

Notification of Rights under FERPA**NOTIFICATION OF RIGHTS UNDER FERPA AND WEST VIRGINIA BOARD OF EDUCATION POLICY 4350****1.0 Purpose**

The Family Educational Rights and Privacy Act (FERPA) and West Virginia Board of Education Policy 4350 afford parents and students who are 18 years of age or older (“eligible students”) certain rights with respect to the student’s education records. These rights are:

- 1.1 The right to inspect and review the student’s education records within 45 days after 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 records they wish to inspect. The school official will make arrangements for access and notify the parent or eligible students of the time and place where the records may be inspected.

- 1.2 The right to request the amendment of the student’s education records that the parent or eligible student believes are inaccurate, misleading, or otherwise in violation of the student’s privacy rights under FERPA West Virginia Board of Education Policy 4350.

Parents or eligible students who wish to ask the district to amend a record should write the school principal [or appropriate school official], clearly identify the part of the records they want changed, and specify why it should be changed. If the district decides not to amend the record as requested by the parent or eligible student, the district will notify the parent or eligible students of the decision and 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 students when notified of the right to a hearing.

- 1.3 The right to provide written consent before the school discloses personally identifiable information (PII) from the student’s education records, except to the extent that FERPA and West Virginia Board of Education Policy 4350 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) or a person serving on the school board. A school official also may include a volunteer or contractor outside of the school who performs an institutional service of function for which the school would otherwise use its own employees and who is under the direct control of the school with respect to the use and maintenance of PII from education records, such as an attorney, auditor, medical consultant, therapist; a parent or student volunteering to serve on an official committee, such as a disciplinary or grievance committee; a parent, student, or other volunteer assisting

Notification of Rights under FERPA

another school official in performing his or her tasks. A school official has a legitimate educational interest if the official needs to review an educational record in order to fulfill his or her professional responsibility.

Upon request, the district discloses education records without consent to official of another school district in which a student seeks or intends to enroll, or is already enrolled if the disclosure is for purposes of the student's enrollment or transfer.

Annual Notification of Rights (as per State Policy 4350) – Each educational agency or institution shall annually notify parent of students currently in attendance, or eligible students currently in attendance, of their rights under this policy.

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

2.0 Disclosures

See the list below of the disclosures that elementary and secondary schools may make without consent.

FERPA permits the disclosure of PII from students' education records, without consent of the parent or eligible student, if the disclosure meets certain conditions found in §99.31 of the FERPA regulations. Except for disclosures to school officials, disclosures related to come judicial orders or lawfully issued subpoenas, disclosures of directory information, and disclosures to the parent or eligible student, §99.32 of the FERPA regulations requires the school to record the disclosure. Parents and eligible students have a right to inspect and review the record of disclosures. A school may disclose PII from the education records of a student without obtaining prior written consent of the parents or the eligible student –

- To other school officials, including teachers, within the educational agency or institution whom the school has determined to have legitimate educational interests. This includes contractors, consultants, volunteers, or other parties to whom the school has outsourced institutional services or functions, provided that the conditions listed in §99.32 (a)(1)(i)(B)(2) are met. (§99.31 (a)(2)); Policy 4350, Section 16.1.1.
- To officials of another school system, or institution of postsecondary education where the student seeks or intends to enroll, or where the student is already enrolled if the disclosure is for purposes related to the student's enrollment or transfer, subject to the requirements of §99.34. (§99.31 (a)(2)); Policy 4350, Section 16.1.2.

Notification of Rights under FERPA

- To authorized representatives of the U.S. Comptroller General, the U.S. Attorney General, the U.S. Secretary of Education, or State and local educational authorities, such as the State educational agency in the parent or eligible student's State (SEA). Disclosures under this provisions may be made, subject to the requirements of §99.35, in connection with an audit or evaluation of Federal- or State-supported education programs, or for the enforcement of or compliance with Federal legal requirements that relate to those programs. These entities may make further disclosures of PII to outside entities that are designed by them as their authorized representatives to conduct any audit, evaluation, or enforcement or compliance on their behalf. (§99.31 (a)(3) and 99.35); Policy 4350, Section 16.1.3.
- In connection with financial aid for which the student has applied or which the student has received, if the information is necessary to determine eligibility for the aid, determine the amount of the aid, determine the conditions of the aid, or enforce the terms and conditions of the aid. (§99.31 (a)(4)); Policy 4350, Section 16.1.4.
- To State and local officials or authorities to whom information is specifically allowed to be reported or disclosed by a State statute that concerns the juvenile justice system and the system's ability to effectively serve, prior to adjudication, the student whose records were released, subject to §99.38. (§99.31 (a)(5)); Policy 4350, Section 16.1.5.
- To organizations conducting studies for, or on behalf of, the school, in order to: (a) develop, validate, or administer predictive tests; (b) administer student aid programs; or (c) improve instruction. (§99.31 (a)(6)); Policy 4350, Section 16.1.6.
- To accrediting organizations to carry out their accrediting functions. (§99.31 (a)(7)); Policy 4350, Section 16.1.7.
- To parents of an eligible student if the student is a dependent for IRS tax purposes. (§99.31 (a)(8)); Policy 4350, Section 16.1.8.
- To comply with a judicial order or lawfully issued subpoena. (§99.31 (a)(9)); Policy 4350, Section 16.1.9.
- To appropriate officials in connection with a health or safety emergency, subject to §99.36. (§99.31 (a)(10)); Policy 4350, Section 16.1.10.
- Information the school has designated as "directory information" under §99.37. (§99.31 (a)(11)); Policy 4350, Section 16.1.11.
- **Release of List of High School Students to Military Recruiters**
 - **Pursuant to federal law, 20 U.S.C. § 7908, *Armed Forces Recruiter Access to Students and Student Recruiting Information*, and 10 U.S.C. § 503, *Enlistments: Recruiting Campaigns; Compilation of Directory Information*, all county boards are required to provide military recruiters, upon request, with names, addresses, and telephone numbers of secondary school students unless the parents/guardian have advised the county board of education that they do not want their students' information disclosed without prior written consent as set forth in Section 126-94-25.**

Notification of Rights under FERPA

- **Each county board of education shall provide military recruiters that same access to secondary school students as is provided generally to post-secondary educational institutions or to prospective employers of those students.**

ADMINISTRATIVE GUIDELINES:

The Board authorizes the Superintendent to establish written administrative guidelines to facilitate enforcement of and compliance with this policy.

SEVERABILITY:

Any conflict between this policy and state statute shall be resolved by following the statute. If any provision of this policy or application thereof to any person or circumstance is held valid, such invalidity shall not affect other provisions or applications of this policy. Changes or updates to legislative items requiring compliance will be included as needed by decision of the Superintendent.

AUTHORITY: West Virginia Board of Education Policy 4350. **WV Constitution, Article XII, Section 2; WV Code § 18-2-5; the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. §1232g; 34 CFR Part 99); the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. §1400); the Every Student Succeeds Act (20 U.S.C. §6301 et seq.); the National Defense Authorization Act for the Fiscal Year 2002 (Public Law 107-107); and their respective regulations.**

REPLACES: GAKA-R Personnel Records, 10/11/1998; KN-R Release of Records to Military Personnel, 4/13/1998; KL-R Public Use of School Records, 9/13/1999.

Adopted: July 22, 2014

Revision: **As amended 7/10/18**