with disabilities to inspect and review education records includes:

1. The right to a response to reasonable requests for explanations and interpretations of the records;

2. The right to request copies of the records if failure to provide copies would effectively prevent the parent from exercising the right to inspect and review records; and
3. The right to have a representative of the parent inspect and review the records.

When records of individual testing and/or psychological information are received by a school from another school, institution, individual, or agency, the information should be reviewed by appropriate personnel in the school. (IDEA and 34 CFR 300.560–300.577)

The individual test(s) and/or psychological information should then be filed in the Special Education room school office, or as per individual building policy. (IDEA and 34 CFR 300.560–300.577)

If the student required follow-up services or additional psychological testing, then a referral should be initiated and forwarded to appropriate school or district personnel. (IDEA and 34 CFR 300.560–300.577)

In dealing with the educational records of exceptional students with disabilities, the school district will inform parents when personally identifiable information collected, maintained, or used is no longer needed to provide educational services to the child. The information must be destroyed at the request of the parents. However, the school district may maintain a permanent record of the student’s name, address, and phone number, his or her grades, attendance records, classes attended, grade level completed, and year completed without time limitation. (34 CFR 300.573)

RETENTION AND DESTRUCTION OF SPECIAL EDUCATION RECORDS

Educational records, including eligibility documentation and IEPs, will be maintained for at least five (5) years after disenrollment of a student with disabilities from the District.

Medicaid-related records, specifically expenditure documentation, cost allocation process, all student records related to the Medicaid billing and service delivery (e.g., data sheets, IEPs, health care plans, physician recommendations for assessments and IEP services, evaluation recommendations, documented supervision of paraprofessionals), and revenue documentation, will be maintained for a period of six (6) years.

The District will inform a parent and/or eligible student when PII collected, maintained, or used is to be destroyed because the information is no longer needed to provide educational services to the student. The parent and/or eligible student must be informed of PII that the District intends to destroy, and that the information will be destroyed no earlier than forty-five (45) calendar days from the date of the notice. The parent and/or eligible student must also be informed of the procedure to follow if he or she wishes to formally object to the destruction of the information and wants the records sent to him or her.

Written records of individual students are confidential and will be shredded, destroyed, or redacted as appropriate under supervision of the staff member responsible for the records, if not released to

the parent and/or eligible student. The records manager will maintain a log that documents the date of destruction or release of the records.

A permanent record of the student’s name, address, phone number, grades, classes attended, immunization records, test scores, attendance records, grade level, and year completed may be maintained by the District without a time limitation. Any other PII will be destroyed at the request of the parent and/or eligible student if it is older than five (5) years and no longer needed to provide special education. When informing the parent and/or eligible student of his or her rights, the District should remind the parent and/or eligible student that the records might be needed for Social Security benefits or other purposes in the future.

FORMS:

1. Request of Non-Disclosure of Directory Information Form – Form should be available upon request in the administrative office of each school.
 - a. If a parent or eligible student delivers a signed Request of Non-Disclosure of Directory Information Form to the school, a copy must be sent to the school building Web Master and to the Director of Technology.
2. Request to Inspect School Records – Form should be available upon request in the administrative office of each school.
3. Authorization to Release/Exchange Records/Information – Directions for use are on the form.
4. Memorandum of Understanding Agreement – Disclosure of Data/Information to Other Agencies/Organizations – Form must be signed and submitted by any outside agency/organization/office/program that request student data/information.
5. Access Log – Directions for use are on the form.



LEGAL REFERENCE:

Idaho Code 32-717A – Parents’ Access to Records and Information
Family Educational Rights and Privacy Act of 1974 (FERPA)
20 USC §1232g
34 CFR Part 99
Uninterrupted Scholars Act, Pub.L112-278 (2013)
Individuals with Disabilities Education Improvement Act (2004)
20 USC §§1412(2)(D) and 1417
34 CFR §§300.610 through 300.626
Idaho Special Education Manual 2017

Joint Guidance on the Application of the Family Educational Rights and Privacy Act (FERPA) and the Health Insurance Portability and Accountability Act of 1996 (HIPPA) to Student Health Records

U.S. Department of Health and Human Services

U.S. Department of Education, December 2019 Update (First Issued November 2008)

<http://www.gpo.gov/fdsys/pkg/USCODE-2011-title20/pdf/USCODE-2011-title20-chap31-subchapIII-part4-sec1232g.pdf>

<http://www2.ed.gov/policy/gen/guid/fpco/index.html>

<http://www.ecfr.gov/cgibin/textidx?c=ecfr&sid=11975031b82001bed902b3e73f33e604&rgn=div5&view=text&node=34:1.1.1.1.33&idno=34>

<http://legislature.idaho.gov/legislation/2014/S1372E1.pdf>

ADOPTED: August 19, 1975

Reviewed: February 21, 2006

Revised: January 18, 2022

Revised: June 21, 1988

Revised: January 17, 2012

Revised: May 21, 2002

Revised: November 15, 2016