

<p><b>PRESTON COUNTY BOARD OF EDUCATION</b></p> <p><b>FILE: 11 - STUDENTS</b></p> <p><b>File: 11-19      Collection, Maintenance and Disclosure of Student Data</b></p>	<p><b>Last Reviewed: 8-9-10</b></p> <p><b>Next Review: 7-1-12</b></p>
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A cumulative record shall be maintained for each student who enters a Preston County School. This record shall contain only verified information of recognized importance and may be used only for the benefit or welfare of the student. Information contained in these records will consist of, but not limited to:

- ❖ Directory information;
- ❖ Record of grades K through 12;
- ❖ Extracurricular activities;
- ❖ Attendance record;
- ❖ Test record card;
- ❖ Health card;
- ❖ Transfer card;
- ❖ Drop-out card;
- ❖ Disciplinary information;
- ❖ Pertinent medical records; and
- ❖ Evaluative special education tests and results.

It will be the responsibility of the building level administrator to assure strict adherence to all guidelines relative to student permanent records. The education records of Preston County students shall be collected, maintained and disclosed in the manner prescribed by the *Family Educational Rights and Privacy Act and State Board Policy 4350 Procedures for Collection, Maintenance, and Disclosure of Student Data*.

The following pages contain specific guidelines to be followed by school personnel in performing their duties in regard to maintaining student records and protecting the privacy of all students. These regulations are written to conform to the following federal and state requirements:

**(WVC §18-2-5; Public Law 105-244, the Family Educational Rights and Privacy Act (as amended); Public Law 105-17, the Individuals with Disabilities Education Act Amendments of 1997; Public Law 107-110, the No Child Left Behind Act of 2001; Public Law 107-107, the National Defense Authorization Act for the Fiscal Year 2002, and their respective regulations; SBP 4350 Procedures for the Collection, Maintenance and Disclosure of Student Data)**

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## **R 11-19-1 Definitions**

- ❖ “Attendance” at an agency or institution includes, but is not limited to:
  - Attendance in person and having homebound instruction; and
  - The period during which a person is working under a work-study program.
- ❖ "Consent" means that:
  - The parent has been fully informed of the information set out in this document in his or her native language or other mode of communication, unless it clearly is not feasible to do so;
  - The parent understands and agrees in writing to the carrying out of the activity for which consent is sought, and the consent sets forth that activity and lists the records (if any) which will be released and to whom; and
  - The parent understands that the granting of consent is voluntary on the part of the parent.
- ❖ "Destruction" means physical destruction or removal of personal identifiers so that the information is no longer personally identifiable.
- ❖ "Directory information" includes a student's name, address, telephone listing, e-mail, photograph, date, and place of birth, major field of study, dates of attendance, grade level, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended by the student.
- ❖ "Disciplinary action or proceeding" means the investigation, adjudication, or imposition of sanctions by an educational agency or institution with respect to an infraction or violation of the internal rules of conduct applicable to students of the agency or institution.
- ❖ "Disclosure" means permitting access or the release, transfer, or other communication of education records of the student or the personally identifiable information contained therein, orally or in writing, or by electronic means, or by any other means to any party.
- ❖ "Educational institution" or "educational agency or institution" means any public or private agency or institution under the general supervision of the West Virginia Board of Education.
- ❖ "Education records" means those records that are directly related to a student and are collected, maintained or disclosed by an educational agency or institution or by a party acting for the agency or institution. The term does not include:
  - Records of instructional, supervisory, and administrative personnel and educational personnel ancillary to those persons that are kept in the sole possession of the maker of the record and are not accessible or revealed to any other individual except a temporary substitute.
  - Records of the law enforcement unit of an educational agency or institution, subject to the provisions of Section 126-94-7.

- Records relating to an individual who is employed by an educational agency or institution that are made and maintained in the normal course of business; relate exclusively to the individual in that individual's capacity as an employee, and are not available for use for any other purpose. However, records relating to an individual in attendance at the agency or institution who is employed as a result of his or her status as a student are education records and are not exempted.
- Records relating to an eligible student that are:
  - Created or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional or assisting in a paraprofessional capacity;
  - Created, maintained, or used only in connection with the provision of treatment to the student; and
  - Disclosed only to individuals providing the treatment (provided that the records can be personally reviewed by a physician or other appropriate professional of the student's choice). For the purpose of this definition, "treatment" does not include remedial educational activities or activities that are a part of the program of instruction at the educational agency or institution.
- Records of an educational agency or institution that contain only information related to a person after that person is no longer a student at the educational agency or institution. (An example would be information collected by an educational agency or institution pertaining to the accomplishments of its alumni).
- ❖ "Eligible student" means a student who has attained 18 years of age, or is attending an institution of post-secondary education.
- ❖ "Exceptional student" means a student having been determined to have an exceptionality in accordance with eligibility criteria under *SBP 2419, Regulations for the Education of Students with Exceptionalities*, (hereinafter, Policy 2419) who receives services under an Individualized Education Program (IEP).
- ❖ "Financial Aid" means a payment of funds provided to an individual (or a payment in kind of tangible or intangible property to the individual) that is conditioned on the individual's attendance at an educational agency or institution.
- ❖ "Institution of post-secondary education" means an institution that provides education to students beyond the secondary school level; "secondary school level" means the educational level (not beyond grade 12) at which secondary education is provided, as determined under state law.
- ❖ "Parent" includes a parent, guardian, or an individual acting as a parent of a student in the absence of a parent or guardian.
- ❖ "Party" means an individual, agency, institution or organization.
- ❖ "Personally identifiable" means that the data or information includes, but is not limited to;
  - The name of a student, the student's parent, or other family member;
  - The address of the student or student's family;
  - A personal identifier such as the student's social security number, or student number;

- A list of personal characteristics that would make the student's identity easily traceable;  
or
- Other information that would make the student's identity easily traceable.
- ❖ "Record" means any information or data recorded in any medium including, but not limited to: handwriting, print, video or audio tape, film, microfilm, microfiche, and computer media.
- ❖ "Secretary" means the Secretary of the U.S. Department of Education or an official or employee of the U.S. Department of Education acting for the Secretary under a delegation of authority.
- ❖ "Student" includes any individual who is or has been in attendance at an educational agency or institution, and regarding whom the educational agency or institution collects, maintains, or discloses educational records.

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## **R 11-19-2 Access to and Security of Student Files**

### **Access to Cumulative Records**

The following school personnel may have access to personally identifiable data in Student Education Records on an as need to know basis:

- ❖ Superintendent
- ❖ Assistant Superintendent
- ❖ Supervisory/Administrative Staff
- ❖ Principals/Assistant Principals
- ❖ Teachers (Student teachers/interns as appropriate)
- ❖ Ancillary Support Staff (i.e. school nurse, speech therapist, social worker)
- ❖ Counselors
- ❖ Secretaries

Parents/guardians and eligible students may have access to cumulative records upon written request. The Comptroller General of the U. S., the Secretary of Health, Education and Welfare and State Educational Authorities also reserve the right to have access to student records. Any person, agency or organization desiring access to student records will sign a form indicating the specific nature of the request. A copy of the request is to be kept on file in the student's folder.

### **Security**

The Preston County Board of Education in regulating the maintenance and security of records on all students currently or previously enrolled in any of its programs shall adhere to the following:

- ❖ The Director of Student Services, School Principal and/or Assistant Principal of individual schools shall receive periodic training in security, with emphasis upon privacy rights of students and parents.
- ❖ The Board shall maintain, for public inspection, a current listing of those employees within the agency who may have access to the personally identifiable data.
- ❖ Records shall be consolidated and be centrally located in each school building and kept under lock and key at all times except for periods of authorized use under the supervision of the designated professional(s).
- ❖ Student records shall be transferred to other schools within the system as the student transfers and shall remain at the last school attended.
- ❖ Provisions shall be made for an annual review of all data retained in official records of current students.
- ❖ The Board shall have a central filing location for the administrative records of schools which are abandoned, destroyed, or have had their identity changed through reorganization.
- ❖ All persons, agencies or organizations desiring access to the records of a student shall be required to sign a written form, which shall be kept permanently with the file of the student. The record shall indicate specific or legitimate educational interest that each person, agency, or organization has in seeking this information. such forms shall be available to parents and/or eligible student and to the school official responsible for record maintenance as a means of auditing the operation of the system.

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### **R 11-19-3 Parent/Guardian Annual Notification of Rights**

The Preston County Board of Education shall annually inform parents or guardians of their rights regarding the collection, maintenance, and disclosure of Student information in the Preston County Schools. This notice shall include:

- ❖ The notice must inform parents or eligible students that they have the right to:
  - Inspect and review the student's education records;
  - Seek amendment of the student's education records that the parent or eligible student believes to be inaccurate, misleading, or otherwise in violation of the student's privacy rights;
  - Consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that *File: R 11-19-4* authorizes disclosure without consent; and
  - File with the U.S. Department of Education a complaint concerning alleged failures by the Preston County Board of Education to comply with the requirements of this policy.
- ❖ The notice must include all of the following:
  - The procedure for exercising the right to inspect and review education records;
  - The procedure for requesting amendment of records under *File: R 11-19-8*;

- A specification of criteria for determining who constitutes a school official and what constitutes a legitimate educational interest;
- Types of information designated as directory information and procedures for refusing to allow information to be so designated; and
- The procedure for disclosure of education records without consent to officials of another school district in which the student seeks to enroll.

The Board may provide this notice by any means that are reasonably likely to inform the parents or eligible students of their rights. Generally speaking, the annual notice will be transmitted through any or all of the following: newspaper, radio, the Board's web site, and mail.

The Board shall also take steps to effectively notify parents/guardians and/or eligible students who are disabled of their rights under this policy. The same is true for those parents and/or eligible students who have a primary or home language other than English.

Parents of exceptional students, and/or eligible students, who are exceptional, shall receive notice of their rights under IDEA, included in the procedural safeguards notice.

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#### **R 11-19-4 Disclosure of Personally Identifiable Information**

##### **Prior Consent for Disclosure of Records Required**

- ❖ The Preston County Board of Education and its agents shall obtain written consent of the parent of a student or the eligible student before disclosing personally identifiable information from the education records of a student, other than directory information.
- ❖ Whenever written consent is required, the Board and its agents may presume that the parent of the student or the eligible student giving consent has the authority to do so unless it has been provided with evidence that there is a legally binding instrument or a court order governing such matters as divorce, separation or custody, which provides to the contrary.
- ❖ The written consent must be signed and dated by the parent of the student or the eligible student giving the consent and shall include:
  - A specification of the records to be disclosed;
  - The purpose of the disclosure; and
  - The party or class of parties to whom the disclosure may be made.
- ❖ If a parent or eligible student so requests, the Board (at a cost equal to the reproduction costs) shall provide a copy of the records disclosed.

**Prior Consent for Disclosure of Records Not Required**

- ❖ The Board may disclose personally identifiable information from the education records of a student without the written consent of the parent of the student or the eligible student if the disclosure is:
  - To other school officials, including teachers, within Preston County Schools who have been determined by the school system to have legitimate educational interest; and
  - To officials of another school or school system, or institution of post-secondary education, in which the student seeks or intends to enroll.
  - To authorized representatives of:
    - The Comptroller General of the United States;
    - The Secretary of the U.S. Department of Education (hereinafter, Secretary); or
    - State and local educational authorities.
  - In connection with financial aid for which a student has applied or which a student has received; provided, that personally identifiable information from the education records of the student may be disclosed only as may be necessary for such purposes as:
    - to determine the eligibility of the student for financial aid;
    - to determine the amount of the financial aid;
    - to determine the conditions which will be imposed regarding the financial aid; and
    - to enforce the terms or conditions of the financial aid.
  - To state and local officials or authorities to whom this information is specifically:
    - Allowed to be reported or disclosed pursuant to state statute adopted after November 19, 1974, subject to the requirements of Section 126-94-24.
  - To organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of (a) developing, validating, or administering predictive tests; (b) administering student aid programs, or improving instruction; provided, that the studies are conducted in a manner that will not permit the personal identification of students and their parents by individuals other than representatives of the organization and the information will be destroyed when no longer needed for the purposes for which the study was conducted; the term "organizations" includes, but is not limited to federal, state, and local agencies, and independent organizations.
  - To accrediting organizations in order to carry out their accrediting functions.
  - To parents of a dependent student.
  - To comply with a judicial order or lawfully issued subpoena; provided, that the educational agency or institution makes a reasonable effort to notify the parent of the student or the eligible student of the order or subpoena in advance of compliance, so that the parent or eligible student may seek protective action; unless the disclosure is in compliance with:

- A federal grand jury subpoena and the court has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed; or
  - Any other subpoena issued for a law enforcement purpose and the court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed.
  - If the educational agency or institution initiates legal action against a parent or student, it may disclose education records that are relevant to the action to the court without a court order or subpoena.
- To appropriate parties in a health or safety emergency.
  - The disclosure is information the educational agency or institution has designated as "directory information".
  - The disclosure is to the parent of a student who is not an eligible student or to the student.
- ❖ This section does not forbid an educational agency or institution to disclose, nor does it require an educational agency or institution to disclose, personally identifiable information from the education records of a student to any parties under this section, with the exception that parents of a student who is not an eligible student and the student must have access.
  - ❖ For records of special education students, each participating agency shall maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may access personally identifiable information.

#### **Record of Disclosure required to be Maintained**

- ❖ An educational agency or institution shall for each request for access to and each disclosure of personally identifiable information from the education records of a student maintain a record kept with the education records of the student that indicates:
  - The parties who have requested or obtained personally identifiable information from the education records of the student;
  - The date access was given; and
  - The legitimate interest these parties had in requesting or obtaining the information.
- ❖ If an educational agency or institution discloses information with the understanding that the party receiving the information may make further disclosures, the record of disclosure must include the names of the additional parties to which the receiving party may disclose the information on behalf of the educational agency or institution and the legitimate educational interests each of the additional parties has in requesting the information.
- ❖ The above regulations do not apply to disclosures to a parent of a student or an eligible student, disclosures pursuant to the written consent of a parent of a student or an eligible student when the consent is specific with respect to the party or parties to whom the disclosure is to be made, disclosures to school officials, or to disclosures of directory

information, or to a party seeking or receiving the records as directed by a federal grand jury or other law enforcement subpoena and the issuing court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed.

- ❖ The record of disclosures may be inspected:
  - By the parent of the student or the eligible student;
  - By the school official and his or her assistants who are responsible for the custody of the records; and
  - For the purpose of auditing the record keeping procedures of the educational agency or institution by the parties authorized in and under the conditions set forth in this section.

### **Limitation on Redisclosure**

- ❖ An educational agency or institution may disclose personally identifiable information from the education records of a student only on the condition that the party to whom the information is disclosed will not disclose the information to any other party without the prior written consent of the parent of the student or the eligible student, except that:
  - The personally identifiable information which is disclosed to an institution, agency or organization may be used by its officers, employees and agents, but only for the purposes for which the disclosure was made.
  - An educational agency or institution may disclose personally identifiable information with the understanding that the party receiving the information may make further disclosures of the information on behalf of the educational agency or institution if the parties meet the requirements set forth in this section and required records of disclosure.
- ❖ The regulations in this section do not apply to disclosures made pursuant to court orders or lawfully issued subpoenas, to disclosures of directory information or to disclosures to a parent or student. Except for these disclosures, an educational agency or institution shall inform a party to whom disclosure is made of the requirements of this section.
- ❖ If the Family Policy Compliance Office determines that a third party improperly rediscloses personally identifiable information from education records, the educational agency or institution may not allow that third party access to personally identifiable information from education records for at least five years.

### **Disclosure to Officials of Other Schools and School Systems**

- ❖ An educational agency or institution transferring the education records of a student to officials of another school, school system or institution of post-secondary education where the student seeks to enroll shall:
  - Make a reasonable attempt to notify the parent of the student or the eligible student of the transfer of the records at last known address of the parent or eligible student, unless:
    - The transfer of records is initiated by the parent or eligible student at the sending agency or institution, or

- The agency or institution includes in its annual notice that it forwards education records on request to other agencies or institutions in which a student seeks or intends to enroll;
- Provide the parent of the student or the eligible student, upon request, a copy of the record that was transferred; and
- Provide the parent of the student or the eligible student, upon request, an opportunity for a hearing under these procedures.
- ❖ If a student is enrolled in more than one school, or receives services from more than one school, the schools may disclose information from the education records of the student to each other without obtaining the written consent of the parent of the student or the eligible student; provided, that the disclosure meets the requirements stated above.

### **Conditions for Disclosure in Health and Safety Emergencies**

- ❖ An educational agency or institution may disclose personally identifiable information from the education records of a student to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals.
- ❖ The factors to be taken into account in determining whether personally identifiable information from the education records of a student may be disclosed under this section shall include the following:
  - The seriousness of the threat to the health or safety of the student or other individuals;
  - 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.
- ❖ Nothing in this Act or this part shall prevent an educational agency or institution from:
  - Including in the educational records of a student appropriate information concerning disciplinary action taken against the student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community;
  - Disclosing appropriate information maintained under this section to teachers and school officials within the agency or institution who the agency or institution has determined have legitimate educational interests in the behavior of the student; or
  - Disclosing appropriate information maintained under this section to teachers and school officials in other schools who have been determined to have legitimate educational interests in behavior of the student.
- ❖ These regulations shall be strictly construed.

#### **R 11-19-5 Conditions for Disclosure of Directory Information**

- ❖ An educational agency or institution may disclose personally identifiable information from the education records of a student who is in attendance at the institution or agency if it has given notice that information has been designated as directory information.
- ❖ An educational agency or institution may disclose directory information from the educational records of an individual who is no longer in attendance at the agency or institution without following the procedures under the following section.
- ❖ In order to designate directory information, an educational agency or institution shall give public notice of the following:
  - The categories of personally identifiable information the institution has designated as directory information;
  - The right of the parent of the student or the eligible student to refuse to permit the designation of any or all of the categories of personally identifiable information with respect to that student as directory information, including the right of the parent to refuse to permit the designation of names, addresses, and telephone listings of their children as directory information for purposes of providing the information to military recruiters as set forth in *File: R 11-20*; and
  - The period of time within which the parent of the student or the eligible student must inform the agency or institution in writing that such personally identifiable information is not to be designated as directory information with respect to that student.
- ❖ The Preston County Board of Education shall, at a minimum, establish that the names, addresses, and telephone listings of secondary school students are designated as directory information for the purposes of providing the information to military recruiters as set forth in *File: R 11-20*.
- ❖ Once the Board establishes directory information, it shall provide access to established directory information to any person or group which makes students aware of educational, occupational, and career opportunities available in the armed services.
- ❖ The Board may provide access to established directory information to other persons or groups as determined by board action.

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#### **R 11-19-6 Records from the Juvenile Justice System**

The Preston County Board of Education may release the records of students who have been placed in the Juvenile Justice System under the following conditions:

- ❖ If reporting or disclosure allowed by state statute concerns the juvenile justice system and the system's ability to effectively serve, prior to adjudication, the student whose records are released, an educational agency or institution may disclose education records under the provisions of this section.

- ❖ The officials and authorities to whom the records are disclosed shall certify in writing to the educational agency or institution that the information will not be disclosed to any other party, except as provided under state law, without the prior written consent of the parent of the student.

Records of a juvenile proceeding conducted under WVC §49-5-17 are not public records and shall not be disclosed to anyone unless disclosure is authorized by this code. The code does permit the release of juvenile records to certain school officials. A copy of a juvenile's records shall automatically be disclosed to the following conditions:

- ❖ Only the records of certain juveniles shall be disclosed and these include and are limited to cases in which:
  - The juvenile has been charged with an offense which involves violence against another person;
  - The offense involves possession of a dangerous or deadly weapon; or
  - The offense involves possession or delivery of a controlled substance as that term is defined by the code.
- ❖ The juvenile's case has proceeded to a point where one or more of the following has occurred:
  - A judge, magistrate or referee has determined that there is probable cause to believe that the juvenile committed the offense as charged;
  - A judge, magistrate or referee placed the juvenile on probation for the offense;
  - A judge, magistrate or referee placed the juvenile on probation into an improvement period in accordance with the code;
  - Some other type of disposition has been made of the case other than dismissal.

The circuit court for Preston County shall designate one person to supervise the disclosure of juvenile records to the Superintendent of Preston County Schools and the principal of the school which the juvenile attends. Records may be shared with classroom teachers, bus drivers, and other adults whom the principal deems needs to know. At a minimum, those records shall disclose the following information:

- ❖ Copies of the arrest report;
- ❖ Copies of all investigations;
- ❖ Copies of any psychological test results and mental health records;
- ❖ Copies of any evaluation reports for probation or facility placement; and
- ❖ Any other material that would alert the school to potential danger that the juvenile may pose to himself/herself or others.

The Superintendent shall designate the school psychologist to receive the psychological test results and mental health records. After reviewing these records, the psychologist may disclose to the principal of the school, teachers of the juvenile, any regular bus operator of a bus in which the juvenile is regularly transported on a need to know basis, the test results, mental health records, and any behavior that may trigger violence or other disruptive behavior by the juvenile.

All records must be kept confidential, nothing on the juvenile record can be placed in the permanent educational record, they must be kept secure and they cannot be copied under any circumstances. Under no circumstances may juvenile records be transmitted to another institution. When a juvenile changes schools, the circuit court shall be notified of the location and name of the new school so records can be sent there.

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**R 11-19-7 Records for Exceptional Students, Information Collected under SBP 2419**

- ❖ Preston County Schools shall protect the confidentiality of personally identifiable information at collection, storage, disclosure and destruction stages.
- ❖ One official at each school with the assistance of the Special Education Director assume responsibility for ensuring the confidentiality of any personally identifiable information collected under SBP 2419 and IDEA.
- ❖ All persons collecting or using personally identifiable information must receive training or instruction regarding the state's policies and procedures under this policy and Policy 2419.
- ❖ The Superintendent's office, in collaboration with the school principal, shall maintain for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information of identified special education students.
- ❖ A complaint may be filed with the West Virginia Department of Education, Office of Special Education, if it is alleged that the confidentiality of personally identifiable information regarding an exceptional student in accordance with the requirements of this policy and SBP 2419 has been violated. This is in addition to the right to file a complaint with the U.S. Department of Education, as described in *File: R 11-19-10*.

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**R 11-19-8 Parent/Guardian's and Eligible Student's Right to Inspect and Review Education Records**

Parents/guardians or eligible students (18 years of age or older) who request to inspect and review the educational records of the student shall have them made available upon such request. Requests for access to student records must be filed with the school principal in writing. This request shall include suitable proof of identity.

- ❖ The local school principal shall comply with a request for access to records within a reasonable period of time, but not more than 45 days after it has received the request;
- ❖ The principal shall respond to reasonable requests for explanations and interpretations of the records;
- ❖ When a request is being made regarding records of an exceptional student:

- The Board and its agents respond within the 45 day period following the request, but in all cases it shall respond before any meeting regarding an IEP or any hearing relating to the identification, evaluation, or educational placement of the student, or the provision of free appropriate public education to the student;
- The right to inspect and review education records of an exceptional student includes the right to have a representative of the parent inspect and review the records; and
- The Board shall provide parents, upon request, a list of the types and locations of education records collected, maintained, or used by the agency.
- ❖ If circumstances effectively prevent the parent or eligible student from exercising the right to inspect and review the student's education records through the procedures outlined above, the Board 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 Preston County Board of Education shall not destroy any education records if there is an outstanding request to inspect and review the records under this section.
- ❖ While the Board is not required to give an eligible student access to treatment records as defined under "Educational Records", the student may have those records reviewed by a physician or other appropriate professional of the student's choice.

### **Limitations on Right to Inspect and Review Education Records**

If the education records of a student contain information on more than one student, the parent of the student or the eligible student may inspect and review or be informed of only the specific information about that student.

### **Request to Amend Education Records**

- ❖ The parent of a student or an eligible student who believes that information contained in the education records of the student is inaccurate or misleading or violates the privacy or other rights of the student may request that the local school which maintains the records amend them.
- ❖ The school shall decide whether to amend the educational records of the student in accordance with the request within forty-five (45) days of the receipt of the request.
- ❖ If the school decides to refuse to amend the education records of the student in accordance with the request it shall so inform the parent of the student or the eligible student of the refusal, and advise the parent or the eligible student in writing of the right to a hearing under *File; R 11-19-9*.

## Fees

Preston County Schools may charge a fee equal to the cost of reproducing copies of records made for parents or eligible students provided the fee does not effectively prevent the parent from exercising his/her right to inspect and review these records. Schools may not charge a fee to search for or retrieve the education records of a student.

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### **R 11-19-9 Parent/Guardian's or Eligible Student's Right to a Hearing**

- ❖ Any parent or eligible student shall, on written request, have the opportunity to challenge the content of a student's record if s/he feels the information is inaccurate, misleading or in violation of privacy rights.
- ❖ If, as a result of a hearing, the local education agency decides the information is inaccurate, misleading or in violation of privacy rights of students, it shall amend the education records of the student accordingly and so inform the parents of the student or eligible student in writing.
- ❖ If, as a result of the hearing, the local educational agency decides that the information is not inaccurate, misleading or otherwise in violation of the privacy or other rights of students, it shall inform the parent or eligible student in writing of the right to place in the education records of the student a statement commenting on the contested information in the record and/or stating why he or she disagrees with the decision of the agency or institution.
- ❖ Any explanation placed in the education records of the student shall:
  - Be maintained as a part of the education record of the student as long as the record is being contested;
  - Be disclosed if the education records of the student or the contested portion thereof are disclosed by the educational agency or institution to any party.

### **Conduct of the Hearing**

The required hearing shall be conducted according to procedures that shall include at least the following elements:

- ❖ The hearing shall be held within a reasonable period of time (45 days) after the educational agency or institution has received the request;
- ❖ The parent of the student or the eligible student shall be given notice of the date, place, and time reasonably in advance of the hearing (14 days);
- ❖ The hearing may be conducted by any individual, including an official of the educational agency or institution, who does not have a direct interest in the outcome of the hearing;
- ❖ The parent of the student or the eligible student shall be afforded a full and fair opportunity to present evidence relevant to the issues raised under *File: R 11-19-10*, and may be assisted or represented by individuals of his or her choice at his or her own expense, including an attorney;

- ❖ The educational agency or institution shall make its decision in writing within a reasonable period of time after the conclusion of the hearing; and
- ❖ The decision of the educational agency or institution shall be based solely upon the evidence presented at the hearing and shall include a summary of the evidence and the reasons for the decision.

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### **R 11-19-10 Procedures for Lodging a Parent/Guardian or Eligible Student Complaint**

A parent or eligible student may file a written complaint with the Office regarding an alleged violation under the Act and this part. The Office's address is, Family Policy Compliance Office, U.S. Department of Education, Washington, D.C. 20202-4605.

The complaint must contain specific allegations of fact giving reasonable cause to believe that a violation of the Act or this part has occurred. The Office investigates each timely complaint to determine whether the educational agency or institution has failed to comply with the provisions of the Act or this part.

A timely complaint is defined as an allegation of a violation of the Act that is submitted to the Office within 180 days of the date of the alleged violation or of the date that the complainant knew or reasonably should have known of the alleged violation.

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### **R 11-19-11 Collection and Use of Student Social Security Numbers**

- ❖ A social security number is personally identifiable information and must, therefore, be used in compliance with the other provisions of this policy, the Family Educational Rights and Privacy Act, and the provisions of WVC §18-2-5f.
  - No public or private elementary or secondary school shall display any student's social security number for identification purposes on class rosters or other lists provided to teachers, on student identification cards, in student directories or other listings, on public postings or listings of grades, or for any other public identification purpose unless specifically authorized or required by law.
    - Compliance will be required of Exemption A schools for county board of education approval.
  - The student social security number may be used for internal record keeping purposes or studies.
  - The student social security number or alternative number is required for enrollment or attendance in public schools.
    - Effective July 1, 2003, the county board of education must request from the parent, guardian, or responsible person the social security number of each child who is currently enrolled in the county school system.

- Effective July 1, 2003, prior to admittance to a public school in the state, the county board of education must request from the parent, guardian, or responsible person the social security number of each child who is to be enrolled.
- The Board must inform the parent, guardian, or other responsible person that, if he or she declines to provide the student social security number, the Board will assign the student an alternate nine digit number as designated by the West Virginia Board of Education.
- For any student who is attending a public school and for whom a social security number has not been provided, the county board shall make a request annually to the parent, guardian, or other responsible person to furnish the social security number.

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#### **R 11-19-12 Maintenance of Disciplinary Information**

- ❖ If a student transfers to another school in the state, the principal of the school from which the student transfers shall provide a written record of any disciplinary action taken against the student to the principal of the school to which the student transfers, (WVC §18A-5-1a) subject to requirements of this section.
- ❖ The educational agency includes in the records of a student with a disability under SBP 2419 a statement of any current or previous disciplinary action that has been taken against the student and transmits the statement to the same extent that the disciplinary information is included in, and transmitted with, the student records of non-disabled students.
  - The statement may include a description of any behavior engaged in by the student that required disciplinary action, a description of the disciplinary action taken, and any other information related to the safety of the student and other individuals involved with the student.
  - If the student transfers from one school to another, the transmission of any of the student's records must include both the student's current Individualized Education Program (IEP) and any statement of current or previous disciplinary action that has been taken against the student.
- ❖ A public agency reporting a crime committed by a student with a disability under Policy 2419 shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by the appropriate authorities to whom it reports the crime, but only to the extent permitted by this policy's provisions regarding disclosure of education records.

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### **R 11-19-13 Law Enforcement Units**

Law enforcement unit means any individual, office, department, division, or other component of the Preston County Board of Education such as a unit of commissioned police officers or non-commissioned security guards that is officially authorized or designated by the Board to:

- ❖ Enforce any local, state, or federal law, or refer to appropriate authorities a matter for enforcement of any local, state, or federal law against any individual or organization other than the agency or institution itself; or
- ❖ Maintain the physical security and safety of the agency or institution.

A component of the Preston County Board of Education does not lose its status as a law enforcement unit if it also performs other, non-law enforcement functions for the agency or institution, including investigation of incidents or conduct that constitutes or leads to a disciplinary action or proceedings against the student.

A Record of a law enforcement unit means those records, files, documents, and other materials that are:

- ❖ Created by a law enforcement unit;
- ❖ Created for a law enforcement purpose; and
- ❖ Maintained by the law enforcement unit.

Records of a law enforcement unit do not mean:

- ❖ Records created by a law enforcement unit for a law enforcement purpose that are maintained by a component of the educational agency or institution other than the law enforcement unit; or
- ❖ Records created and maintained by a law enforcement unit exclusively for a non-law enforcement purpose, such as a disciplinary action or proceeding conducted by the educational agency or institution.

Nothing in this policy prohibits the Preston County Board of Education from contacting its law enforcement unit, orally or in writing, for the purpose of asking that unit to investigate a possible violation of, or to enforce, any local, state, or federal law.

- ❖ Education records, and personally identifiable information contained in education records, do not lose their status as education records and remain subject to this policy including the disclosure provisions of Section 126-94-15 while in the possession of the law enforcement unit.
- ❖ Disclosure by an educational agency or institution of its law enforcement unit records is neither required nor prohibited by this policy.

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## **R 11-19-14 Maintenance and Destruction of Education Records**

Records may be destroyed subject to the following exceptions:

- ❖ Records will not be destroyed if there is an outstanding request to inspect and review them;
- ❖ Explanations placed in the education record when a hearing is pending or a request for a hearing has been made shall be maintained as long as the record or the contested portion is maintained;
- ❖ The record of access required under *File: R 11-19-2* shall be maintained for as long as the education record to which it pertains is maintained; and
- ❖ For records collected for exceptional students under Policy 2419:
  - The Board shall 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, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

The following shall apply to the length of time and special consideration for maintaining student records:

- ❖ Directory information may be maintained in perpetuity;
- ❖ Academic grades and attendance records may be maintained in perpetuity;
- ❖ Records to verify implementation of federally funded programs and services and to demonstrate compliance with program requirements must be maintained for five years after the activity is completed;
- ❖ Other personally identifiable data which is no longer needed to provide education services may be destroyed;
- ❖ Parents and eligible students must be informed through public notice of any timelines established by the educational agency or institution for maintenance and destruction of student records; and
- ❖ Files must be maintained in a secured location. Electronic/digital files must be protected through the use of individual user identification and/or passwords. When user identification and/or passwords have been established, an individual is permitted to use only his or her designated identification and password to gain access to education records.

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Adopted: January 28, 1985  
Amended/Revised: August 9, 2010