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**Section I: Education
Records**

Education Records
Defined

For the purposes of this policy, the term “education records” means those records, files, documents, and other materials that contain information directly related to a student and are maintained by an education agency or institution, including a college district, or by a person acting for such agency or institution.

The term “education records” does not include:

1. Records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to anyone other than a temporary substitute for the maker of the record.
2. Records of a law enforcement unit of an educational agency or institution created by the law enforcement unit for a law enforcement purpose and maintained by the law enforcement unit, but not:
 - a. 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
 - b. 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.
3. 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.
4. Records on a student who is 18 years of age or older, or who is attending an institution of postsecondary education, that are:
 - a. Made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional capacity or assisting in a paraprofessional capacity;
 - b. Made, maintained, or used only in connection with treatment of the student; and

- c. Disclosed only to individuals providing the treatment. For the purpose of this definition, "treatment" does not include remedial educational activities or activities that are part of the program of instruction at the agency or institution.
5. Records that are created or received by an educational agency or institution after an individual is no longer a student in attendance and that are not directly related to the individual's attendance as a student.
6. Grades on peer-graded papers before they are collected and recorded by a teacher.

20 U.S.C. 1232g(a)(4); 34 C.F.R. 99.3

Privacy Rule for
Non-Education
Records

A covered entity under the Health Insurance Portability and Accountability Act (HIPAA) must comply with the Privacy Rule, 45 C.F.R. Part 164, with respect to protected health information that is not an education record.

Covered Entity

"Covered entity" means:

1. A health plan.
2. A health-care clearinghouse.
3. A health-care provider who transmits any health information in electronic form in connection with a transaction covered by 45 C.F.R. Subtitle A, Subchapter C. [See CKD]

45 C.F.R. 160.103, 164.501

**Section II: Access,
Disclosure, and
Amendment**

Definitions

*Alleged
Perpetrator of a
Crime of Violence*

"Alleged perpetrator of a crime of violence" is a student who is alleged to have committed acts that would, if proven, constitute any of the following offenses or attempts to commit the following offenses that are defined in FJ(EXHIBIT):

1. Arson;
2. Assault offenses;
3. Burglary;
4. Criminal homicide—manslaughter by negligence;
5. Criminal homicide—murder and nonnegligent manslaughter;
6. Destruction/damage/vandalism of property;
7. Kidnapping/abduction;
8. Robbery; or
9. Forcible sex offenses.

34 C.F.R. 99.39

<i>Alleged Perpetrator of a Nonforcible Sex Offense</i>	“Alleged perpetrator of a nonforcible sex offense” means a student who is alleged to have committed acts that, if proven, would constitute statutory rape or incest. These offenses are defined in FJ(EX-HIBIT). <i>34 C.F.R. 99.39</i>
<i>Attendance</i>	“Attendance” includes, but is not limited to: <ol style="list-style-type: none">1. Attendance in person or by paper correspondence, videoconference, satellite, internet, or other electronic information and telecommunications technologies for students who are not physically present in the classroom; and2. The period during which a person is working under a work-study program. <i>34 C.F.R. 99.3</i>
<i>Authorized Representative</i>	“Authorized representative” means any entity or individual designated by a state or local educational authority or an agency headed by an official listed in 34 C.F.R. 99.31(a)(3) to conduct— with respect to federal- or state-supported education programs— any audit, evaluation, or any compliance or enforcement activity in connection with federal legal requirements that relate to these programs. <i>34 C.F.R. 99.3</i>
<i>Disclosure</i>	“Disclosure” means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record. <i>34 C.F.R. 99.3</i>
<i>Education Program</i>	“Education program” means any program that is principally engaged in the provision of education, including, but not limited to, early childhood education, elementary and secondary education, postsecondary education, special education, job training, career and technical education, adult education, and any program that is administered by an educational agency or institution. <i>34 C.F.R. 99.3</i>
<i>Eligible Student</i>	“Eligible student” means a student who has reached 18 years of age or is attending an institution of postsecondary education. <i>34 C.F.R. 99.3</i>
<i>Final Results</i>	“Final results” means a decision or determination, made by an honor court or council, committee, commission, or other entity authorized to resolve disciplinary matters within the institution. The disclosure of final results must include only the name of the student, the violation committed, and any sanction imposed by the institution against the student. <i>34 C.F.R. 99.39</i>

Parent “Parent” includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian. 34 C.F.R. 99.3

Personally Identifiable Information “Personally identifiable information” 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 biometric record, defined as a record of one or more measurable biological or behavioral characteristics that can be used for automated recognition of an individual (e.g., fingerprints, retina and iris patterns, voiceprints, DNA sequence, facial characteristics, and handwriting), social security number; or student number;
5. Other indirect identifiers, such as the student’s date of birth, place of birth, and mother’s maiden name;
6. Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or
7. Information requested by a person who the educational agency or institution, including a college district, reasonably believes knows the identity of the student to whom the education record relates.

34 C.F.R. 99.3

Record “Record” means any information recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche. 34 C.F.R. 99.3

Sanction Imposed “Sanction imposed” means a description of the disciplinary action taken by the institution, the date of its imposition, and its duration. 34 C.F.R. 99.39

Signed and Dated Written Consent “Signed and dated written consent” may include a record and signature in electronic form that:

1. Identifies and authenticates a particular person as the source of the electronic consent; and
2. Indicates such person’s approval of the information contained in the electronic consent.

34 C.F.R. 99.30(d)

*Violation
Committed*

“Violation committed” means the institution rules or code sections that were violated and any essential findings supporting the institution’s conclusion that the violation was committed. *34 C.F.R. 99.39*

Access by Student
and Parents

Access to the education records of a student who is or has been in attendance in an educational agency or institution, including a college district, shall be granted to the student and to the parent of a student who is a dependent for tax purposes. *34 C.F.R. 99.10*

When a student becomes an eligible student, the rights accorded to, and consent required of, parents transfer from the parents to the student.

Nothing in this section prevents an educational agency or institution from disclosing education records, or personally identifiable information from education records, to a parent without prior written consent of an eligible student if the disclosure meets the conditions in 34 C.F.R. 99.31(a), including if the student is a dependent for tax purposes or in the case of a health or safety emergency. [See Access by Other Persons, below]

34 C.F.R. 99.5(a), .31(a)

Exceptions

Component of
an Institution

An individual who is or has been a student at an educational institution and who applies for admission at another component of that institution does not have rights under this policy with respect to records maintained by that other component, including records maintained in connection with the student's application for admission, unless the student is accepted and attends that other component of the institution. *34 C.F.R. 99.5(c)*

Records of
Other Students

If the education records of a student contain information on more than one student, the parent or eligible student may inspect and review or be informed of only the specific information about that student. *34 C.F.R. 99.12(a)*

Financial Rec-
ords and Confi-
dential Letters of
Recommendation

A postsecondary institution does not have to permit a student to inspect and review education records that are:

1. Financial records, including any information those records contain, of his or her parents;
2. Confidential letters and confidential statements of recommendation placed in the education records of the student before January 1, 1975, as long as the statements are used only for the purposes for which they were specifically intended; and
3. Confidential letters and confidential statements of recommendation placed in the student's education records after January 1, 1975, if:

- a. The student has waived his or her right to inspect and review those letters and statements; and
- b. Those letters and statements are related to the student's admission to an educational institution; application for employment; or receipt of an honor or honorary recognition.

The waiver of the right to inspect and review confidential letters and confidential statements of recommendation described above is valid only if the educational agency or institution does not require the waiver as a condition for admission to or receipt of a service or benefit from the agency or institution; and the waiver is made in writing and signed by the student, regardless of age. If a student has waived his or her rights as described above, the educational institution shall give the student, on request, the names of the individuals who provided the letters and statements of recommendation; and use the letters and statements of recommendation only for the purpose for which they were intended.

The waiver may be revoked with respect to any actions occurring after the revocation. The revocation must be in writing.

20 U.S.C. 1232g(a)(1); 34 C.F.R. 99.12(b)–(c)

Access by Other
Persons

An educational agency or institution, including a college district, may disclose personally identifiable information from an education record of a student without the written consent required by 34 C.F.R. 99.30 if the disclosure meets one or more of the following conditions:

School Officials

1. The disclosure is to other school officials, including faculty, within the agency or institution whom the agency or institution has determined to have legitimate educational interests.

A contractor, consultant, volunteer, or other party to whom an agency or institution has outsourced institutional services or functions may be considered a school official provided that the outside party:

- a. Performs an institutional service or function for which the agency or institution would otherwise use employees;
- b. Is under the direct control of the agency or institution with respect to the use and maintenance of education records; and
- c. Is subject to the requirements of 34 C.F.R. 99.33(a) governing the use and redisclosure of personally identifiable information from education records.

An educational agency or institution must use reasonable methods to ensure that school officials obtain access to only those education records in which they have legitimate educational interests. An educational agency or institution that does not use physical or technological access controls must ensure that its administrative policy for controlling access to education records is effective and that it remains in compliance with the legitimate educational interest requirement.

34 C.F.R. 99.31, .36

*Officials of Other
Schools*

2. The disclosure is to officials of another school, school system, or institution of postsecondary education in which the student seeks or intends to enroll, or where the student is already enrolled so long as the disclosure is for purposes related to the student's enrollment or transfer. An educational agency or institution that discloses an education record under this provision shall:
 - a. Make a reasonable attempt to notify the eligible student at the last known address of the eligible student, unless:
 - (1) The disclosure is initiated by the eligible student; or
 - (2) The annual notification of the agency or institution under 34 C.F.R. 99.7 includes a notice that the agency or institution forwards education records to other agencies or institutions that have requested the records and in which the student seeks or intends to enroll or is already enrolled so long as the disclosure is for purposes related to the student's enrollment or transfer;
 - b. Give the eligible student, upon request, a copy of the record that was disclosed; and
 - c. Give the eligible student, upon request, an opportunity for a hearing under 34 C.F.R. Part 99, Subpart C to challenge the content of the record.

34 C.F.R. 99.31, .34

*Authorized
Governmental
Representatives*

3. The disclosure is to authorized representatives of the officials or agencies headed by the comptroller general of the United States, the attorney general of the United States, the secretary of education, or state and local educational authorities who require access to student or other records necessary in connection with the audit and evaluation of federal- or state-

supported education programs or in connection with the enforcement of or compliance with federal legal requirements that relate to such programs.

Financial Aid

4. The disclosure is in connection with financial aid for which the student has applied or which the student has received, if the information is necessary for such purposes as to determine eligibility for the aid; determine the amount of the aid; determine the conditions for the aid; or enforce the terms and conditions of the aid.

Juvenile Justice Officials

5. The disclosure is to state and local officials or authorities to whom this information is specifically allowed to be reported or disclosed pursuant to state statute adopted:
 - a. Before November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and its ability to effectively serve the student whose records are released, or
 - b. After November 19, 1974, if:
 - (1) The allowed reporting or disclosure concerns the juvenile justice system and its ability to effectively serve, prior to adjudication, the student whose records are released; and
 - (2) The officials and authorities to whom such information is disclosed 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.

Organizations Conducting Studies

6. The disclosure is to organizations conducting studies for or on behalf of educational agencies or institutions to develop, validate, or administer predictive tests, administer student aid programs, and improve instruction. An educational agency or institution may disclose personally identifiable information only if the study is conducted in a manner that does not permit personal identification of students and their parents by individuals other than representatives of the organization who have legitimate interests in the information. The information must be destroyed when no longer needed for the purposes for which the study was conducted.

The educational agency or institution must enter into a written agreement with the organization that:

- a. Specifies the purpose, scope, and duration of the study or studies and the information to be disclosed;
- b. Requires the organization to use personally identifiable information from education records only to meet the purpose or purposes of the study as stated in the written agreement;
- c. Requires the organization to conduct the study in a manner that does not permit personal identification of parents and students, as defined in this part, by anyone other than representatives of the organization with legitimate interests; and
- d. Requires the organization to destroy all personally identifiable information when the information is no longer needed for the purposes for which the study was conducted and specifies the time period in which the information must be destroyed.

A college district that enters into an agreement with an organization conducting a study may redisclose personally identifiable information from education records on behalf of educational agencies and institutions that disclosed the information to the college district in accordance with the requirements of 34 C.F.R. 99.33(b).

The educational agency or institution is not required to initiate a study or agree with or endorse the conclusions or results of the study.

*Accrediting
Organizations*

7. The disclosure is to accrediting organizations to carry out their accrediting functions.

*Subpoenaed
Records*

8. The disclosure is to comply with a judicial order or lawfully issued subpoena. The educational agency or institution may disclose information only if the agency or institution makes a reasonable effort to notify the parent or 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. 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;
 - b. 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; or

- c. An ex parte court order obtained by the U.S. Attorney General (or designee not lower than an Assistant Attorney General) concerning investigations or prosecutions of an offense listed in 18 U.S.C. 2332b(g)(5)(B) or an act of domestic or international terrorism as defined in 18 U.S.C. 2331.

Courts

- 9. If an educational agency or institution initiates legal action against a parent or student, the educational agency or institution may disclose to the court, without a court order or subpoena, the education records of the student that are relevant for the educational agency or institution to proceed with the legal action as plaintiff.

If a parent or eligible student initiates legal action against an educational agency or institution, the educational agency or institution may disclose to the court, without a court order or subpoena, the student's education records that are relevant for the educational agency or institution to defend itself.

*Health and
Safety
Emergency*

- 10. The disclosure is in connection with a health or safety emergency. An educational agency or institution may disclose personally identifiable information from an education record to appropriate persons, including the parents of an eligible student, in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals.

In making a determination, an educational agency or institution may take into account the totality of the circumstances pertaining to a threat to the health or safety of a student or other individuals. If the educational agency or institution determines that there is an articulable and significant threat to the health or safety of a student or other individuals, it may disclose information from education records to any person whose knowledge of the information is necessary to protect the health or safety of the student or other individuals. If, based on the information available at the time of the determination, there is a rational basis for the determination, the U.S. Department of Education will not substitute its judgment for that of the educational agency or institution in evaluating the circumstances and making its determination.

*Directory
Information*

- 11. The disclosure is information the educational agency or institution has designated as "directory information," under the conditions described below.

- Alleged Victim* 12. The disclosure, subject to the requirements in 34 C.F.R. 99.39, is to a victim of an alleged perpetrator of a crime of violence or a nonforcible sex offense. The disclosure may only include the final results of the disciplinary proceeding conducted by the institution of postsecondary education with respect to that alleged crime or offense. The institution may disclose the final results of the disciplinary proceeding, regardless of whether the institution concluded a violation was committed.
- Associated with Disciplinary Proceeding* 13. The disclosure, subject to the requirements in 34 C.F.R. 99.39, is in connection with a disciplinary proceeding at an institution of postsecondary education. The institution must not disclose the final results of the disciplinary proceeding unless it determines that:
- a. The student is an alleged perpetrator of a crime of violence or nonforcible sex offense; and
 - b. With respect to the allegation made against him or her, the student has committed a violation of the institution's rules or policies.
- The institution may not disclose the name of any other student, including a victim or witness, without the prior written consent of the other student.
- This section applies only to disciplinary proceedings in which the final results were reached on or after October 7, 1998.
- Violation of Federal, State, or Local Law* 14. The disclosure is to a parent of a student at an institution of postsecondary education regarding the student's violation of any federal, state, or local law, or of any rule or policy of the institution, governing the use or possession of alcohol or a controlled substance if:
- a. The institution determines that the student has committed a disciplinary violation with respect to that use or possession; and
 - b. The student is under the age of 21 at the time of the disclosure to the parent.
- This section does not supersede any provision of state law that prohibits an institution of postsecondary education from disclosing information.
- Sex Offenders* 15. The disclosure concerns sex offenders and other individuals required to register under Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C.

14071, and the information was provided to the educational agency or institution under 42 U.S.C. 14071 and applicable federal guidelines.

20 U.S.C. 1232g(b)(1)–(2), (6), (i)–(j); 34 C.F.R. 99.31(a)(1)–(7), (9)–(11), (13)–(16), .35–.39

Request Procedure The educational agency or institution, including a college district, 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 educational agency or institution shall respond to reasonable requests for explanations and interpretations of the records. *34 C.F.R. 99.10(b)–(c)*

Inspection and Review If circumstances effectively prevent the parent or eligible student from exercising the right to inspect and review the student's education records, the educational agency or institution, including a college district, 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. *34 C.F.R. 99.10(d)*

Destruction of Records The educational agency or institution, including a college district, shall not destroy any education records if there is an outstanding request to inspect and review the records under 34 C.F.R. 99.10. *34 C.F.R. 99.10(e)*

De-Identified Records An educational agency or institution, or a party that has received education records or information from education records, may release the records or information without the consent after the removal of all personally identifiable information provided that the educational agency or institution or other party has made a reasonable determination that a student's identity is not personally identifiable, whether through single or multiple releases, and taking into account other reasonably available information. *34 C.F.R. 99.31(b)(1)*

Education Research An educational agency or institution, or a party that has received education records or information from education records, may release de-identified student level data from education records for the purpose of education research by attaching a code to each record that may allow the recipient to match information received from the same source, provided that:

1. An educational agency or institution or other party that releases de-identified data under this section does not disclose any information about how it generates and assigns a record code, or that would allow a recipient to identify a student based on a record code;

2. The record code is used for no purpose other than identifying a de-identified record for purposes of education research and cannot be used to ascertain personally identifiable information about a student; and
3. The record code is not based on a student's social security number or other personal information.

34 C.F.R. 99.31(b)(2)

Authenticating
Requestors'
Identities

An educational agency or institution, including a college district, must use reasonable methods to identify and authenticate the identity of parents, students, school officials, and any other parties to whom the agency or institution discloses personally identifiable information from education records. *34 C.F.R. 99.31(c)*

Release of
Academic
Information

An institution of higher education, including a college district, may request the submission of a signed consent form authorizing the institution to release academic course, grade, and credit information with each request from a student for a release of the student's transcript by the institution.

An institution of higher education, or a school district that offers international baccalaureate courses, dual credit courses, or any other course for which an institution of higher education may award students enrolled at the district college course credit, including course credit awarded by examination, may release student information to an institution of higher education for purposes of transferring course credit to that institution or enabling the awarding of course credit by that institution, in accordance with federal law regarding the confidentiality of student information, including the Family Educational Rights and Privacy Act (FERPA) of 1974, 20 U.S.C. Section 1232g, and any state law relating to the privacy of student information.

An institution of higher education may release student information in accordance with the applicable provision above through:

1. The National Student Clearinghouse; or
2. A similar electronic data sharing and exchange platform operated by an agent of the institution or district that meets nationally accepted standards, conventions, and practices.

Education Code 51.9715

Electronic Student
Records System

Each school district, open-enrollment charter school, and institution of higher education, including each college district, shall participate in an electronic student records system that satisfies the standards

approved by the commissioner of education and the commissioner of higher education.

The electronic student records system must permit an authorized state or school district official or an authorized representative of an institution of higher education to electronically transfer to and from an educational institution in which the student is enrolled and retrieve student transcripts, including information concerning a student's:

1. Course or grade completion;
2. Teachers of record;
3. Assessment instrument results;
4. Receipt of special education services, including placement in a special education program and the individualized education program developed; and
5. Personal graduation plan as described by Education Code 28.0212 or 28.02121, as applicable.

Any person involved in the transfer and retrieval of student information under this section is subject to any state or federal law governing the release of or providing access to any confidential information to the same extent as the educational institution from which the data is collected. A person may not release or distribute the data to any other person in a form that contains confidential information.

Education Code 7.010(b)–(c), (f)

Transfer Not
Permitted

An educational agency or institution, including a college district, may disclose personally identifiable information from an education record 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 consent of the parent or eligible student. The officers, employees, and agents of a party that receives the information may use the information, but only for the purposes for which the disclosure was made. *34 C.F.R. 99.33(a)*

34 C.F.R. 99.33(a) does not apply to disclosures made to parents of dependent students under 34 C.F.R. 99.31(a)(8), to disclosures made pursuant to court orders, lawfully issued subpoenas, or litigation under 34 C.F.R. 99.31(a)(9), to disclosures of directory information under 34 C.F.R. 99.31(a)(11), to disclosures made to a parent or student under 34 C.F.R. 99.31(a)(12), to disclosures made in connection with a disciplinary proceeding under 34 C.F.R. 99.31(a)(14), to disclosures made to parents under 34 C.F.R.

99.31(a)(15) regarding a violation of law or policy, or to disclosures concerning sex offenders under 34 C.F.R. 99.31(16). It also does not apply to information that postsecondary institutions are required to disclose under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act), 20 U.S.C. 1092(f), to the accuser and accused regarding the outcome of any campus disciplinary proceeding brought alleging a sexual offense. *34 C.F.R. 99.31(a)(8)–(9), (11)–(12), (14)–(16), .33(c)*

An educational agency or institution shall inform a party to whom a disclosure is made of the requirements of 34 C.F.R. 99.33(a), unless the disclosure is made under Sections 99.31(a)(8), (9), (11), (12), (14), (15), and (16), and to information that postsecondary institutions are required to disclose under the Clery Act to the accuser and accused regarding the outcome of any campus disciplinary proceeding brought alleging a sexual offense. *34 C.F.R. 99.33(d)*

This section does not prevent an educational agency or institution from disclosing 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:

1. The disclosures meet the requirements of 34 C.F.R. 99.31; and
2. The educational agency or institution has complied with the requirements of 34 C.F.R. 99.32(b) regarding the record of disclosure; or a state or local educational authority or federal official or agency listed in 34 C.F.R. 99.31(a)(3) has complied with the requirements of 34 C.F.R. 99.32(b)(2).

34 C.F.R. 99.33(b)

Record of Access to
Student Record

An educational agency or institution, including a college district, must maintain a record of each request for access to and each disclosure of personally identifiable information from the education records of each student, as well as the names of state and local educational authorities and federal officials and agencies listed in 34 C.F.R. 99.31(a)(3) that may make further disclosures of personally identifiable information from the student's education records without consent. The agency or institution shall maintain the record with the education records of the student as long as the records are maintained.

For each request or disclosure, the record must include the parties who have requested or received personally identifiable information from the education records and the legitimate interests the parties

had in requesting or obtaining the information. An educational agency or institution must obtain a copy of the record of further disclosures maintained by the named authorities, officials, and agencies under 34 C.F.R. 99.32(b)(2) and make it available in response to a parent's or eligible student's request to review the record of access described above.

An educational agency or institution must record the following information when it discloses personally identifiable information from education records under the health or safety emergency exception [see Health and Safety Emergency, above]:

1. The articulable and significant threat to the health or safety of a student or other individuals that formed the basis for the disclosure; and
2. The parties to whom the agency or institution disclosed the information.

If an educational agency or institution discloses personally identifiable information from education records with the understanding authorized under 34 C.F.R. 99.33(b) [see Transfer Not Permitted], the record of the disclosure required under this section must include:

1. The names of the additional parties to which the receiving party may disclose the information on behalf of the educational agency or institution; and
2. The legitimate interests under 34 C.F.R. 99.31, which each of the additional parties has in requesting or obtaining the information.

The requirement to record a request does not apply if the request was from, or the disclosure was to, the parent or eligible student; a school official under 34 C.F.R. 99.31(a)(1); a party with written consent from the eligible student; a party seeking directory information; or a party seeking or receiving records in accordance with a subpoena or ex parte order under 34 C.F.R. 99.31(a)(9)(ii)(A) through (C).

The following parties may inspect the record relating to each student:

1. The parent or eligible student.
2. The school official or his or her assistants who are responsible for the custody of the records.
3. Those parties authorized in 34 C.F.R. 99.31(a)(1) and (3) for the purposes of auditing the recordkeeping procedures of the educational agency or institution.

20 U.S.C. 1232g(b)(4)(A); 34 C.F.R. 99.32

STUDENT RECORDS

FJ
(LEGAL)

Right to Amend
Records

If an eligible student believes the education records relating to the student contain information that is inaccurate, misleading, or in violation of the student's rights of privacy, he or she may ask the educational agency or institution, including a college district, to amend the record. The educational agency or institution shall decide whether to amend the record as requested within a reasonable time after the agency or institution receives the request. If the educational agency or institution decides not to amend the record as requested, it shall inform the eligible student of its decision and of his or her right to a hearing to challenge the content of the student's education records on the grounds that the information contained in the education records is inaccurate, misleading, or in violation of the privacy rights of the student.

If, as a result of the hearing, the educational agency or institution decides that the information is inaccurate, misleading, or otherwise in violation of the privacy rights of the student, it shall amend the records accordingly and inform the eligible student of the amendment in writing. If, as a result of the hearing, the educational agency or institution decides that the information in the education record is not inaccurate, misleading, or otherwise in violation of the privacy rights of the student, it shall inform the eligible student of the right to place a statement in the records commenting on the contested information or stating why he or she disagrees with the decision of the agency or institution, or both.

If an educational agency or institution places a statement in the education records of a student, the agency or institution shall maintain the statement with the contested part of the record for as long as the record is maintained and disclose the statement whenever it discloses the portion of the record to which the statement relates.

20 U.S.C. 1232g(a)(2); 34 C.F.R. 99.20–.21

Fees for Copies

Unless the imposition of a fee effectively prevents a parent or eligible student from exercising the right to inspect and review the student's education records, an educational agency or institution, including a college district, may charge a fee for a copy of an education record that is made for the parent or eligible student. An educational agency or institution may not charge a fee to search for or to retrieve the education records of a student. *34 C.F.R. 99.11*

Annual Notification
of Rights

Each educational agency or institution, including each college district, shall annually notify eligible students currently in attendance of their rights under FERPA of 1974.

The notice must inform each eligible student that the student has the right to:

1. Inspect and review the student's education records;
2. Seek amendment of the student's education records that the eligible student believes to be inaccurate, misleading, or otherwise in violation of the student's privacy rights;
3. Consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that the Act and 34 C.F.R. 99.31 authorize disclosure without consent; and
4. File with the U.S. Department of Education a complaint under 34 C.F.R. 99.63 and 99.64 concerning alleged failures by the educational agency or institution to comply with the requirements of the Act and 34 C.F.R. part 99.

The notice must include all of the following:

1. The procedure for exercising the right to inspect and review education records.
2. The procedure for requesting amendment of records under 34 C.F.R. 99.20.
3. If the educational agency or institution has a policy of disclosing education records under 34 C.F.R. 99.31(a)(1), a specification of criteria for determining who constitutes a school official and what constitutes a legitimate educational interest.

An educational agency or institution may provide this notice by any means that are reasonably likely to inform the eligible students of their rights.

An educational agency or institution shall effectively notify eligible students who are disabled.

20 U.S.C. 1232g(e); 34 C.F.R. 99.7

Section III: Directory Information

Directory Information Defined

"Directory information" means information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. It includes, but is not limited to, the student's name, address, telephone listing, electronic mail address, photograph, date and place of birth, major field of study, grade level, enrollment status (e.g., undergraduate or graduate; full-time or part-time), dates of attendance, participation in officially recognized activities and sports, weight and height of members of athletic teams, degrees, honors and awards received, and the most recent educational agency or institution attended. Directory information" does not include a student's:

1. Social security number; or

2. Student identification (ID) number, except:
 - a. A student ID number, user ID, or other unique personal identifier used by a student for purposes of accessing or communicating 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 personal identification number (PIN), password, or other factor known or possessed only by the authorized user; or
 - b. A student ID number or other unique personal identifier that is displayed on a student ID badge, 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.

20 U.S.C. 1232g(a)(5)(A); 34 C.F.R. 99.3

Disclosure of
Directory
Information

An educational agency or institution, including a college district, may disclose directory information if it has given public notice to eligible students in attendance at the agency or institution of:

1. The types of personally identifiable information that the agency or institution has designated as directory information.
2. An eligible student's right to refuse to let the agency or institution designate any or all of that information about the student as directory information.
3. The period of time within which the eligible student has to notify the agency or institution in writing that he or she does not want any or all of those types of information about the student designated as directory information.

20 U.S.C. 1232g(a)(5)(B); 34 C.F.R. 99.37(a)

Specific Parties

In its public notice to eligible students in attendance at the agency or institution, an educational agency or institution may specify that disclosure of directory information will be limited to specific parties, for specific purposes, or both. When an educational agency or institution specifies that disclosure of directory information will be limited to specific parties, for specific purposes, or both, the educational agency or institution must limit its directory information disclosures to those specified in its public notice. *34 C.F.R. 99.37(d)*

In Class An eligible student may not use the right of refusal to opt out of directory information disclosures to prevent an educational agency or institution from disclosing or requiring a student to disclose the student's name, identifier, or institutional email address in a class in which the student is enrolled. *34 C.F.R. 99.37(c)*

Student ID Card or Badge An eligible student may not use the right of refusal to opt out of directory information disclosures to prevent an educational agency or institution from requiring a student to wear, to display publicly, or to disclose a student ID card or badge that exhibits information that may be designated as directory information under 34 C.F.R. 99.3 and that has been properly designated by the educational agency or institution as directory information in the public notice described above. *34 C.F.R. 99.37(c)*

Former Students An educational agency or institution may disclose directory information about former students without complying with the notice and opt out conditions above. However, the agency or institution must 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. *34 C.F.R. 99.37(b)*

Confirmation of Identity or Records An educational agency or institution may not disclose or confirm directory information without meeting the written consent requirements in 34 C.F.R. 99.30 if a student's social security number or other non-directory information is used alone or combined with other data elements to identify or help identify the student or the student's records. *34 C.F.R. 99.37(e)*

**Section IV:
Miscellaneous
Provisions**

Transcript Notation
of Ineligibility to
Reenroll

Each postsecondary educational institution, including each college district, will publish its process for transcript notations. "Ineligible to reenroll" will be defined by the notating postsecondary educational institution.

For students ineligible to reenroll in a postsecondary educational institution for a non-academic or non-financial reason, including, but not limited to disciplinary actions, each postsecondary educational institution must include on the student's transcript a notation stating the student is ineligible to reenroll in the postsecondary educational institution for a non-academic or non-financial reason.

The postsecondary educational institution must use language to indicate the student is ineligible to reenroll in the institution, regardless of instructional modality. The postsecondary educational institution is neither required nor prohibited from stating the specific reason for ineligibility.

Upon request by a student, a postsecondary educational institution may remove from a student's transcript a notation required under this section if the student becomes eligible to reenroll in the postsecondary educational institution or the postsecondary educational institution determines that good cause exists to remove the notation.

Education Code 51.9364(a)–(b), (d); 19 TAC 3.30, 4.7(e)