Procedures for
Pupil Privacy Rights – File Code JFK

I. All student records (special education and non-special education) are subject to the Family Educational Rights to Privacy Act at 20 USC 1232g, commonly referred to as the Buckley Amendment. The Family Education Right and Privacy Act (FERPA) affords parents and students over 18 years of age (“eligible students”) certain rights with respect to student educational records.

A. In summary those rights are:

1. The right to inspect and review the student’s education records within 45 days of the day the School receives a request for access.
2. The right to request the amendment of the student’s education records that the parent or eligible student believes are inaccurate or misleading.
3. The right to consent to disclosures of personally identifiable information contained in the student’s education records, except to the extent that FERPA authorizes disclosure without consent.
4. The right to file a complaint with the U.S. Department of Education concerning alleged failures by the School to comply with the requirements of FERPA.

B. Key points regarding compliance with the requirements of FERPA:

1. With respect to non-special education records, there is no specific requirement in FERPA that determines what records must be placed in a student's file and how long those records must be kept.
2. If a record is not subject to any statutory requirement (i.e.: state or federal special education regulations) or school policy, it can be destroyed (so long as there is not an outstanding request for access to that record pursuant to FERPA).
3. If a document pertaining to a student is created by one school official and maintained for that official's own use, it is not an education record subject to FERPA.
4. Once that document is shared with another school official, it is an education record and subject to the access and confidentiality provisions of FERPA. Nevertheless, that does not mean that the record then needs to be kept in perpetuity. The record should be maintained in the manner other records of its type would be maintained, depending on whether any school policies or statutes that impose record keeping requirements on that type of document.

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1 Parent means the parent of the student, including a natural parent, adoptive parent, stepparent, a legal guardian or an individual acting as a parent in the absence of a parent or guardian.
2 For more detailed information please read the attached “Notification of Rights for Elementary and Secondary Schools.”
5. If the document is in existence, and a request for records under FERPA is made that requires the production of that document, then the document must be provided to the parents or the eligible student. A school should maintain a copy of all records that have been provided to a parent or eligible student pursuant to a FERPA request in the event an issue arises as a result of the record.

6. FERPA regulations are not so much about what goes into a student record but more about how documents are managed once they become part of a student record.

C. Directory information,\(^3\) which is information that is generally not considered harmful or an invasion of privacy is released, can be disclosed to outside organizations. Directory Information may include the following:

1. Student’s name
2. Participation in officially recognized activities and sports
3. Address
4. Telephone listing
5. Weight and height of members of athletic teams
6. Electronic mail address
7. Photograph
8. Degrees, honors, and awards received
9. Major field of study
10. Dates of attendance
11. Grade level
12. The most recent education agency or institution attended.

All other student information will require the consent from the student’s parent or the eligible student with the following exceptions. Student record information may be disclosed to the following without written consent:

1. Officials of the school with legitimate educational interest;
2. Officials of a school in which the student seeks or intends to enroll;
3. Under court order or subpoena;
4. Individuals seeking Directory Information;
5. In connection with a student’s request for financial aid; and
6. To appropriate parties in a health or safety emergency.

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\(^3\) For more detail regarding Directory Information, please see the attached “Notice For Directory Information.”
D. Officials of the School refers to:
   1. A person employed by the school as:
      i. An Administrator;
      ii. Supervisor;
      iii. Instructor or substitute;
      iv. Paraprofessional;
      v. Support staff member (including health or medical staff and law
         enforcement unit personnel);
   2. A School Board member;
   3. A person or company with whom the School has contracted to perform a
      special task, e.g., attorney, auditor, medical consultant, therapist, evaluator;
   4. A volunteer, e.g., parent or student serving on an official committee, such as a
      disciplinary or grievance committee, or assisting another school official in
      performing his or her tasks;
   5. A person designated by the school district to be a school official.

   AND WHO HAS A NEED TO REVIEW A STUDENT’S EDUCATION RECORD OR
   TO RECEIVE INFORMATION THEREFORE IN ORDER TO FULFILL HIS OR HER
   EMPLOYMENT OR OFFICIAL RESPONSIBILITIES.

E. Non-Custodial Parents: Access to a student’s school records shall not be denied
to a parent solely because that parent has not been awarded parental rights and
responsibilities by a court. However, access will be denied where a court order or
other legally binding document specifically revokes a parent’s right of access to
such records.

F. Juvenile Court Records: The Family Court is required to inform in writing the
Superintendent of the District in which a student is enrolled within seven days of
a court finding that the student has committed a delinquent act requiring notice.
The Superintendent shall:

   1. Share this information with only those for whom the information is necessary
      for the rehabilitation program for the child or for the protection of staff or
      students;
   2. Maintain this information in a separate file from the students educational
      record and destroy the record once the student graduates or turns 18; and
   3. Transfer the record to a receiving school in the event the student transfers to
      another school district.

II. Special Education Restrictions: Information related to special education services received
by that child, the document comes under a more restrictive regulation pertaining to the
destruction of special education records.

A. With respect to federal regulations, 34 CFR Sec. 300.573 provides that:

   (a) The public agency shall inform parents when personally identifiable
      information collected, maintained, or used under this part is no longer needed to
      provide educational services to the child.
(b) 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.

B. With respect to Vermont Department of Education Rule 2365.2.14:

(a) For purposes of an audit, when a participating agency has counted a child to justify receipt of IDEA funds, the district shall retain copies of the child’s IEPs and special education eligibility evaluations, for a minimum of five years from the end of the school year in which the document was in effect.

(b) The participating agency shall inform parents when personally identifiable information collected, maintained, or used under the IDEA 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.

III. Other Regulatory Restrictions: Rule 2120.8.3.3 requires that transcripts of all graduates and dropouts in grades 9-12 be permanently maintained and also allows academic records to be permanently maintained. This rule applies to all students, not just special education students.

IV. Electronic Records: Electronic records are subject to FERPA and state and federal special education regulations. Electronic transmittals are not prohibited by FERPA; however, if email correspondence between staff contains personally identifiable information, it is subject to FERPA. When using electronic transmittals to convey student information, the following precautions should be observed:

1. Limit electronic transmittals to information necessary for advancing the education needs of the student and the district’s need to manage information.
2. Use just enough information to identify the subject of the electronic transmission to the recipient. For example, use only the first initial, if that is adequate between those corresponding. By that means, it avoids the email becoming a student record which is particularly important for communications related to special education matters.
3. A cryptic message with no personally identifying information used to arrange a meeting or some other not descript activity is not considered a student record.
4. Electronic transmissions are subject to the same restrictions as written documents.
5. Before sending electronic transmission, be sure the correct recipient has been identified. For example, initiate the email by using stored contact information rather than typing in the email address. Sending a message to the wrong person is cause for a valid complaint.
6. For electronic transmissions involving student records, include the following disclaimer on each email. This warning should be copied by school officials, and they should ensure that it automatically appears in each email that contains student record information.

   **WARNING:** This message may contain information that is confidential and/or protected under the Family Education Rights and Privacy Act or other lawfully recognized privilege. If you received this message in error or through inappropriate means, please reply to this message to notify the Sender that the message was received by you in error, and then permanently delete this message from all storage media, without forwarding or retaining a copy.

7. Delete electronic transmissions on a regular basis. Once destroyed they are no longer considered part of the record and are no longer subject to FERPA. E-mail messages can be destroyed as long as there is not an outstanding request by the parent or eligible student for access to such information.

8. School Officials should not send, receive or store student record information on private email accounts or on private computers.

V. When a school official receives one of the following requests, it should be referred to the building principal or special education director for response. A request:

   - to access student records for the purpose of inspection or review;
   - to amend a student record;
   - for parental consent to disclose a student record or student record information; or
   - to destroy the contents of a student record.

VI. Forms:

   - Notification of Rights
   - Notice of Directory Information
   - Release of Information
   - Record of Access to Student Records
   - Notice of Limitations on Disclosure and Redisclosure
   - Destruction of Special Education Records
Model Notification of Rights for Elementary and Secondary Schools

The Family Educational Rights and Privacy Act (FERPA) affords parents and students over 18 years of age ("eligible students") certain rights with respect to the student's education records. These rights are:

1. The right to inspect and review the student's education records within 45 days of the day the School receives a request for access. Parents or eligible students should submit to the School principal [or appropriate school official] a written request that identifies the record(s) they wish to inspect. The School official will make arrangements for access and notify the parent or eligible student of the time and place where the records may be inspected.

2. The right to request the amendment of the student's education records that the parent or eligible student believes are inaccurate or misleading. Parents or eligible students may ask the School to amend a record that they believe is inaccurate or misleading. They should write the School principal [or appropriate official], clearly identify the part of the record they want changed, and specify why it is inaccurate or misleading. If the School decides not to amend the record as requested by the parent or eligible student, the School will notify the parent or eligible student of the decision and advise them of their right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the parent or eligible student when notified of the right to a hearing.

3. The right to consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that FERPA authorizes disclosure without consent. One exception, which permits disclosure without consent, is disclosure to school officials with legitimate educational interests. A school official is a person employed by the School as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel); a person serving on the School Board; a person or company with whom the School has contracted to perform a special task (such as an attorney, auditor, medical consultant, or therapist); or a parent or student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks. A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility. [Optional] Upon request, the School discloses education records without consent to officials of another school district in which a student seeks or intends to enroll. [NOTE: FERPA requires a school district to make a reasonable attempt to notify the parent or eligible student of the records request unless it states in its annual notification that it intends to forward records on request.]

4. The right to file a complaint with the U.S. Department of Education concerning alleged failures by the School to comply with the requirements of FERPA. The name and address of the Office that administers FERPA are:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-4605

[NOTE: In addition, an institution may want to include its directory information public notice, as required by § 99.37 of the regulations, with its annual notification of rights under FERPA.]
The Family Educational Rights and Privacy Act (FERPA), a Federal law, requires that [School District], with certain exceptions, obtain your written consent prior to the disclosure of personally identifiable information from your child's education records. However, [School District] may disclose appropriately designated "directory information" without written consent, unless you have advised the District to the contrary in accordance with District procedures. The primary purpose of directory information is to allow the [School District] to include this type of information from your child's education records in certain school publications. Examples include:

- A playbill, showing your student's role in a drama production;
- The annual yearbook;
- Honor roll or other recognition lists;
- Graduation programs; and
- Sports activity sheets, such as for wrestling, showing weight and height of team members.

Directory information, which is information that is generally not considered harmful or an invasion of privacy if released, can also be disclosed to outside organizations without a parent's prior written consent. Outside organizations include, but are not limited to, companies that manufacture class rings or publish yearbooks. In addition, two federal laws require local educational agencies (LEAs) receiving assistance under the Elementary and Secondary Education Act of 1965 (ESEA) to provide military recruiters, upon request, with three directory information categories - names, addresses and telephone listings - unless parents have advised the LEA that they do not want their student's information disclosed without their prior written consent.

If you do not want [School District] to disclose directory information from your child's education records without your prior written consent, you must notify the District in writing by [insert date]. [School District] has designated the following information as directory information: [Note: an LEA may, but does not have to, include all the information listed below.]

- Student's name
- Participation in officially recognized activities and sports
- Address
- Telephone listing
- Weight and height of members of athletic teams
- Electronic mail address
- Photograph
- Degrees, honors, and awards received
- Date and place of birth
- Major field of study
- Dates of attendance
- Grade level
- The most recent educational agency or institution attended

Footnotes:
1. These laws are: Section 9528 of the ESEA (20 U.S.C. 7908), as amended by the No Child Left Behind Act of 2001 (P.L. 107-110), the education bill, and 10 U.S.C. 503, as amended by section 544, the National Defense Authorization Act for Fiscal Year 2002 (P.L. 107-107), the legislation that provides funding for the Nation's armed forces.
ADDISON CENTRAL SUPERVISORY UNION

RELEASE OF INFORMATION FORM

As a parent or legal guardian of _________________, I give permission to Addison Central Supervisory Union, which includes the school districts of: Bridport, Cornwall, Mary Hogan, Middlebury Union High School, Middlebury Union Middle School, Ripton, Salisbury, Shoreham, and Weybridge, to release the following information:

______________________________________________________________________________
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To the following individual(s)

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And/or I give permission to Addison Central Supervisory Union to receive the following information:

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Signature: _________________________________   Date:________________________

Parent/Legal Guardian