

# PROCEDURE MANUAL FOR SCHOOL STAFF

**FOR**

## FERPA - ACCESSING AND RELEASING

## STUDENT INFORMATION AND

## EDUCATIONAL RECORDS

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PROCEDURES FOR ACCESSING AND RELEASING STUDENT INFORMATION AND EDUCATIONAL RECORDS

1. **Review of FERPA.**
	1. The principal must annually ensure that staff have completed the Vector Training FERPA (formally SafeSchools Training) review.
2. **When Directory Information May Be Released without Prior Consent**
	1. Directory information may be released by the district without prior consent, provided that public notice is given annually of the categories defined as directory information, and parents, guardians and eligible students (students 18 years of age or older) are notified of the right by written request to designate that any or all of such information be released only with prior consent.
3. Releasing information:
	* 1. Records Requests: All requests for records must be directed to ScribOrder.
		2. Requests for verbal information: If the person requesting the information is not a parent, guardian or eligible student and is not living with a student as a parent in the absence of the parent information cannot be provided.
		3. Request for information under health and safety emergency: The principal will determine if a health and safety emergency exists if one has not been declared by the district.
		4. The principal may call the Associate Chief or Student Accounting for help with any of these areas.
4. Annual Notice: The District must notify parents of their rights each year. The annual notice is provided during Online Registration for each student each year.
5. **When Release of Directory Information Is Prohibited**

Disclosure of directory information is prohibited if parents, guardians or eligible students have specifically requested that directory information NOT be disclosed, unless disclosure is permitted under the following provisions:

1. Directory information is needed by school or school district personnel or school official to carry out their assigned educational and operational responsibilities, or
2. An emergency situation exists where disclosure of directory information will protect the health and safety of the subject student or others.
3. **Directory information WILL NOT be used for commercial purposes.**
4. **Annual Notification**

As per Federal Regulation 99.37 of the Family Educational Rights and Privacy Act, WCSD must annually ensure that parents, guardians and eligible students are notified of their rights in regard to the release of directory information.

Washoe County School District notifies all parents, guardians or eligible students of their FERPA rights through online registration.

Access to Educational Records; A Guide for Parents is also available in English and Spanish on the WCSD website.

1. **Requests to Withhold Information from the Military**

Federal No Child Left Behind legislation provides that all branches of the military have access to three directory information categories – names, addresses, and telephone listings – for 11th and 12th grade students, unless parents, guardians or eligible students have advised the school that they do not want the student’s information disclosed without prior written consent. Parents are informed of the ability to withhold information from the military through Online Registration.

A parent or student must provide written notification to the principal or principal designee of the **high school** the student attends **by October 1st,** if the parent, guardian and eligible student does not want any information released to the military. A parent, guardian and eligible student may also opt out of the release of information during online registration. WCSD provides a **WCSD Release of Student Directory Information** form for this purpose; however, the use of the form is not mandatory and the school should accept any written request. Schools **must** record the date the request is received by the school on the written request. The written request must be scanned into OnBase in the Permissions and Refusals file after it is entered into IC. The annual notice for the ability to withhold information from the military is provided during Online Registration.

Requests received after October 1st should be processed and parents advised that the information may have been released to the military prior to the school receiving the written request.

Student Records releases the student information for students’ whose parents have not opted out to withhold the information on October 2 each year.

Once the school receives a written request to withhold information from the military, the school **must** check the Military Release Opt Out field in the District Defined Elements portion of the student demographics (census>people) tab in IC. It is **imperative** that the information be entered into IC within no more than **2 school days** of the receipt of notification.

1. **Requests to Withhold Directory Information**

The parent or eligible student must provide written notification to the principal or designee of the school the student attends **no later than October 1st of the current school year**, if parent, guardian and eligible student does not want any or all directory information released without prior consent;

**OR**

**If the student is enrolled after October 1st,** the parent, guardian or eligible student must notify the principal in writing immediately after enrolling in the school or risk the information being released.

WCSD provides a **WCSD Release of Student Directory Information** form for this purpose; however, the use of the form is not mandatory, and the school should accept any written request. Parents/guardians may also opt out of release of directory information through online registration.

Requests received after October 1st should be processed and parents advised that directory information may have been released prior to the school receiving the written request.

Schools **must** record the date the request is received by the school on the written request. The restriction is in effect until written notification is received from the parent, guardian or eligible student notifying the principal that the information is no longer restricted. Once the notification is entered into IC, the notice must be scanned into OnBase in the Permissions and Refusals file.

Once the school receives written notification of directory information restrictions from the parent/eligible student, the school **must** mark a “**N: Restrict Information”** in the “Restrict Directory Info” field in the District Defined Elements portion of the student demographics (Census people) tab in IC.

It is **imperative** that the information be entered into IC the same day as the receipt of notification because when the district receives requests for directory information on students, IC is checked for restrictions. If the “**N: Restrict Information”** is not selected, the information will be released.

1. **Requests for Directory Information for a Group of Students**

**ALL REQUESTS FOR STUDENT INFORMATION MUST GO THROUGH STUDENT RECORDS**

When requests for directory information includes the directory information for a group of students, e.g. mailing labels, class lists, names and addresses of all seniors, etc. All requests must go through the Student Records Supervisor in the Student Records Division of Student Accounting.

* 1. WCSD does not release directory information to outside agencies unless required by law or parental permission has been provided such as in the case of Nevada colleges and universities.

When a school or central office department receives a request for directory information, the following procedures **must** be followed:

* 1. When receiving a request for directory information on a group of students (e.g. all students at a particular grade level, mailing labels, all students at a particular school), the requestor must complete the **Washoe County School District Request for Public Records, Information, and/or Documents** form. The form must be submitted to the Student Records Supervisor in the Student Records Division of Student Accounting for approval and processing.
	2. Director of Student Accounting will review the completed **Washoe County School District Request for Public Records, Information, Documents** form and indicate the Director’s decision in the section titled, “Decision of Director, Student Accounting”. Decisions of the Director are final.
	3. Once the school or central office department administrator has completed the administrator’s portion of the **Washoe County School District Request for Public Records, Information, and/or Documents** form, copies of the form are maintained digitally by the Student Records Division of Student Accounting.
1. **Documentation of Requests for Directory Information**

Schools and central office departments do not have to keep a record of people seeking directory information**.** (Reg. 99.32 FERPA)

1. **Rights of Parents and Students to Education Records**

Parents and eligible students have the right to review and inspect the educational records of the student. When a parent or eligible student reviews and inspects the educational records, the school must enter the parent or eligible student’s information in the FERPA tab in Infinite Campus.

Unless there are court orders in the student’s education record prohibiting access to the student’s records, the non-custodial parent has access to the student’s records. It is the responsibility of the custodial or enrolling parent to provide the school with the court orders prohibiting access to the student records at the time of enrollment or at the time the court order is obtained.

Schools must verify that the requesting individual is, indeed, the child’s parent.

1. **Disclosure of Personally Identifiable Information**

Except to the extent that FERPA authorizes disclosure of personally identifiable information without consent, a parent, guardian or eligible student shall provide a signed and dated written consent before a school may disclose individually identifiable information. The consent must specify the records that may be disclosed, the purpose of disclosure, and the identity of the party or class of parties to whom disclosure may be made. **Consent must be explicitly given, implied consent is not acceptable.** Schools may review a student’s records with a parent or eligible student, but schools must refer the parent or eligible student to ScribOrder if copies of records are requested.

1. **When Prior Consent is Not Required**

Prior consent to access educational records is not required by the following:

1. All parents and legal guardians. In the case of divorce, custodial and noncustodial parents have access to the child's record, unless a legally binding document declares differently;
2. Children over the age of 18, emancipated minors, or those attending post-secondary institutions;
3. School officials with legitimate education interest. A school official is a person employed by WCSD 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 but is not limited to; a volunteer, intern, resident, student worker, or contractor outside of the school who performs an institutional service or 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 educational 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 educational record in order to fulfill his or her professional responsibility. A school official may also be a researcher working with the District or Nevada Department of Education with a legitimate educational interest or agencies that are contracted to provide functions on behalf of the school districts such as picture day (see List of Contract Service Providers Acting as School Officials);
4. School officials in a district to which the child intends to transfer;
5. Individuals connected with a health or safety emergency;
6. Accrediting organizations to carry out their accrediting functions;
7. In connection with financial aid for which the student has applied or received;
8. To state and local authorities pursuant to a State statute concerning the juvenile justice system and the system's ability to effectively serve the student whose records are being disclosed;
9. To organizations conducting studies for or on behalf of the school making the disclosure for the purposes of administering predictive tests, administering student aid programs or improving instructions;
10. To comply with a judicial order or a lawfully issued subpoena;
11. Agencies who are contracted with the school district to provide services such as recruitment (see List of Contract Service Providers Not Acting as School Officials);
12. A social worker or parole worker covered under the Uninterrupted Scholars Act;
13. A college or university to which a student has applied and intends to enroll;
14. 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 (or students) have advised the LEA in writing by October 1st that they do not want their student's information disclosed without prior written consent.
15. **Police, Social Workers, and Other Outside Agencies**

Unless specified above, no agency or individual may receive student records without prior consent of the parent, guardian or eligible student or a court order. The only information that may be given without prior consent of the parent or eligible student is Directory Information, PROVIDED the parent, guardian or eligible student has not restricted disclosure of this information. If in doubt, call the Office of the General Counsel or Student Accounting.

Social workers may access any information about students in Foster Care.

a. Court order or placement letter; or

b. Signed parent release; or

Social workers who are investigating may access a students non-directory information if they have one of the following:

a. Court order or placement letter; or

b. Signed parent release; or

c. An emergency exists; or

d. A Safety Plan.

 **Note:** An emergency situation exists when it is determined

 that the request to access information other than general

 directory information will protect the health and safety of

 the student or others.

Assessment of an emergency situation can be made by the following:

1. Principal
2. Counselor
3. Student Accounting
4. Legal counsel
5. **Sending Student Records to Institutions Where A Student Intends to Enroll**

**Regulation 99.34 of FERPA** states that schools and districts can forward education records to other educational agencies or institutions that have requested the records and in which the student seeks or intends to enroll **without** prior consent of the parent, guardian or eligible student**.**

* 1. The school or district has made a reasonable attempt to notify the parent, guardian or eligible student at the parent, guardian or student’s last known address; or
	2. The disclosure is initiated by the parent, guardian, or eligible student; or
	3. Notice is given by the school/district that WCSD forwards education records to other educational agencies or institutions that have requested the records and in which the student seeks or intends to enroll.

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This section of FERPA further states that an educational agency or institution may disclose an education record of a student in attendance to another educational agency or institution if:

1. The student is enrolled in or receives services from the other agency or institution, and
2. The disclosure meets the requirements outlined above.

In order to **expedite this process**, an official **Forwarding of Student Records** notice must be posted in the office or area where parents can see the notice.

1. **Confidentiality of Health and Welfare Information**

School personnel involved in observation, examination or evaluation of students, or in making related reports, shall not disclose to any person the name or address of a student with physical, mental, educational, or social disabilities, nor data resulting from such observation, examination or evaluation, except where such disclosure is duly authorized by school procedures or by a valid written request of the student’s parent or guardian.

Information in the student information system (other than directory information), the document management system, and in the health records shall be regarded as confidential, as well as all information deposited in the offices of Transportation, Student Accounting, and Psychological Services.

1. **The Administrator’s or Teacher’s Individual Files on a Student**

Please remember that any documents pertaining to a specific student contained in an administrator’s, teacher’s, or other staff member’s working file is considered part of the student’s education record **IF** the information/document has been shared with any person other than a temporary substitute for the maker of the document/information/record.

1. **Processing Student Records Requests for Legal Attorney or Subpoenas**

Whenever a request is made for **any or all** student records, the person requesting must be directed to www.washoeschoolsnv.scriborder.com.

If a school receives a mailed subpoena or attorney request for student records, please mail it to the Student Records Supervisor in Student Accounting.

1. **Items not subject to FERPA:**
2. Personal notes that have not been shared with anyone except a temporary substitute.
3. E-mail, unless printed and placed in the student file, is not considered an educational record. (20 U.S.C. Sec. 1232g)

**NOTE:** The **ONLY** records that are not part of the student’s educational records are those that were not only **created** by an individual, but also remained in the sole possession of the creator **AND** were nevershared with anyone other than someone substituting for the teacher’s position.

1. **Timelines for Provision of Education Records**

In no case shall access be withheld more than 45 school days (when school is in session or work days during summer vacation) after the request has been made.

1. **Subpoenaed Records**
2. Subpoena to Appear in Person:

Contact the district’s legal counsel.

1. Subpoena to Appear in Person and for Records:

Contact the district’s legal counsel for the appearance and follow the records process below for the records.

1. Subpoena for Records:

When served with a subpoena, the school/department **must accept** the subpoena. **DO NOT** send the person serving the subpoena to Student Accounting or anywhere else.

Once the school/department has accepted the subpoena:

* + 1. Scan the subpoena into OnBase in the legal documents folder; and
		2. Scan the subpoena to send an electronic copy to Student Records; and
		3. Immediately send the original subpoena through school mail to Student Accounting.

Student Accounting staff will then take the subpoena to the district’s legal counsel for approval for processing.

1. Legal counsel will review the subpoena and determine whether to approve or deny the subpoena.
	* 1. Once legal counsel’s decision is made, legal counsel will notify Student Accounting of legal counsel’s decision to either approve or deny the subpoenaed request.

Once Student Accounting has received approval from legal counsel to process a subpoena for student records, Student Accounting will process the subpoena.

Student Accounting **must** notify the parent, guardian or eligible student that we have received a subpoena for the records of that student and that the records will be released.

Student Records Division staff will email the principal to check for any paper records at the school site. If a school does not provide the paper records within the time directed by Student Accounting, the appropriate supervising district administrators will be asked for assistance.

Questions regarding subpoenas, contact the Office of the General Counsel.

1. **Records Containing Information on More than One Student**

If material or documents in the education record of a student include information on more than one student, access shall be limited to only that part of the material which relates to the student for whom consent to access records has been given. Personally identifiable information regarding other students must be redacted.

1. **Records May Not Be Destroyed**

If access to a student’s records is requested, such records may not be destroyed before the requestor has had the opportunity to review and inspect them.

1. **Record Keeping Requirements**

The site that maintains the education records (whether a school or central office department) shall maintain a record of each request for access to and each disclosure of personally identifiable information from the education records.

All requests for records must be processed through ScribOrder making the following step unnecessary, however any school who violated policy and prints a record for a student/parent must make an entry in the FERPA tab in Infinite Campus each time a record is printed and handed to anyone must be made including.

* + 1. The parties who have requested or received personally identifiable information from the education records, and
		2. The legitimate interests the parties had in requesting or obtaining the information.
		3. It is not necessary for a school to make an entry in the FERPA tab when the parent is referred to ScribOrder to make a records request.
		4. Student Records will make an entry in the FERPA tab when a records order for a current student is fulfilled.

If the requestor is an educational agency or institution that plans to disclose the personally identifiable information from an education record to additional parties (under Reg. 99.3(b) of FERPA), then the record must record: (1) the additional parties to whom the receiving part may disclose the information on behalf of the educational institution or agency and (2) the legitimate interests under Federal Regulation 99.3 1 of FERPA that each of the additional parties has in requesting or obtaining the information.

1. **Access to and Release of Free and Reduced Price Lunch Data**

Access to and release of Free and Reduced Price Lunch Data is restricted by Section 108 of Public Law 103-448, The Healthy Meals for Healthy Americans Act of 1994. Before allowing access to or release of free and reduced price lunch data, the site administrator must contact Nutrition Services.

1. **Procedure for Challenging Education Records**

Parents and eligible students (complainants) have the right to challenge information in the educational records which is believed to be inaccurate, misleading, or false. The following is an overview:

1. A written request to change the record must be made indicating the specific record, the challenged aspect of the record, and specifying why that aspect of the record is believed to be **inaccurate, misleading, or false**. The written request is submitted to the principal. Supporting evidence must be submitted with the written request.
2. The principal must work with Student Accounting to determine if the record is **inaccurate, misleading, or false** and notify parents/eligible students (complainant) in writing within 45 school days (when school is in session or work days during summer vacation) whether or not the records will be amended as requested. If the decision is to not amend the record as requested, the letter to the complainant shall inform the complainant of the complainant’s right to a hearing.
3. If the complainant disagrees with the principal’s decision, the complainant may request in writing a hearing before the WCSD Hearing Officer within 10 days of receipt of the principal’s letter. Complainants should send the written request for a hearing to the Director, Student Accounting and include a copy of the principal’s letter.
	* 1. The WCSD “Hearing Officer” is a non-partial WCSD employee determined by the Director, Student Accounting.
		2. A hearing with the Hearing Officer will be scheduled within 30 days following receipt of such request.
		3. The Hearing Officer shall mail the complainant a copy of the decision within 10 days after the hearing unless, in the hearing officer’s judgment, additional time is required. The Hearing Officer’s decision is final.
		4. If, upon receipt of the decision of the Hearing Officer the complainant is still dissatisfied with the content of the education records, the complainant may insert into such records an explanation of why the complainant believes the record is inaccurate, misleading, or false. The statement must be maintained in the contested part of the record. If the contested part of the record is maintained electronically, the statement will be limited to 50 words. If the contested part of the record is maintained in paper format, the statement shall be limited to a maximum of two typewritten pages, one side only. The complainant shall have 20 days from the date of the Hearing Officer’s decision to submit a written statement. The written statement is to be submitted to the Hearing Officer. The Hearing Officer will forward the statement to the school with directions on where to maintain the statement.