

INDEPENDENT SCHOOL DISTRICT 196
Rosemount-Apple Valley-Eagan Public Schools
Educating our students to reach their full potential

Series Number 505.2AR Adopted January 1977 Revised August 2018

Title Protection and Privacy of Student Records

1. **Intent** – This regulation on the protection and privacy of parents, guardians and students is adopted by Independent School District 196 pursuant to the requirements of 20 U.S.C. Section 1232(g) et seq., and is consistent with the requirements of the Minnesota Data Privacy Act, Minnesota Statute 15.1611 et seq.
2. **Definitions**
 - 2.1 "Directory information" includes a student's name, date and place of birth, major field of study, participation and performance in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, enrollment status, district-issued email address, grade level, degrees, honors, diplomas and awards received, honor roll, school of attendance, the most recent previous educational agency or institution attended, photographs and other visual and audio representations for school-approved publications, yearbooks, newspapers, public presentations, ID badges, and publication on school-approved Internet pages and student identification (ID) numbers, user IDs or other unique personal identifiers used by a student for purposes of accessing or communicating in electronic systems or displayed on an ID badge. (A student's identifier is directory information but educational records can only be accessed in conjunction with the use of a password or personal identification number (PIN) or other factor known or possessed only by the authorized user.) Directory information does not include identifying data which references religion, race, color, disability, social position or nationality. "Directory information" also includes home addresses and home telephone numbers of students in grades 9 through 12, for the purpose of providing such information to military recruiting officials as requested by the military and to institutions of higher learning as requested by the institutions, in accordance with state and federal law. "Directory information" also includes home addresses, telephone numbers, school schedule, daily attendance record, and parent or guardian names, addresses, email addresses and telephone numbers for the purpose of providing such information to law enforcement officers. "Directory information" also includes home addresses, and telephone numbers for the purpose of providing such information to the Dakota County Library.
 - 2.2 "Education records" means those records which are directly related to a student and are maintained by the school district.
 - 2.2.1 The term "Education Records" does not include:
 - 2.2.1.1 Records of instructional, supervisory and administrative personnel and educational personnel ancillary thereto which:
 - 2.2.1.1.1 Are in the sole possession of the maker of the records;
 - 2.2.1.1.2 Are destroyed at the end of the school year, and
 - 2.2.1.1.3 Are not accessible or revealed to any other individual except a substitute. (For the purpose of this definition, a "substitute" means an individual who performs on a temporary basis the duties of the individual who made the record, and does not refer to an individual who permanently succeeds the maker of the record in his or her position.)
 - 2.2.1.2 Records relating to an individual employed by the district which are made and maintained in the normal course of business, relate exclusively to the individual in that individual's capacity as an employee and are not available for use for any other purpose.

- 2.2.1.3 Records relating to an eligible student which are:
 - 2.2.1.3.1 Created or maintained by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional acting in his or her professional or paraprofessional capacity or assisting in that capacity, but not employed or compensated by District 196 at the time the record is prepared or created;
 - 2.2.1.3.2 Created, maintained or used only in connection with the provision of treatment to the student, and
 - 2.2.1.3.3 Not disclosed to anyone other than individuals providing the treatment, provided that the records can be personally reviewed by a physician or other appropriate professional of the student's choice. (For the purpose of this definition, "treatment" does not include remedial educational activities or activities which are part of the program of instruction within the school district.)
- 2.2.1.4 Records which contain only information relating to a person and which were obtained after he or she is no longer a student in District 196.
- 2.2.1.5 Special education records as defined in Procedure 505.3.1P, Public Notice - Annual Notification of Rights, Protection and Privacy of Student Records.
- 2.3 "Eligible student" means a District 196 student who is 18 years of age or older.
- 2.4 "Legitimate educational interest" includes interests directly related to classroom instruction, teaching, student achievement and progress, student discipline, and student health and welfare.
- 2.5 "Parent" includes a parent, a guardian or an individual acting as a parent of a student in the absence of a parent or guardian. The district may presume the parent has the authority to exercise the rights inherent in the applicable law and set out in this policy unless it has been provided with evidence that there is a state law or court order governing such matters as divorce, separation or custody, or a legally binding instrument which provides to the contrary.
- 2.6 "Personally identifiable" means the data or information includes: (a) the name of a student, the student's parents or other family members, (b) the address of the student, (c) a personal identifier, such as the student's social security number or student number, (d) a list of personal characteristics which would make the student's identity easily traceable or (e) other information which would make the student's identity easily traceable.
- 2.7 "Record" means any information or data recorded in any medium, including, but not limited to handwriting, print, tapes, film, microfilm and microfiche, computer disk or compact disc.
- 2.8 "Responsible authority" means the superintendent of schools or designee.
- 2.9 "Student" includes any individual on whom the school district maintains educational records.
- 2.10 "Summary data" means statistical records and reports derived from data on individuals, but in which individuals are not identified and from which neither their identities nor any other characteristic that could uniquely identify an individual is ascertainable.

2.11 All other terms and phrases shall be defined in accordance with applicable law or ordinary custom and usage.

3. Public, Private and Confidential Records

3.1 All records, including education records, are public records, except as limited herein in accordance with applicable law.

3.2 For the purposes of this regulation, "private records" means records which are made not public by state or federal law and which are accessible to the student subject of the data and his or her parents if he or she is not an eligible student.

3.3 For the purposes of this regulation, "confidential records" means records which are made not public by state or federal law and which are inaccessible to the student and his or her parent.

4. Consent

4.1 Prior Consent Required – The district shall obtain the written consent of the parent of a student or the eligible student (using Procedure 505.2.3P, Prior Consent to Release Private Data To or From an Outside Agency/Person) before disclosing personally identifiable information from the education records of a student, other than directory information, except as provided herein.

4.1.1 Consent is not required under this section when the disclosure is to the parent of a student who is not an eligible student or to the student himself or herself.

4.1.2 The written consent required in section 4.1 above must be signed and dated by the parent of the student or the eligible student giving the consent, and shall include a specification of the records to be disclosed, the purpose or purposes of the disclosure and the party or class of parties to whom the disclosure may be made.

4.2 Prior Consent Not Required – The school district may disclose personally identifiable information from the education records of a student without the written consent of the parent of the student or the eligible student unless otherwise provided herein and if the disclosure is:

4.2.1 To school officials with legitimate educational interests who are: persons employed by the school as an administrator, supervisor, instructor, or support staff members; a person serving on the School Board; a person or company with whom the school has contracted to provide a service instead of using its own employees or officials including the school district's insurer or an authorized volunteer. Legitimate educational interests include those directly related to the school official's professional responsibilities for classroom instruction, teaching, assessment and research, student achievement and progress, student discipline and student health or welfare or other legitimate professional responsibilities;

4.2.2 To officials of other schools or school districts in which the student seeks or intends to enroll. (This provision shall serve as notice that the district forwards education records, including disciplinary records, on request to a school in which a student seeks or intends to enroll, and that the district will not further notify parents or eligible students prior to such a transfer. Upon request, the district will provide the parent or eligible student with a copy of the education records which have been transferred and provide an opportunity to utilize the provisions of this regulation to challenge the content of these records.);

4.2.3 To authorized representatives of federal authorities as provided by U.S.C. Section 1232(g), including the Comptroller General, the Attorney General, the Department of Education and the Department of Agriculture, and the commissioner of the Minnesota Department of Education;

4.2.4 In connection with financial aid which a student has applied for or received;

- 4.2.5 To state and local officials or authorities to whom such information is specifically required to be reported or disclosed by state statute prior to November 19, 1974;
- 4.2.6 To organizations or individuals conducting studies for, or on behalf of educational agencies or institutions for the purpose of developing, validating or administering predictive tests, administering student aid programs or improving instruction; provided that the studies are conducted in a manner which will not permit the personal identification of students and their parents by individuals other than representatives of the organization that have legitimate interests in the information and the information will be destroyed when no longer needed for the purposes for which the study was conducted. The term "organization" includes, but is not limited to, federal, state and local agencies, independent organizations and individuals. Individuals and organizations shall present their research plans, in writing, in advance to the appropriate personnel as described in Administrative Regulation 801.9AR, Use of Students, Employees and/or District Data for Research;
- 4.2.7 To accrediting organizations in order to carry out their accrediting functions;
- 4.2.8 To parents of a dependent student, as defined in Section 152 of the Internal Revenue Code of 1986;
- 4.2.9 To comply with a judicial order or lawfully issued subpoena provided that the district makes a reasonable effort to notify the parent of the student or the eligible student of the order or subpoena in advance of compliance, or without notifying the parent if the order is issued related to court proceedings involving child abuse and neglect or child dependency matters and the parent is a party to those proceedings;
- 4.2.10 To appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals. Factors to be considered in determining disclosure include:
 - 4.2.10.1 The seriousness of the threat to the health or safety of the student or other individuals;
 - 4.2.10.2 The need for the information to meet the emergency;
 - 4.2.10.3 Whether the parties to whom the information is disclosed are in a position to deal with the emergency;
 - 4.2.10.4 The extent to which time is of the essence in dealing with the emergency, and
 - 4.2.10.5 As otherwise permitted by law, and
- 4.2.11 To a caseworker, state or local child welfare representative, or tribal organization that has a right to access the student's case plan, when the agency or organization is legally responsible for the child's care and protection, and only to the extent that the information will be disclosed by the agency or organization in a manner that is consistent with the law.
- 4.3 Whenever a student has attained 18 years of age, the rights accorded to and the consent required of the parent of the student shall thereafter only be accorded to and required of the eligible student.
5. **Release of Directory Information (Administrative Regulation 505.2.4AR)** – Directory information is public as follows:

- 5.1 Former Students – The district may disclose directory information from the education records generated by it regarding an individual who is no longer in attendance in the district.
- 5.2 Present Students – The district may disclose directory information from the education records of a student without the prior written consent of the parent of the student or eligible student, except as provided in this regulation. Prior to such disclosure the district shall:
 - 5.2.1 Give public notice in a newspaper of general circulation of the categories of personally identifiable information it has designated as directory information (Procedure 505.3.2P, Public Notice - Directory and Yearbook Information);
 - 5.2.2 Allow a reasonable period of time after such notice has been given for a parent to inform the district in writing that any or all the information so designated should not be disclosed without the parent's prior written consent, except to the officials or agencies outlined in section 4 above.
6. **Procedure for Obtaining Non-disclosure of Directory Information** – The parent's written notice (Procedure 505.2.4.3P, Denial of Release of Directory and Yearbook Information) shall be directed to the responsible authority or designee (Student Information) and shall include the following:
 - 6.1 Name of student;
 - 6.2 Home address;
 - 6.3 School presently attended by student;
 - 6.4 Parent's legal relationship to student, and
 - 6.5 Specific categories of directory information to be made not public without the parent's prior written consent. (A parent/guardian may not prevent the disclosure of a student's name, identifier or institutional email address in a class in which the student is enrolled or from wearing, disclosing or displaying a student ID badge.)
7. **Request for Destruction of Special Education Records**
 - 7.1 District 196 Data Privacy Regulations and Procedures comply with Volume 34, Code of Federal Regulation, Section 300.624 by indicating that special education records are no longer needed to provide educational services after graduation from high school or when the student ages out of eligibility for special education services if the student was not graduated from high school.
 - 7.2 Former students who are subjects of special education data or who would like to know if they are the subjects of special education data should contact the special education office by calling 651-423-7629 or by writing to the Director of Special Education, 3455 153rd Street West, Rosemount, MN 55068-4946.
 - 7.3 Full procedures for requesting destruction of special education data are described in Procedure 505.3.1P, Public Notice - Annual Notification of Rights, Protection and Privacy of Student Records, published annually in the district's official newspaper.
8. **Disclosure of Private Records**
 - 8.1 For the purposes of this regulation, "private records" are records which are made not public by state or federal law and which are accessible only to the student subject of the data and his or her parents if he or she is not an eligible student. The district may not disclose private records or their contents, except as summary data and except as provided in section 4 above, without the prior written consent of the parent. Private records include:

- 8.1.1 Group test scores (achievement, aptitude, interest, intelligence);
- 8.1.2 Level of achievement (marks, teacher ratings, end-of-year report);
- 8.1.3 Student health records (medical, appraisal, routine hearing and vision screening, nurses' comments);
- 8.1.4 Individually administered standardized, intelligence, aptitude and achievement tests (e.g., Peabody Picture Vocabulary, Slossen, Wide Range Achievement Tests, Illinois Test of Psycholinguistic Ability, Bender, Kuder, Strong);
- 8.1.5 Psychological, social workers and counseling reports pertaining to formal personality testing and assessments;
- 8.1.6 Medical reports, other than those routinely obtained for health records, except as provided in section 8.2 below, or
- 8.1.7 Child welfare reports pertaining to free or reduced-price school meals, child custody and non-public court information and administrative reports of verified serious behavioral or criminal incidents unless such reports are made confidential in accordance with state law.

8.2 Private Records Not Accessible to Parent – In certain cases, state law intends and clearly provides that certain information contained in the education records of the district pertaining to a student be accessible to the student alone and to the parent only under special circumstances if at all. Pursuant to Minnesota Statute 626.556, child welfare reports pertaining to abused and battered children shall be accessible to appropriate welfare and law enforcement agencies and the subject individual alone. The district shall not make such reports available to the parent.

- 9. **Disclosure of Confidential Records** – Confidential records are those records (and data within those records) which are made not public by state or federal law and which are inaccessible to the student and his or her parent.
 - 9.1 Records in the possession of the district which include data on a student collected by a civil or criminal investigative agency as part of an active investigation undertaken for the purpose of commencement of a legal action, shall be treated as confidential by the district.
 - 9.2 Confidential Records from Other Agencies – Data on individuals received from outside agencies which is classified confidential in accordance with state or federal law shall be treated as confidential by the district. The burden as to whether the data is properly classified as confidential shall be upon the outside agency which provided it.
- 10. **Limitations on Redisclosure** – Consistent with the requirements herein, the district may only disclose personally identifiable information from the education records of a student on the condition that the party to whom the information is disclosed will not disclose the information to any other party without the prior written consent of the parent of the student or the eligible student, except that the personally identifiable information which is disclosed to an institution, agency or organization may be used by its officers, employees and agents, but only for the purposes for which the disclosure was made.
 - 10.1 Section 9 above does not preclude the district from disclosing personally identifiable information under section 4 above with the understanding that the information will be redisclosed to other parties under that section, provided that the record-keeping requirements of federal law are met with respect to each of those parties.

10.2 The district shall, except for the disclosure of directory information under section 5 above, inform the party to whom a disclosure is made of the requirement set forth in section 10 above.

11. Responsible Authority, Record Security and Record-keeping (Procedure 505.2.9.3P, Annual Building Plan – Security of Student Records)

11.1 Responsible Authority – The responsible authority for the maintenance and security of student records shall be the superintendent of schools or his or her designee.

11.2 Record Security – Subject to the supervision and control of the superintendent:

11.2.1 The principal/coordinator of each school/program, shall manage the records of his or her school or program and shall have the duty of maintaining and securing the privacy and/or confidentiality of student records stored there;

11.2.2 The director of special education shall manage child study records at the District Office and shall have the duty of maintaining and securing the privacy and/or confidentiality of child study records, and

11.2.3 Student Information shall manage the records for all other student records maintained at the District Office and shall have the duty of maintaining and securing the privacy and/or confidentiality of records stored there.

11.3 Principals/program coordinators, the director of special education and Student Information shall submit District Procedure 505.2.9.3P, Annual Building Plan-Security of Student Records, to the superintendent by September 1 of each school year. The written plan shall contain the following information:

11.3.1 Name of person(s) responsible for the security of student records;

11.3.2 Location of student records, by category, in the building;

11.3.3 Means of securing student records, and

11.3.4 Procedures for access and disclosure.

11.4 Record-keeping – The principal/program coordinator, director of special education or Student Information shall, for each request for and each disclosure of personally identifiable information from the education records of a student, maintain a record (Procedure 505.2.9.4.1P, Log of Access to Records or Procedure 505.2.9.4.2P, Log of Access to File) kept with the education records of the student which indicates:

11.4.1 The parties who have requested or obtained personally identifiable information from the education records of the student;

11.4.2 The legitimate interests these parties had in requesting or obtaining the information;

11.4.3 The date of the request, and

11.4.4 Whether the request was granted and, if it was, the date access was permitted or the disclosure was made.

11.4.5 Section 11.4 above does not apply to disclosures to a parent of a student or an eligible student, disclosures pursuant to the written consent of a parent of a student or an eligible student when the consent is specific with respect to the party or parties to whom the disclosure is to be made, disclosures to school officials under section 4.2.1 above or disclosures of directory information under section 5 above.

11.4.6 The record of disclosures may be inspected by the parent of the student or the eligible student, and by the superintendent, the principals/program coordinators, the director of special education and Student Information staff who are responsible for the custody of the records.

12. Right to Inspect and Review Education Records (Procedure 505.2.10P, Parent or Eligible Student Request to Inspect Records and/or Obtain Copies of Educational Records)

12.1 The district shall permit the parents of a student or an eligible student who is or has been in attendance in the district to inspect and review all education records (as defined in section 2.2 of this regulation) of the student (except those records which are made confidential by state or federal law). All education records includes education records kept by teachers, counselors and other school staff members, and education records kept in school offices and district-level records storage. Upon receiving a written request for data (see Procedure 505.2.10P), the district shall comply with a request within 10 days of the date of the request, excluding Saturdays, Sundays and legal holidays.

12.2 The right to inspect and review education records under section 12.1 includes:

12.2.1 The right to a response from the district to reasonable requests for explanations and interpretations of the records, and

12.2.2 The right to obtain copies of the records from the district where failure of the district to provide the copies would effectively prevent a parent or eligible student from exercising the right to inspect and review the education records.

12.3 The district may presume that either parent of the student has authority to inspect and review the education records of the student unless the district has been provided with evidence that there is a legally binding instrument, or a state law or court order governing such matters as divorce, separation or custody, which provides to the contrary.

12.4 Copies of records shall be reproduced at a cost of 25 cents per page for a one-sided copy or 50 cents per page for a two-sided copy. The cost of providing copies shall be borne by the parent or eligible student, except when to do so would impair the ability of the parent or the eligible student to exercise their right to inspect and review those records.

12.4.1 Copying costs shall be waived for families eligible for free or reduced-price school meals.

12.4.2 Parents or eligible students shall request a fee waiver in writing.

13. Request to Amend Records: Procedures to Challenge Data

13.1 Request to Amend Education Records (Procedure 505.2.11P, Request to Amend Educational Records) – The parent of a student or an eligible student who believes that information contained in the education records of the student is inaccurate, misleading, incomplete or violates the privacy or other rights of the student may request that the district amend the records by completing Procedure 505.2.11P.

13.1.1 The superintendent or designee shall decide whether to amend the education records of the student in accordance with the request within a reasonable period of time of receipt of the request, not to exceed 30 days (Procedure 505.2.11.1P, Responsible Authority's Notice of Modification or Denial of Amendment of Educational Records).

- 13.1.2 If the superintendent or designee decides to refuse to amend the education records of the student in accordance with the request, he or she shall so inform the parent of the student or the eligible student of the refusal and advise the parent or the eligible student of the right to a hearing under Section 13.2 below.
- 13.1.3 If the superintendent or designee decides to amend the education records, the district shall attempt to notify past recipients of the data, including recipients named by the requestor.
- 13.2 Request for Hearing (Procedure 505.2.11.2P, Request for Hearing) – The district shall, on request, provide an opportunity for a hearing in order to challenge the content of a student's education records to insure that information in the education records of the student is not inaccurate, misleading, incomplete or otherwise in violation of the privacy or other rights of students. The hearing shall be conducted in accordance with section 13.3 below.
 - 13.2.1 If, as a result of the hearing, the district decides that the information is inaccurate, misleading, incomplete or otherwise in violation of the privacy or other rights of students, it shall amend the education records of the student accordingly and so inform the parent of the student or the eligible student in writing and attempt to also notify past recipients of the data.
 - 13.2.2 If, as a result of the hearing, the district decides that the information is not inaccurate, misleading, incomplete or otherwise in violation of the privacy or other rights of students, it shall inform the parent or eligible student of the right to place in the education records of the student a statement commenting upon the information in the education records and/or setting forth any reason for disagreeing with the decision of the agency or institution.
 - 13.2.3 Any explanation placed in the education records of the student under section 13.2.2 shall:
 - 13.2.3.1 Be maintained by the district as part of the education records of the student as long as the record or contested portion thereof is maintained by the district, and
 - 13.2.3.2 If the education records of the student or the contested portion thereof is disclosed by the district to any party, the explanation shall also be disclosed to that party.
- 13.3 Conduct of Hearing
 - 13.3.1 The hearing shall be held within a reasonable period of time after the district has received the request, not to exceed 45 days, and the parent of the student or the eligible student shall be given notice of the date, place and time reasonably in advance of the hearing.
 - 13.3.2 The hearing may be conducted by the superintendent or other designated representative of the School Board who has no direct interest in the outcome of the hearing. The school district's attorney shall be in attendance to present the district's position and to advise the superintendent or designated representative on legal and evidentiary matters.
 - 13.3.3 The parent of the student or eligible student shall be afforded a full and fair opportunity at the hearing to present evidence relevant to the issues raised under sections 13.1 and 13.2 above and may be assisted by individuals of his or her choice at his or her own expense, including an attorney.
 - 13.3.4 The superintendent or designated representative shall make his or her decision in writing in a reasonable period of time after the conclusion of the hearing. The decision shall be based solely on evidence presented at the hearing and shall include a summary of evidence and reasons for the decision.

- 13.3.5 The decision of the superintendent or designated representative shall be the final decision of the district.
- 13.4 Appeal – The decision of the superintendent (responsible authority) or designated representative may be appealed in accordance with the applicable provisions of the State Administrative Procedures Act, Minnesota Statute, Chapter 14, relating to contested cases.
14. **Complaints for Non-compliance** – Complaints regarding alleged violations of rights accorded parents and eligible students by 20 U.S.C. section 1232 (g) shall be submitted in writing to the Family Policy Compliance Office, U.S. Department of Education, 400 Maryland Avenue, SW, Washington, D.C. 20202 8520.
15. **Waiver** – A parent or eligible student may waive any of his or her rights provided herein pursuant to 20 U.S.C. Section 1232 (g). A waiver shall not be valid unless in writing and signed by the parent or eligible student. The school district may not require such a waiver.
16. **Annual Notification of Rights (Procedure 505.3.1P, Public Notice – Annual Notification of Rights, Protection and Privacy of Student Records)**
- 16.1 The district shall give parents of students in attendance or eligible students in attendance annual notice by such means as are reasonably likely to inform them of the following:
- 16.1.1 Their rights under 20 U.S.C. Section 1232 (g) and 45 Code of Federal Regulation Part 99; the policy adopted under 45 Code of Federal Regulation Section 99.5 and the Minnesota Data Privacy Act. The notice shall also inform parents of students or eligible students of the location where copies of the policy may be obtained, and
- 16.1.2 The right to file complaints under 45 Code of Federal Regulation Section 99.63 concerning alleged failures by the district to comply with the requirements of 20 U.S.C. Section 1232 (g).
- 16.2 The district shall provide for the need to effectively notify parents of students identified as having a primary or home language other than English.
17. **Destruction and Retention of Records** – The destruction and retention of records by the district shall be controlled by state and federal law.

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- References:**
- Minnesota Statutes 13.01-13.90, Minnesota Government Data Practices Act
 - 20 U.S.C. § 1232g et seq., Family Educational Rights and Privacy Act (FERPA)
 - 20 U.S.C. § 6301 et seq., Elementary and Secondary Education Act
 - Administrative Regulation 505.2.4AR, Release of Directory Information
 - 34 CFR 300.624, Destruction of information
 - 26 U.S.C. 152, Dependent defined
 - 45 CFR Part 99, Procedure for hearings for the child care and development fund