

## **Board Policy 515: Protection and Privacy of Student Records**

Adopted: May 12, 2009

Revised: August 10, 2017

### Protection and Privacy of Student Records

The following procedures and policies regarding the protection and privacy of parents, guardians and students are adopted by Cannon River STEM School, District #4194, pursuant to the requirements of 20 U.S.C., Sec. 1232g et seq., 34 C.F.R., Part 99, and consistent with the requirements of the Minnesota Government Data Practices Act, Minn. Stat. 13.01 et seq.

#### 1. Definitions

##### 1.1 Directory Information:

“Directory information” means information contained in an education record of a student which 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, dates of attendance, grade level, enrollment status (i.e., full-time or part-time), 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. It also includes the name, address, telephone number, and electronic mail address of the student’s parent(s).

Directory information does not include:

1. a student’s social security number;
2. a student’s identification number (ID), user ID, or other unique personal identifier used by a student for purposes of accessing or communicating in electronic systems if the identifier may be used to access education records without use of one or more factors that authenticate the student’s identity such as a personal identification number (PIN), password, or other factor known or possessed only by the authorized user;
3. a student ID or other unique personal identifier that is displayed on a student ID badge if the identifier can be used to gain access to educational records when used in conjunction with one or more factors that authenticate the student’s identity, such as a PIN, password, or other factor known or possessed only by the student;
4. personally identifiable data which references religion, race, color, social position, or nationality; or
5. data collected from nonpublic school students, other than those who receive shared time educational services, unless written consent is given by the student’s parent or guardian.

##### 1.2 Education Records: "Education records"

(a) means those records which:

- (1) are directly related to a student, and
- (2) are maintained by the school.

(b) The term does not include:

- (1) Records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which:
  - (i) Are in the sole possession of the maker thereof;
  - (ii) Are destroyed at the end of the school year; and
  - (iii) Are not accessible or revealed to any other individual except a substitute. For the purpose of this definition, a "substitute" means an individual who performs on a temporary basis the duties of the individual who made the record, and does not refer to an individual who permanently succeeds the maker of the record in this or her position.
- (2) Records relating to an individual, including a student, who is employed by the school which:
  - (i) Are made and maintained in the normal course of business;
  - (ii) Relate exclusively to the individual in that individual's capacity as an employee; and
  - (iii) Are not available for use for any other purpose.
- (3) Alumni records which contain only information relating to a person after that person is no longer a student in the school and which do not relate to the person as a student.

#### 1.3 Legitimate Educational Interest:

"Legitimate educational interest" includes interests directly related to classroom instruction, teaching, student achievement and progress, discipline of a student, and student health and welfare. It includes a person's need to know in order to:

- (a) perform an administrative task required in the school employee's contract or position description approved by the school board;
- (b) perform a supervisory or instructional task directly related to the student's education;
- (c) perform a service or benefit for the student or the student's family such as health care, counseling, student job placement, or student financial aid.

#### 1.4 Parent:

"Parent" includes a parent (including adoptive or foster), a guardian, or an individual acting as a parent of a student in the absence of a parent or guardian. The school may presume the parent has the authority to exercise the rights specified in this policy unless it has been provided with evidence that there is a State law or court order governing such matters as divorce, separation or custody, or a legally binding instrument which provides to the contrary.

#### 1.5 Personally Identifiable:

"Personally identifiable" means that the data or information includes

- (a) the name of a student, the student's parent, or other family member,
- (b) the address of the student,
- (c) a personal identifier, such as the student's social security number or student number,
- (d) a list of personal characteristics which would make the student's identifiable, or
- (e) other information which would make the student identifiable.

1.6 Record:

"Record" means any information or data recorded in any medium, including, but not limited to: handwriting, print, tapes, film, microfilm, and microfiche.

1.7 Responsible Authority:

"Responsible authority" means the Executive Director of School.

1.8 Student:

"Student" includes any individual with respect to whom the school maintains education records.

1.9 School Official: "School official" includes

- (a) a person duly elected to the School Board;
- (b) a person employed by the school board in an administrative, supervisory, instructional or other professional position;
- (c) a person employed by the school board as a temporary substitute in a professional position for the period of his or her performance as a substitute; (d) a person employed by or under contract to the school board to perform a special task such as a secretary, a clerk, an attorney or an auditor or the period of his or her performance as an employee or contractor.

1.10 Summary Data:

"Summary data" means statistical records and reports derived from data on individuals but in which individuals are not identified and from which neither their identities nor any other characteristic that could uniquely identify an individual is ascertainable.

1.11 All other terms and phrases shall be defined in accordance with applicable state and federal law or ordinary custom and usage.

## 2. In General

2.1 State law provides that all data collected, created, received, maintained or disseminated by a school is public unless classified by state or federal law as nonpublic, protected nonpublic, private or confidential. State law classifies all data on individuals maintained by a school which relates to a student as private data on individuals. This data may not be disclosed to parties other than the parent without consent except pursuant to a valid court order, certain state statutes authorizing access, and the provisions of 20 U.S.C. Sec. 1232g and the regulations promulgated there under. The school shall prepare and provide summary data in the manner specified in Minn. Stat. 13.05, Subd. 7 and Minnesota Rules 1205.0700.

## 3. Statement of Rights

3.1 Parents have the following rights under this policy:

- (a) The right to inspect and review the student's education record.
- (b) The right to exercise a limited control over other people's access to the student's education record.
- (c) The right to seek to correct the student's education record; in a hearing if necessary.
- (d) The right to report violations of the federal law to the Department of Education.

(e) The right to be informed about rights under the law.

#### 4. Disclosure of Education Records

##### 4.1 Consent Required for Disclosure:

4.1.1 The school shall obtain the written consent of the parent of a student before disclosing personally identifiable information from the education records of a student, other than directory information, except as otherwise provided in this policy. The responsible authority shall not take any action to coerce a parent to give a written consent and shall explain the necessity for and consequences of allowing the school to initiate a new or different purpose or use of the data.

Consent is not required under this section where the disclosure is to the parent of the student.

4.1.2 The written consent required by paragraph 4.1.1 must be signed and dated by the parent of the student giving the consent and shall include:

- (a) A specification of the records to be disclosed;
- (b) The purposes of the disclosure;
- (c) The party or class of parties to whom the disclosure may be made; and,
- (d) If appropriate, a termination date for the consent.

The parent may also give a limited consent authorizing only the release of partial information for specific purposes.

4.1.3 If the responsible authority makes reasonable efforts to obtain the informed consent of a parent, guardian and if those efforts are not acknowledged in any way, the responsible authority may interpret the giving of an implied consent to the new or different purpose or use of the data. As used in this provision, "reasonable efforts" shall include depositing in the U.S. Mail, postage prepaid and directed to the last known address of the data subject, at least two communications requesting informed consent and waiting for a period of not less than 60 days for a response to the last request.

If the responsible authority seeks an individual's informed consent to the release of private data to an insurer or the authorized representative of an insurer, informed consent shall not be deemed to have been given unless the statement is:

- (a) In plain language;
- (b) Dated;
- (c) Specific in designating the particular persons or agencies the data subject is authorizing to disclose information about him or her;
- (d) Specific as to the nature of the information he or she is authorizing to be disclosed;
- (e) Specific as to the persons or agencies to whom he or she is authorizing information to be disclosed;
- (f) Specific as to the purpose or purposes for which the information may be used by any of the parties named in clause (e), both at the time of the disclosure and at

any time in the future; (g) Specific as to its expiration date which should be within a reasonable period of time, not to exceed one year except in the case of authorizations given in connection with applications for life insurance or non-cancelable or guaranteed renewable health insurance and identified as such, two years after the date of the policy.

#### 4.2 Prior Consent for Disclosure Not Required:

The school may disclose personally identifiable information from the education records of a student without the written consent of the parent of the student unless otherwise provided in this policy and if the disclosure is:

- 4.2.1 To school officials and their authorized staff within the school, provided that they have a legitimate educational interest in those records;
- 4.2.2 To officials of other schools or school districts in which the student seeks or intends to enroll. This provision shall serve as notice that the school forward education records on request to a school in which a student seeks or intends to enroll and that the school will not further notify parents prior to such a transfer. Upon request, the school will provide the parent with a copy of the education records which have been transferred and provide an opportunity for a hearing to challenge the content of these records;
- 4.2.3 To authorized representatives of the Comptroller General of the United States, other federal educational authorities as provided by 20 U.S.C. Sec. 1232g, and the Commissioner of the State Department of Education or his representative, subject to the conditions relative to such disclosure provided under federal law;
- 4.2.4 In connection with financial aid for which a student has applied or received;
- 4.2.5 To state and local officials or authorities to whom such information is specifically required to be reported or disclosed by state statute enacted prior to November 19, 1974;
- 4.2.6 To organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction; Provided, that the studies are conducted in a manner which 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;
- 4.2.7 To accrediting organizations in order to carry out their accrediting functions;
- 4.2.8 To parents of a dependent student, as defined in Section 152 of the Internal Revenue Code of 1954;

4.2.9 To comply with a judicial order or lawfully issued subpoena; Provided, that the school makes a reasonable effort to notify the parent of the student of the order or subpoena in advance of compliance therewith; and

4.2.10 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. Factors to be considered in determining disclosure include:

(1) The seriousness of the threat to the health or safety of the student or other individuals;

(2) The need for the information to meet the emergency;

(3) Whether the parties to whom the information is disclosed are in a position to deal with the emergency; and

(4) The extent to which time is of the essence in dealing with the emergency.

4.3 The student's parents may obtain a copy of records disclosed under this provision.

## 5. Release of Directory Information

5.1 Directory information is public except as provided in this policy.

5.2 Former Students: The school may disclose directory information from the education records generated by it regarding an individual who is no longer in attendance within the school.

5.3 Present Students: The school may disclose directory information from the education records of a student without the prior written consent of the parent of the student except as provided in this policy. Prior to such disclosure the school shall:

(1) Give public notice in a newspaper of general circulation of the categories of personally identifiable information which it has designated as directory information.

(2) Allow a reasonable period of time after such notice has been given for a parent to inform the school in writing that any or all of the information so designated should not be disclosed without the parent's prior written consent (except to the officials or agencies outlined in Section 4 above).

5.4 Procedure for Obtaining Non-Disclosure of Directory Information: The parent's written notice shall be directed to the responsible authority and shall include the following:

(1) Name of student;

(2) Home address;

(3) School presently attended by student;

(4) Parent's legal relationship to student, if applicable; and

(5) Specific categories or directory information which are not to be made without the parent's prior written consent.

5.5 At the end of the designated period, the records of each student for whom a notice of objection has been received shall be appropriately marked to indicate the items the school may not designate as directory information about that student. The designation of any information as directory information about a student will remain in effect until it is

modified at the written direction of the student's parent.

## 6. Disclosure of Private Records

6.1 Private Records: For the purposes herein, education records are records which are classified as private data on individuals by state law and which are accessible only to the student subject of the data and the student's parent. The school may not disclose private records or their contents, except as summary data and except as provided in Section 4 of this policy, without the prior written consent of the parent.

6.2 Private Records Not Accessible to Parent: In certain cases, state law intends and clearly provides that certain information contained in the education records of the school pertaining to a student be accessible to the student alone, and to the parent only under special circumstances, if at all. Pursuant to Minn. Stat. 626.556, reports pertaining to neglected and physically or sexually abused children shall be accessible to appropriate welfare and law enforcement agencies and the subject individual alone and shall only be released in compliance with law.

## 7. Disclosure of Confidential Records

7.1 Confidential records are those records and data contained therein which are made not public by state or federal law and which are inaccessible to the student and the student's parent.

7.2 Access to confidential records is available only to individuals within the school whose work assignments reasonably require access and entities and agencies authorized by statute or federal law to gain access to that specific data.

## 8. Limitations on Redislosure

8.1 Consistent with the requirements in this policy, the school may only disclose personally identifiable information from the education records of a student 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, 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.

8.2 Paragraph 8.1 of this Section does not preclude the school from disclosing personally identifiable information under Section 4 of this policy with the understanding that the information will be redisclosed to other parties under that Section, and that the recordkeeping requirements of federal law will be met with respect to each of those parties.

8.3 The information disclosed shall retain the same classification in the hands of the party receiving it as it had in the school.

8.4 The school shall, except for the disclosure of directory information under Section 5, inform

the party to whom a disclosure is made of the requirement set forth in paragraph 8.1 of this Section.

## 9. Responsible Authority, Record Security, and Recordkeeping

9.1 Responsible Authority: The responsible authority for the maintenance and security of student records shall be the Executive Director of the school.

9.2 Record Security: The office manager, subject to the supervision and control of the responsible authority, shall be the records manager of his or her school and shall have the duty of maintaining and securing the privacy and confidentiality of student records.

### 9.4 Recordkeeping:

9.4.1 The office manager shall, for each request for 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 which indicates:

- (1) The parties who have requested or obtained personally identifiable information from the education records of the student;
- (2) The legitimate interests these parties had in requesting or obtaining the information;
- (3) The date of the request; and
- (4) Whether the request was granted and, if it was, the date access was permitted or the disclosure was made.

9.4.2 Paragraph 9.4.1 of this Section does not apply to requests by or disclosures to a parent of a student, disclosures pursuant to the written consent of a parent of a student when the consent is specific with respect to the party or parties to whom the disclosure is to be made, requests by or disclosures to school officials under paragraph 4.3.1, or to requests for or disclosures of directory information under Section 5.

9.4.3 The record of request and disclosures may be inspected;

- (1) By the parent of the student
- (2) By the responsible authority and the office manager who are responsible for the custody of the records.
- (3) By the parties authorized by law to audit the recordkeeping procedures of the school.

## 10. Right to Inspect and Review Education Records

10.1 The school shall permit the parent of a student who is or has been in attendance in the school to inspect and review the education records of the student except those records which are made confidential by state or federal law. The school shall comply with a

request immediately if possible, or within five days of the date of the request, excluding Saturdays, Sundays and legal holidays. If the school cannot comply with the request within that time, the responsible authority shall so inform the requestor and may have an additional five days within which to comply, excluding Saturdays, Sundays and legal holidays.

10.2 The right to inspect and review education records under paragraph 10.1 of this Section includes:

10.2.1 The right to a response from the school to reasonable requests for explanations and interpretations of the records; and

10.2.2 The right to obtain copies of the records from the school where failure of the school to provide the copies would effectively prevent a parent from exercising the right to inspect and review the education records.

10.3 A parent shall submit to the school a written request to inspect education records which identifies as precisely as possible the record or records he or she wishes to inspect.

10.4 If a student's educational records are maintained in more than one location, the responsible authority may collect copies of the records or the records themselves from the various locations so they may be inspected at one site. However, if the parent wishes to inspect these records where they are maintained, the school shall attempt to accommodate those wishes.

The parent or shall be notified of the time and place where the records may be inspected.

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

10.6 The school may presume that either parent of the student has authority to inspect and review the education records of the student unless the school has been provided with evidence that there is a legally binding instrument, or a state law or court order governing such matters as divorce, separation or custody, which provides to the contrary.

10.7 Fees for Copies of Records:

10.7.1 Copies of records shall be reproduced at a cost of 15 cents per page.

10.7.2 The cost of providing copies shall be borne by the parent.

10.7.3 The responsible authority may waive this fee in whole or in part if he determines that failure to do so would effectively prevent the parent from exercising the right to inspect and review those records.

## 11. Request to Amend Records: Procedures to Challenge Data

### 11.1 Request to Amend Education Records:

11.1.1 The parent of a student or an who believes that information contained in the education records of the student is inaccurate, misleading, incomplete or violates the privacy or other rights of the student may request that the school amend them.

11.1.2 The request shall be in writing, shall identify the item the requestor believes to be inaccurate, misleading, incomplete or in violation of the privacy or other rights of the student, shall state the reasons for this belief, and shall specify the correction the requestor wishes the school to make. The request shall be signed and dated by the requestor.

11.1.3 The responsible authority shall decide whether to amend the education records of the student in accordance with the request within a reasonable period of time of receipt of the request, not to exceed thirty (30) days.

11.1.4 If the responsible authority decides to amend the education records, the school shall attempt to notify past recipients of the data, including recipients named by the requestor.

11.1.5 If the responsible authority decides to refuse to amend the education records of the student in accordance with the request, he shall so inform the parent of the student of the refusal. He shall also advise the parent of the right to appeal a determination which relates to the accuracy or completeness of the records pursuant to Minn. Stat. Chapter 14, or to the right to a hearing under paragraph 11.2.

### 11.2 Right to Hearing:

11.2.1 If the responsible authority refuses to amend the education records of a student, the school shall, on request, provide an opportunity for a hearing in order to challenge the content of a student's education records to insure that information in the education records of the student is not inaccurate, misleading, incomplete or otherwise in violation of the privacy or other rights of students. The hearing shall be conducted in accordance with paragraph 11.3.

11.2.2 If, as a result of the hearing, the school decides that the information is inaccurate, misleading incomplete or otherwise in violation of the privacy or other rights of students, it shall amend the education records of the student accordingly, so inform the parent of the student in writing, and attempt to so notify past recipients of the data.

11.2.3 If, as a result of the hearing, the school decides that the information is not inaccurate, misleading, incomplete or otherwise in violation of the privacy or other rights of students, it shall inform the parent of the right to place in the education records of the student a statement commenting upon the information in the education records and setting forth any reasons for disagreeing with the decision of the agency or institution.

11.2.4 Any explanation placed in the education records of the student under paragraph 11.2.3 of this Section shall:

- (1) Be maintained by the school as part of the education records of the student as long as the record or contested portion thereof is maintained by the school; and
- (2) If the education records of the student or the contested portion thereof is disclosed by the school to any party, the explanation shall also be disclosed to that party.

### 11.3 Conduct of Hearing:

11.3.1 The hearing shall be held within a reasonable period of time after the school has received the request, not to exceed forty-five (45) days, and the parent of the student shall be given notice of the date, place and time reasonably in advance of the hearing.

11.3.2 The hearing may be conducted by any party approved by the school, including an official or employee of the school who does not have a direct interest in the outcome of the hearing. The school board attorney shall be in attendance to present the school's position and advise the designated hearing officer on legal and evidentiary matters.

11.3.3 The parent of the student shall be afforded a full and fair opportunity for hearing to present evidence relevant to the issues raised under paragraphs 11.1 and 11.2 and may be assisted by individuals of his or her choice at his or her own expense, including an attorney.

11.3.4 The designated hearing officer shall make a decision in writing within a reasonable period of time after the conclusion of the hearing; the decision shall be based solely on evidence presented at the hearing and shall include a summary of evidence and reasons for the decision.

11.3.5 The decision of the designated hearing officer shall be served upon each party and shall be the final decision of the school.

### 11.4 Appeal

The decision of the responsible authority or the hearing officer, as it relates to questions of accuracy and completeness of records, may be appealed in accordance with the applicable provisions of the Minnesota Administrative Procedure Act relating to contested cases as specified in Minn. Stat., Chapter

14. To the extent that a record is alleged to be misleading or to violate the privacy or other rights of a student in violation of the federal law and regulations, an appeal is not authorized under state or federal law. A complaint may be filed under federal law in the manner provided in paragraph 12.

## 12. Complaints for Non-Compliance

Complaints regarding alleged violations of rights accorded parents by 20 U.S.C. Sec. 1232g shall be submitted in writing to the Family Educational Rights and Privacy Act Office, Department of Education, 400 Maryland Ave. SW, Washington, D.C. 20202.

## 13. Waiver

A parent may waive any of his or her rights provided herein pursuant to 20 U.S.C. Sec. 1232g. A waiver shall not be valid unless in writing and signed by the parent. The school shall not require such a waiver.

## 14. Annual Notification of Rights

14.1 The school shall give parents of students in attendance annual notice by such means as are reasonably likely to inform them of the following:

- (1) Their rights under 20 U.S.C. Sec. 1232g, 34 C.F.R., Part 99, this policy and the Minnesota Government Data Practices Act; the notice shall also inform parents of students of the locations where copies of the policy may be obtained; and
- (2) The right to file complaints under 34 C.F.R. Sec. 99.63 concerning alleged failures by the school to comply with the requirements of 20 U.S.C. Sec. 1232g.

14.2 The school shall provide for the need to effectively notify parents of students identified as having a primary or home language other than English.

## 15. Destruction and Retention of Records

The destruction and retention of records by the school shall be controlled by state and federal law.

16. Copies of this policy may be obtained by parents from the office of the Cannon River STEM School.

TO ALL INTERESTED PARTIES

Cannon River STEM School, District #4194 hereby gives notice to parents of students this school that according to school policy, the following directory information will be released without prior parent approval.

1. Student's name, address, and home telephone number (as provided and identified in the student information system)
2. Parents' name(s), address(es), and home telephone number(es) (as provided and identified in the student information system)
3. E-mail address of primary parental contact
4. Participation in officially recognized activities and sports
5. Date of attendance
6. Awards received

As a participant in an officially recognized organization or school classroom, picture of students or groups of students may also be taken and published in the newspaper, school publications or other news articles. These pictures will also be released without parent permission.

If you do not want to have any of the above information released without your approval, please put your request in writing and send it to the following office:

Office of the Executive Director  
Cannon River STEM School  
1800 14<sup>th</sup> St. NE  
Faribault, MN 55021

This written request must be received by the Executive Director within 15 days of mailing of this notice, or appearance on our school website. Interested parties may examine a copy of school policy which is on file in Cannon River STEM School office.