

## **Student Records and Information Procedure**

This procedure is intended to assist administrators and school staff in complying with the requirements of federal and state statutes and regulations concerning student education records and information, including special education requirements.

### **Definitions**

The following definitions apply to terms used in this procedure:

- a. "Act" means the federal Family Educational Rights and Privacy Act (20 U.S.C. §1232g).
- b. "Directory information" means the following information contained in an education record of a student: name, participation, and grade level of students in officially recognized activities and sports, height and weight of student athletes, dates of attendance in the school unit, and honors and awards received.
- c. "Eligible student" means a student who has attained 18 years of age who has not been judged by a court of competent jurisdiction to be so severely impaired that the student is unable to make decisions or exercise judgment on their own behalf. When a student attains the age of 18, all rights accorded to parents concerning education records transfer to the eligible student.
- d. "Parent" means parent, regardless of divorce or separation, a legal guardian, or individual acting as a parent or guardian provided there will be a presumption that a parent has the authority to exercise the rights governing such matters as divorce, separation or custody or a legally binding instrument that specifically revokes such rights.
- e. "Education Record" means information or data that directly relates to a student and is maintained by the school unit in any medium, including but not limited to handwriting, print, computer media, video or audio tape, microfilm, and microfiche. Records of instructional, supervisory and administrative personnel and personnel who support these individuals, which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a temporary substitute for the person who made the record are excluded from this definition.
- f. "Student" includes any individual with respect to whom the school unit maintains education records.

**Notification**

Whenever RSU 40 requests a student's social security number, RSU 40 must inform the parent or legal guardian of that student or the student if the student is 18 years of age or older, for what purpose the social security number will be used and provide the parent, legal guardian or student if the student is 18 years of age or older the opportunity to opt out of providing the social security number. RSU 40 must delete the student's social security number from the student's records once the student is no longer enrolled in RSU 40.

Parents and eligible students must be provided with notice of their rights under FERPA and other applicable federal and state laws and regulations concerning education records at the beginning of each school year or upon enrollment if a student enrolls after the start of the school year. RSU 40 may provide notice through any of the following means:

- a. Mailing to students' homes;
- b. Distribution to students to take home;
- c. Publication in student handbooks; and
- d. Publication in newsletters or other materials distributed to each parent/ eligible student.

**Access to Policy and Administrative Procedures**

RSU 40's policy on Student Education Records and Information Rights must be posted in each school. In addition, school administrators will provide copies of this administrative procedure to parents/eligible students upon request.

**Inspection and Review of Education Records**

Parents/eligible students may review and inspect their educational records by the following procedure:

- a. The parent/eligible student must make a written request to the Superintendent or building administrator to review the records.
- b. The Superintendent or building administrator must comply with the request without unnecessary delay and in a reasonable period of time, but in no case more than 45 days after receiving it received the request, and will comply before any IEP Team meeting regarding an Individualized Education Program or any due process hearing relating to the identification, evaluation, or placement of the student.

- c. The Superintendent or building administrator may deny a request for access to or copies of the student's education records if there is reasonable doubt as to the legality of the parent-child relationship. Access will be withheld until a determination of legal right to access can be established.

Parents/eligible students may also request to review the following:

- a. RSU 40's list of types and locations of all records and titles of officials responsible for the records; and
- b. RSU 40's record of disclosures of personally identifiable information (see following section).

### **Requests to Amend Education Records**

Parents/eligible students may ask RSU 40 to amend education records they believe are inaccurate, misleading or in violation of the student's privacy rights as follows:

- a. The parent/eligible student must make a written request to the Superintendent or building administrator to amend the education record. The request must clearly identify the part of the record they want changed, and specify why it is inaccurate or misleading.
- b. The Superintendent or building administrator will, within a reasonable period after receipt of the request, either amend the record in accordance with the request or inform the parent/eligible student of its refusal to amend the record and inform the parent/eligible student of their right to request a hearing.
- c. If the parent/eligible student requests a hearing, it will be held within a reasonable period from RSU 40's receipt of the written request. The parent/eligible student will be given advance notice of the date, place, and time of the hearing. The Superintendent will designate an individual to conduct the hearing. This individual may be an employee of RSU 40 as long as they do not have a direct interest in the outcome of the hearing. The parent/eligible student will be afforded a full and fair opportunity to present evidence relevant to the issues raised and may be assisted or represented by individuals, including an attorney, of their choice at their own expense.
- d. RSU 40 will make its decision in writing within a reasonable period. The decision will include a summary of the evidence and the reasons for the decision.

- e. If, as a result of the hearing, RSU 40 decides that the information is inaccurate, misleading, or otherwise in violation of the privacy rights of the student, it must amend the education records of the student accordingly and so inform the parent/eligible student in writing.
- f. If, as a result of the hearing, RSU 40 decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy rights of the student, it must inform the parent/eligible student of their right to include a statement in the student's education record about the contested information and/or setting forth any reasons for disagreeing with the decision of RSU 40.
- g. Any statement placed in the student's education record under the preceding paragraph must be maintained providing the record or contested portion is maintained by RSU 40. If the education records of the student, or the contested portion are disclosed by RSU 40 to any party, the explanation shall also be disclosed.

#### **Disclosure of Education Records**

All disclosures of education records must be made in compliance with federal and state statutes and regulations. RSU 40 must maintain a record of disclosures of personally identifiable information from the education records of a student. Such records do not include disclosures to the parents/eligible student, disclosures made pursuant to written consent of the parents/eligible student, disclosures to school officials, or disclosures of directory information. RSU 40 must not disclose any personally identifiable information from the education records of a student without the prior written consent of the parent/eligible student. The written consent must include a specification of the records that may be disclosed, the purpose(s) of the disclosure(s), and the identity of the party or parties to whom the disclosure(s) may be made.

Exceptions to the requirement to obtain prior written consent before disclosing education records follow:

- a. RSU 40 may make directory information (as described in the Definitions section) public at its discretion unless a parent/eligible student has notified the Superintendent to the contrary in writing by September 15th or within thirty (30) days of enrollment, whichever is later.
- b. RSU 40 may disclose directory information about former students without the consent of the parent/eligible student.

- c. Military recruiters and institutions of higher education are entitled to receive the names, addresses and telephone numbers of secondary students and RSU 40 must comply with any such request, provided that parents have been notified of their right to request that this information not be released without their prior written consent. Parents/eligible students who do not want RSU 40 to disclose this information must notify the Superintendent in writing by September 15th or within thirty (30) days of enrollment, whichever is later.
- d. Education records may be disclosed to school officials with a "legitimate educational interest." A school official has a legitimate educational interest if they need to review an education record in order to fulfill their professional responsibility. School officials include persons employed by RSU 40 as an administrator, supervisor, instructor, or support staff member (including health or medical staff and the school unit's designated law enforcement unit personnel, if any); members of the Board of Education; persons or companies with whom RSU 40 has contracted to provide specific services (such as attorneys, auditors, medical consultants, evaluators or therapists); and parents, students, or volunteers serving on an official committee (such as a disciplinary or grievance committee), or assisting a school official in performing their professional responsibilities.
- e. Under Maine law (20-A M.R.S. § 6001-B), RSU 40 is required to send a student's education records to a school unit to which a student applies for transfer, including disciplinary records, attendance records, special education records, and health records. Consent is not required for the transfer of these records, except for confidential health records.
- f. At the request of the Superintendent of the school unit where a student seeks admission, the student's current or former school administrators will provide, in a timely fashion, a verbal or written report to the Superintendent indicating whether the student has been expelled, or suspended, or is the subject of an expulsion or suspension proceeding.
- g. Education records may be disclosed to other governmental entities, agencies and individuals as specifically permitted by FERPA and the accompanying regulations.
- h. Under Maine law (20-A M.R.S § 6001), RSU 40 may not publish on the Internet any information that identifies a student, including, but not limited to, the student's full name, photograph, personal biography, e-mail address, home address, date of birth, social security number, and parents' names, without written parental consent.

**Waiver of Confidentiality Rights**

A parent/eligible student may waive any of their rights regarding confidentiality of educational records, but any such a waiver must be in writing and signed by the parent/eligible student. The school may not require that a parent/eligible student waive their rights. Any waiver may be revoked with respect to actions occurring after the revocation. If a parent executes a waiver, that waiver may be revoked by the student any time after they become an eligible student.

**Fees for Copying Records**

There will be no charge to search for or retrieve education records of a student. RSU 40 will provide copies of education records to parents/eligible students upon request. The cost of producing copies of the record to parents/eligible student will be \$.35 per page copied, plus postage. Parents/eligible students who are unable to pay such fees will not be denied access to education records. In such cases, the copying fee may be waived at the discretion of the Superintendent/designee.

**Maintenance and Destruction of Education Records**

RSU 40 must maintain accurate and up-to-date education records as required by federal and state statutes and regulations.

- a. Records will be maintained by personnel who are knowledgeable about the applicable confidentiality. All records will be safeguarded from unauthorized access. Student records must be kept in fireproof storage at the school or a duplicate set kept off-site.
- b. The high school transcripts of all former students will be kept in perpetuity by RSU 40. A permanent record of a special education student's name, address, phone number, grades, attendance record, classes attended, and grade, and year completed, will be maintained without time limitations. All other records will be maintained in accordance with Maine State Rules for Disposition of Local Governmental Records (Schedule L).
- c. RSU 40 will not destroy any education record if there is any outstanding request to inspect or review such records.
- d. Records of access to education records will be retained as long as the records themselves.
- e. RSU 40 will inform parents of students with disabilities when education records are no longer needed to provide educational services to the student or to demonstrate that the school has provided the student with a free appropriate public education as

required by law. At that point, the records may be turned over to parents/eligible student upon their request, or destroyed in accordance with the parent's request or school unit procedures.

**Complaints**

The United States Department of Education maintains an office that handles complaints about alleged violations of FERPA by local school units. Complaints regarding violations of rights accorded parents/eligible students may be submitted in writing to:

Family Policy Compliance Office Department of Education 400 Maryland Avenue, S.W.  
Washington, D.C. 20202

Legal Reference:     20 U.S.C. §1232g; 34 C.F.R. Part 99  
                           20 U.S.C. §7908  
                           20-A M.R.S. §6001, §6001-B, §6001-C  
                           Maine Department of Education Rule Chapters 101 and 125  
                           Maine State Archives, Rules for Disposition of Local Governmental  
                           Records (Schedule L)

*This is a required procedure.*

Adopted: December 18, 2014

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          March 1, 2018  
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