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August, 2017

Parents & Guardians of Bowman County School students:

The *Family Educational Rights and Privacy Act* (FERPA), a Federal law, requires that Bowman County Schools, with certain exceptions, obtain your written consent prior to the disclosure of personally identifiable information from your child's education records. However, Bowman County Schools 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 Bowman County Schools 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.

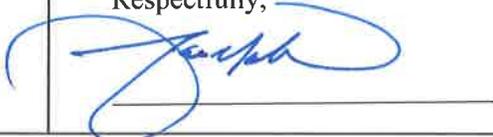
Directory information, which is information that is generally not considered harmful or an invasion of privacy if released, can also be disclosed to outside organizations without a parent's prior written consent. Outside organizations include, but are not limited to, companies that manufacture class 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 the following information – 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. ¹

If you do not want Bowman County Schools to disclose directory information from your child's education records without your prior written consent, you must notify the District in writing by **September 1, 2017**. Bowman County Schools has designated the following information as directory information:

- | | |
|---|---|
| a. Address | i. Photograph |
| b. Date and place of birth | j. School email address |
| c. Dates of attendance | k. Student identification number if it cannot be used alone to access an educational record and is not the student's social security number |
| d. Degrees, honors, and awards received | l. Telephone listing |
| e. Grade level | m. Weight and height of members of athletic teams |
| f. Most recent school attended | |
| g. Name (first and last) | |
| h. Participation in officially recognized activities and sports | |

If you have any questions or concerns, please call the school at 523-3283.

Respectfully,



Model Notification of Rights under FERPA for Elementary and Secondary Schools

The Family Educational Rights and Privacy Act (FERPA) affords 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. The right to inspect and review the student's education records within 45 days after the day Bowman County Schools receives a request for access.

Parents or eligible students should submit to the Superintendent Dave Mahon 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 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, misleading, or otherwise in violation of the student's privacy rights under FERPA.

Parents or eligible students who wish to ask Bowman County Schools to amend a record should write the school principal, clearly identify the part of the record they want changed, and specify why it should be changed. 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 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 provide written consent before the school discloses personally identifiable information (PII) from 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) 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, or therapist; a parent or student volunteering to serve on an official committee, such as a disciplinary or grievance committee; or a parent, student, or other volunteer 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.

Upon request, Bowman County Schools discloses education records without consent to officials 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. [NOTE: FERPA requires a school district to make a reasonable attempt to notify the parent or 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

[NOTE: In addition, a school 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.]

[Optional] 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 some 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 §99.31(a)(1)(i)(B)(1) - (a)(1)(i)(B)(2) are met. (§99.31(a)(1))
- To officials of another school, 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))
- 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 provision 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 designated by them as their authorized representatives to conduct any audit, evaluation, or enforcement or compliance activity on their behalf. (§§99.31(a)(3) and 99.35)
- 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))
- 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))
- 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))
- To accrediting organizations to carry out their accrediting functions. (§99.31(a)(7))
- To parents of an eligible student if the student is a dependent for IRS tax purposes. (§99.31(a)(8))
- To comply with a judicial order or lawfully issued subpoena. (§99.31(a)(9))
- To appropriate officials in connection with a health or safety emergency, subject to §99.36. (§99.31(a)(10))
- Information the school has designated as "directory information" under §99.37. (§99.31(a)(11))

STUDENT EDUCATION RECORDS AND PRIVACY

The Bowman County School Board believes that while collection and use of student information is necessary to provide educational and student support services, the District must implement safeguards to ensure information is appropriately protected and used to serve the best interests of students. The purpose of this policy is to establish such safeguards.

Definitions

- *Directory information* is defined as personally identifiable information contained in a student education record that is generally considered **not** harmful or an invasion of privacy if disclosed and includes:
 - a. Address
 - b. Date and place of birth
 - c. Dates of attendance
 - d. Degrees, honors, and awards received
 - e. Grade level
 - f. Most recent school attended
 - g. Name (first and last)
 - h. Participation in officially recognized activities and sports
 - i. Photograph
 - j. School email address
 - k. Student identification number if it cannot be used alone to access an educational record and is not the student's social security number
 - l. Telephone listing
 - m. Weight and height of members of athletic teams¹
- *Education record* is defined as any record that directly relates to a student and is maintained by the District or by a party acting for the District. This definition excludes law enforcement records and records in the sole possession of the maker used only as a memory aid.²
- *Eligible student* means a student who has reached the age of 18.³
- *FERPA* stands for the Family Educational Rights and Privacy Act.
- *Legitimate educational interest* is defined as access that is needed in order for a school official to fulfill his/her professional responsibility.⁴
- *Parent* means a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or a guardian.

¹ 34 CFR 99.3

² 34 CFR 99.3

³ 34 CFR 99.3

⁴ https://nces.ed.gov/pubs2004/privacy/section_4b.asp

- *Permanent record* is defined as a record containing a student's name, address, phone number, record of grades, years enrolled, courses attended, and grades completed.
- *Personally Identifiable Information* (PII) includes information maintained in the student's education record that could be used alone or in combination to trace a student's identity directly or indirectly and would allow a reasonable person, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.
- *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.⁵
- *School official* is defined as an individual who has a legitimate educational interest in accessing student educational records and is affiliated with the District in one of the following capacities:
 - a. An individual employed by the District in an administrative, instructional, or support staff position;
 - b. School board members;
 - c. Contractors, consultants, volunteers, service providers, or other party with whom the school or District has outsourced institutional services or functions for which the school or District would otherwise use employees; records provided to these third parties must remain directly under the district's control for purposes of maintenance and use and the third party must agree to comply with 34 C.F.R. 99.33(a). Examples include, but are not limited to, school resource officers, interns, student teachers, the district's attorney, PowerSchool, SLDS, learning management software, hot lunch tracking software, and district alert systems.⁶

Designation and Responsibilities of Privacy Officers

The Superintendent or designee shall serve as Chief Privacy Officer. In this role, the Superintendent is responsible for submitting to the Board for approval student information sharing requests from third-party individuals/entities other than parties to which the District reports student information under law. The Superintendent shall also maintain a master list of all individuals and entities having access to student information, including school district personnel listed by title. To ensure this list remains current and is manageable to maintain, it shall not contain names of individuals who have access to data.

The Superintendent may designate privacy officers at the district and building level. These privacy officers are responsible for:

1. Maintaining a list of school personnel by title who have access to student information; this list shall be provided to the Superintendent each time it is updated;

⁵ 34 CFR 99.3

⁶ 34 CFR 99.31(a)(1) and 06/28/06 FERPA Opinion

(<http://www2.ed.gov/policy/gen/guid/fpco/ferpa/library/clarkcty062806.html>)

2. Submitting to the Superintendent for board approval new requests to share student information with third-party individuals and entities other than parties to which the District reports student information under law;
3. Ensuring that access to student information is granted only to the extent there is a legitimate educational interest and in accordance with this policy and any applicable agreements;
4. Enforcing this and other applicable district confidentiality and data protection policies;
5. Providing a list of students who have opted-out of directory information to classroom teachers and other district staff who have a need to know.

Information Release Safeguards

1. Access by Parents and Eligible Students

To ensure compliance with parental and eligible student access requirements under FERPA:

- a. The District shall comply with a request by a parent or eligible student to access education records within a reasonable period of time, not to exceed 45 days after receipt of a request.
- b. The Board shall develop procedures for a parent/guardian/student to review and amend educational records. These procedures shall include procedures to verify the identity of a requesting parent/eligible student. The regulations shall be delineated in board approved regulations and disseminated annually in accordance with law.⁷

2. Classroom Use of Instructional Tools Requiring Release of Student Information

Teachers are encouraged to use instructional technological tools that allow for use of an alias or that do not require submission of directory information (other than or in addition to name) or PII. Whenever a teacher wishes to use an instructional tool that requires release of directory information, other than or in addition to name, or PII such as, but not limited to, software or an app, the teacher shall submit a request to the building-level privacy officer. The privacy officer shall check the district's master list of individuals and entities approved to receive student information. If the entity is not on this list or the teacher's request is beyond the scope of information sharing permission previously granted, the privacy officer shall either deny the teacher's request or submit an information-sharing request to the Superintendent for board approval. If the teacher is authorized to use the instructional tool, the building-level privacy officer shall ensure the teacher complies with any parental consent requirements and directory information opt-out requests before using the tool.

3. Data Breaches

District employees are responsible for informing a privacy officer of any known or suspected breach of PII. When a privacy officer becomes aware

⁷ 34 CFR 99.7 and 99.10

of a breach of student PII, s/he shall contact the Chief Privacy Officer. The Chief Privacy Officer shall determine if enactment of data breach response procedures contained in policy IDC and NDCC Ch. 51-30 is appropriate.

4. Information Storage and Destruction

Student education records shall be reviewed annually and any records unnecessary for progression to the next grade level, not needed for college entrance purposes, not needed for extracurricular participation, not needed for disciplinary purposes, and records that are not part of the permanent record will be shredded or destroyed. Exceptions apply for any content that may reasonably be related to litigation or anticipated litigation (retain for six years after a student turns eighteen), bullying reports (retain in accordance with policy ACEA), concussion documentation (retain in accordance with policy FCAF), executive session tapes (retain for at least six months), PowerSchool records, and special education records (retain in accordance with the Individuals with Disabilities Education Act).

5. Directory Information

The District may disclose directory information without parental/eligible student consent if it has given parents/eligible students a reasonable amount of time to opt-out of directory information release. Opt-out notices should be provided at the beginning of the school year and when a student otherwise enrolls in the District. These notices shall contain a reasonable deadline of at least ten days for parents/eligible students to opt out.⁸

The Board approves release of directory information as follows:

- a. Publication on the district's website;
- b. To board-approved vendors for purposes of sale of school-related items such as, but not limited to, yearbooks, school pictures, graduation items, district apparel, and book orders;
- c. To military and college recruiters in accordance with applicable laws (NDCC 15.1-07-25.1 and 20 U.S.C. 7908);
- d. To official district newspaper for purposes of recognizing student accomplishments and coverage of extracurricular events;
- e. To school-affiliated groups for purposes of communicating and fundraising;
- f. To school-sponsored student publications including, but not limited to, newspapers and yearbooks;
- g. When the Board receives and approves a directory information release request; directory information shall only be released and used for purposes specified in the release request and the Superintendent shall add approved requestors to the district's master list of individuals and entities having access to student information. The Board shall develop criteria in regulations for approving and denying these requests.⁹

⁸ 34 CFR 99.37

⁹ 34 CFR 99.37(d)

Any district employee who wishes to disseminate student directory information to a third party shall contact his/her privacy officer. The privacy officer shall determine if the Board has previously approved such release and, if not, deny the request or submit it to the Superintendent for board approval. Upon board approval, the Superintendent shall instruct the privacy officer to ensure compliance with any opt-out requests made by parents.

6. Personally Identifiable Information (PII)

Any third party requesting or receiving access to student PII must receive board approval unless the third party is required to receive PII under state or federal law.¹⁰ Any school employee who wishes to share PII with a third party shall contact his/her privacy officer. The privacy officer shall determine if the Board has previously approved such release and, if not, deny the request or submit it to the Superintendent for board approval. Upon board approval of any PII release request, the applicable privacy officer shall inform the requestor of any parental consent requirements (see #7) and ensure the requestor complies with such requirements.

Parental/eligible student consent is not required to release PII under the following circumstances:

- a. The District receives information under 42 U.S.C. 14071 and applicable federal guidelines about a student who is a registered sex offender under section 170101 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071), and the District has a need to disclose the student's status as a sex offender for safety purposes.¹¹
- b. In connection with a health or safety emergency under the conditions described in 34 C.F.R. 99.36.¹²
- c. If records have been de-identified by the District; third party individuals and entities that receive de-identified information shall be included on the district's master list of individuals and entities having access to student information.¹³
- d. To a school official who has a legitimate educational interest in the education records if the following conditions are satisfied:
 - i. Access shall be limited to only information the school official has a legitimate need to know;
 - ii. School officials shall use the information only for the purposes for which the disclosure was made and shall not redisclose the information to any other party without proper consent or legal authority;
 - iii. Titles of individuals and entities considered school officials shall be included on the district's master list of individuals and entities having access to student information.¹⁴

¹⁰ SB 2326

¹¹ 34 CFR 99.31(a)(16)

¹² 34 CFR 99.36

¹³ 34 CFR 99.31(b)(1) and SB 2326

¹⁴ 34 CFR 99.31(a)(1)

- e. To a court without a court order or subpoena when the District initiates legal action against a parent/student or a parent/student initiates legal action against the District.¹⁵
- f. To accrediting bodies for purposes of accreditation.¹⁶
- g. To an organization conducting a study for the District to develop, validate, or administer a predictive test; administer student aid programs; or improve instruction so long as the organization has entered into a written agreement with the Board in accordance with law; if the organization is conducting a survey of students, the District shall ensure parents are notified in compliance with policy GCC and shall obtain parental consent, if applicable (see #7).¹⁷
- h. To another school in which the student seeks, intends to, or is already enrolled.¹⁸
- i. To authorized representatives of the Comptroller General of the United States, the Attorney General of the United States, the U.S. Secretary of Education, and state and local educational authorities for 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.¹⁹
- j. To comply with a judicial order or lawfully issued subpoena; the District must make reasonable attempt to contact the parent/eligible student before disclosure unless the court order instructs otherwise.²⁰
- k. To the parents of an eligible student who is also a *dependent student* as defined in IRS Section 152.²¹

The District will take measures necessary to ensure that individuals and entities to which PII is released shall only have access to information necessary to fulfill their responsibilities under law and to the District. Measures may include, but not be limited to, controlling access to computer data through password restrictions, controlled access to paper records, and ensuring that any information access agreements required by law are properly executed by the Board.²²

7. When Parental Consent is Required

The District must obtain parental/eligible student consent to release student information under the following circumstances:

- a. The Board has approved release of PII to an individual or entity not meeting the definition of school official under law and/or not meeting an exception to the parental consent requirement under FERPA.

¹⁵ 34 CFR 99.31(a)(9)(iii)(A)

¹⁶ 34 CFR 99.31(a)(7)

¹⁷ 34 CFR 99.31(a)(6)

¹⁸ 34 CFR 99.31(a)(2)

¹⁹ 34 CFR 99.31(a)(3)

²⁰ 34 CFR 99.31(a)(9)

²¹ 34 CFR 99.31(a)(8)

²² 34 CFR 99.31(a)(3)(ii)

- b. The Board has approved release of directory information, other than or in addition to name, or PII to an online service provider for commercial purposes and the impacted students are under 13.²³
- c. When administering a survey funded in whole or in part by the U.S. Department of Education and concerning any of the following areas:
 - i. Political affiliations or beliefs of the student or the student's parent;
 - ii. Mental or psychological problems of the student or the student's family;
 - iii. Sex behavior or attitudes;
 - iv. Illegal, anti-social, self-incriminating, or demeaning behavior
 - v. Critical appraisals of other individuals with whom respondents have close family relationships;
 - vi. Legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers;
 - vii. Religious practices, affiliations, or beliefs of the student or student's parent;
 - viii. Income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program).²⁴

If the District is unable to obtain this consent, it shall not release the impacted student's information.

504 Plans and Individual Educational Programs (IEPs)

Sharing of student information necessary for developing, amending, or implementing an IEP or 504 Plan and sharing student information needed to determine eligibility for special education or disability services are not subject to board approval requirements in NDCC Ch. 15.1-07-25.3 because the District provides these services in fulfillment of requirements under state and federal law.

Policy Violations

Failure by a district employee or volunteer to comply with this policy, other district confidentiality requirements, or any improper disclosure of student information by a school employee or volunteer shall result in disciplinary action up to and including dismissal in accordance with applicable law. Failure by a third party to comply with this policy, any information-sharing agreements between the District and third party, or any improper disclosure of student information by the third party may result in termination of the third-party's access to student information and termination of the district's agreement with the third party if permitted under the terms of such agreement.

Training

School officials employed or volunteering for the District shall receive information and/or training on confidentiality requirements pertaining to student education records and consequences for breaching confidentiality. The District shall also

²³ Children's Online Privacy Protection Act, 16 CFR 312

²⁴ Protection of Pupil Rights Amendment, 20 U.S.C. § 1232h; 34 CFR Part 98

provide training to applicable school personnel on the procedures for requesting to release student information contained in this policy.

Complementary Documents

- ACE, Violent & Threatening Behavior
- ACEA, Bullying
- FACB, Transfer & Withdrawal Records
- FCAF, Concussion Management
- FGA-BR, Student Education Records Access & Amendment Procedure
- FGA-BR2, Criteria for Approving & Denying Directory Information & PII Release Requests
- FGA-E, Notice for Directory Information
- FGA-E2, Model Notice of Rights Under FERPA for Elementary and Secondary Schools
- FGA-E3, FERPA Release Form for Parents
- FGA-E4, Notice of Executive Session Tape on File
- FGA-E5, Student Information Sharing Request
- FGA-E6, Model form for Disclosure to Parents of Dependent Students
- FGA-E7, School Officials' Guide to FERPA and Data Privacy
- FGA-E8, Parties Approved to Receive Student Data
- GCC, Protection of Pupil Rights Amendment & Third-Party Research on Students
- IDC, Data Protection & Security Breaches

End of Bowman County School District #1 Policy FGA..... Adopted: 01/12/16