

**FAMILY EDUCATIONAL RIGHTS & PRIVACY ACT (FERPA) OF 1974 – &
MANAGEMENT OF STUDENT RECORDS**

DEFINITIONS (§ 99.3, 20 U.S.C. 1232g)

For the purposes of this policy, the following definitions apply:

Biometric Record: is defined as a record of one or more measurable biological or behavioral characteristics that can be used for automated recognition of an individual. Examples include fingerprints, retina and iris patterns, voiceprints, DNA sequence, facial characteristics, and handwriting.

Directory Information: Information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed, such as but not limited to student's name, address, telephone listing, and electronic mail address; photographs, videos, and electronic images; date and place of birth, grade level, enrollment status, dates of attendance, major field of study; participation in officially recognized activities, sports, and clubs; weight and height of athletes; degrees and awards received; and most recent previous educational institution attended; student ID number, user ID, or other unique personal identifier used by the student for purposes of accessing or communicating in electronic systems, but only if the identifier cannot be used to gain access to education records. (20 U.S.C. 1232g(a)(5)(A))

Eligible Student or Appropriate Student: A student who has attained 18 years of age, or is married, or is attending an institution or post-secondary education.

Education Records: Records directly related to a student and maintained by this school district or by a party acting on behalf of the District. (20 U.S.C. 1232g(a)(4))

Electronic/Video Surveillance: means video/digital components of multi-media surveillance systems, including but not limited to, cameras, recording units, tapes, CD/DVDs, camera phones, tablets, etc. All electronic surveillance shall be limited to video without recording sound so as to prevent any violation of Idaho wiretapping statutes.

Law Enforcement Unit: is an individual, office, department, division, or other component of this school district, such as a unit of commissioned police officers or noncommissioned security guards, that is officially authorized or designated by this school district to (1) enforce any federal, state or local law, or refer to appropriate authorities a matter for enforcement of any law against any individual or organization, other than the school district; or (2) maintain the physical security and safety of schools in the district.

Legitimate Educational Interest: is defined as the performance of education- or discipline-related tasks in connection with a student, providing educational services to a student or a student's family, or performing administrative or other educational responsibilities prescribed by the school

or the district. 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 duties.

Parent, Noncustodial Parent, & Surrogate Parent: Includes a natural parent, guardian, or an individual acting in the absence of a parent or a guardian, who is providing the student with food, clothing, discipline, and guidance on a day-to-day basis in the home environment.

Mountain Home School District No. 193 (MHSD) shall give full rights under the Act to either parent including a noncustodial parent, unless the district has been provided with evidence that there is a court order, State Statute, or legally binding document relating to such matters as divorce, separation, or custody that specifically revokes these rights. (20 U.S.C. 1232g)

In addition to the definition of “parent” found in FERPA, surrogate parents are also defined as “parent” for purposes of reviewing education records. The IDEA further broadens the definition of “parent” to individuals acting in the place of a parent or legal guardian, such as a grandparent or stepparent with whom the child lives.

School Official: Any person employed by the District in administrative, counseling, supervisory, academic/instruction, and the support staff to those positions (including health or medical staff, and law enforcement unit personnel); a person serving on the Board; a person or company with whom the District has outsourced services or functions it would otherwise use its own employees to perform (such as attorney, auditor, medical consultant, or therapist); or a parent(s)/guardian(s) or student serving 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/her tasks. (20 U.S.C. 1232g)

Student: means any individual who is attending or who has attended any schools within the school district.

Personally Identifiable Information (PII): Includes, but is not limited to the name of student/parent/other family member(s); the address of the student or his/her family; personal identifier such as social security number, student number, or biometric record; student's date of birth, place of birth, and mother's maiden name; list of personal characteristics, or other information that would make the student's identity easily traceable. (20 U.S.C. 1232g)

Disclosure: Permit access to or the release, transfer, or other communication of personally identifiable information contained in education records to any party by any means, including oral, written, or electronic. (20 U.S.C. 1232g(b)(1) and (b)(2))

IMPLEMENTATION OF FERPA

The Family Educational Rights and Privacy Act (FERPA) has specified that student records are confidential, with some exceptions. Parents and eligible students (students over the age of eighteen (18)) will be provided an annual notification of their rights under FERPA. The annual notice, published on the school district website, will contain information regarding, and within 45-days of a written request, the right to inspect their children's records, the right to seek an amendment of a

record, the right to consent to disclosures of personally identifiable information, with certain exceptions, and the right to file a complaint with the U. S. Department of Education.

ANNUAL NOTIFICATION REQUIREMENTS

The district will provide parents and eligible students annual notification of their rights under Family Educational Rights and Privacy Act (FERPA). The annual notice will contain information regarding the right to inspect their children’s records, the right to seek an amendment of a record, the right to consent to disclosures of personally identifiable information (PII), with certain exceptions, and the right to file a complaint with the U.S. Department of Education.

EDUCATIONAL RECORDS

Educational records include, but are not limited to, the cumulative file, special education records, and disciplinary records.

Educational records do not include records that are kept in the sole possession of the maker of the record, are used as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record. Education records do not include emails, unless the emails have been printed off and are maintained in a student’s education record.

The cumulative file of each student is maintained at the building level for this school district. The building principal, individual teachers, and special education personnel may also have a file containing particular educational records.

A non-custodial parent’s access to records and information pertaining to his or her minor child will not be denied solely because the parent is not the child’s custodial parent unless a school is provided with evidence that there is a court order or State law that specifically provides to the contrary. However, information concerning a minor child’s address will be deleted from all records supplied to a non-custodial parent if the custodial parent has advised the school district in writing to do so. (IC 32-717A)

Names, addresses, and telephone numbers of secondary school students will be provided to military recruiters, as required by Federal Law, or an institution of higher education upon request, unless the parent, or eligible student, denies access. (§ 544 National Defense Authorization, Oct 2002; P.L. 107-107)

RETENTION AND DESTRUCTION OF EDUCATIONAL RECORDS

It is the policy of Mountain Home School District to assure the provisions of FERPA are adhered to. FERPA permits the school to destroy such records without notice to the parent. To facilitate implementation of this policy, procedures for the management of student records have been established. These procedures are available to all patrons, students, and school district employees.

The District will perpetually maintain a permanent record for each student including, but not limited to the following: the student’s basic identifying data, name, address, phone number, grades,

classes attended, immunization records, test scores, attendance records, grade level, and year completed, academic transcripts, intelligence and aptitude scores, psychological reports, achievement test results, participation in extracurricular activities, honors and awards, special education files, teacher anecdotal records, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche, verified reports or information from non-educational persons, verified information of clear relevance to the student's education, information pertaining to release of this record, disciplinary information, interest inventory results, health data, family background information, teacher or counselor ratings and observations. Additional information contained in the record may be destroyed or redacted after a period of at least five (5) years after the student dis-enrolls from the district if appropriate. The permanent record may be kept in any format and medium determined feasible by the board. (20 U.S.C. 1232g)

Written records of individual students are confidential and will be shredded or destroyed as appropriate under supervision of the staff member responsible for the records. The records manager will maintain a log that documents the date of destruction of any educational records.

RIGHT TO INSPECT EDUCATIONAL RECORDS (20 U.S.C. 1232g(b)(1) and (b)(4)(A))

The following parties may inspect the record relating to each student, with the exception of parties seeking directory information: the parent or eligible student; school officials or designees who are responsible for the custody of the records; those parties authorized for the purposes of auditing the recordkeeping procedures of the educational agency or institution. (20 U.S.C. 1232g(b)(1) and (b)(4)(A))

Parents or eligible students may inspect, review, or copy the student's educational records-within a reasonable time of the day the District/School receives a request for access. Parents/guardians or students should submit to the school principal (or appropriate school official) a written request that identifies the record(s) they wish to inspect. The principal will make arrangements for access and notify the parent(s)/guardian(s) or eligible student of the time and place where the records may be inspected. This School or District will comply with a request for access to records within a reasonable period of time, but in no case more than forty-five (45) calendar days after it has received the request. The School or District will respond to reasonable requests for explanations and interpretations of the records.

If circumstances effectively prevent the parent or eligible student from exercising the right to inspect and review the student's education records, MHSB shall provide the parent or eligible student with a copy of the records requested; or make other arrangements for the parent or eligible student to inspect and review the requested records.

The school district may disclose an education record of a student in attendance to another educational agency or institution if the student is enrolled in or receives services from the other agency or institution. (20 U.S.C. 1232g(b)(1)(B))

Federal or State authorized representatives of the officials or agencies may have access to education records 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. Information that is collected must be protected in a manner that does not permit personal identification of individuals by anyone other than the officials or agencies; be destroyed when no longer needed; this does not apply if the parent or eligible student has given written consent for the disclosure or the collection of personally identifiable information is specifically authorized by Federal law. (20 U.S.C. 1232g(b)(3))

The District may charge a nominal fee for copying, but no one will be denied their right to copies of their records for inability to pay this cost. (20 U.S.C. 1232g(a)(1))

The District will not destroy any educational records if there is an outstanding request to inspect and review the records. (20 U.S.C. 1232g(a)(1) (A) and (B))

Under FERPA, a school is not required to provide information that is not maintained or to create education records in response to a parent's request. Accordingly, a school is not required to provide a parent with updates on his or her child's progress in school unless such information already exists in the form of an education record.

PARENTAL & NONCUSTODIAL PARENT RIGHTS DISCLOSURE (20 U.S.C. 1232g)

Under FERPA and state law (I.C. 32-717A), both parents, including the non-custodial parent, are given full rights, unless the school district has been provided with evidence that there is a court order, State Statute, or legally binding document relating to such matters as divorce, separation, or custody that specifically revokes these rights. The rights contained in this section are denied to any person against whom an order of protection has been entered concerning a student. (20 U.S.C. 1232g)

A noncustodial parent's access to records and information pertaining to his or her minor child will not be denied solely because the parent is not the child's custodial parent. However, information concerning a minor child's home address will be deleted from all records supplied to a noncustodial parent if the custodial parent has advised the district in writing to do so.

PERSONALLY IDENTIFIABLE INFORMATION (PII) (34 CFR § 99.31)

PII includes, but is not limited to:

1. The student's name;
2. The name of the student's parent or other family members;
3. The address of the student or student's family;
4. A personal identifier such as the student's social security number, student number, or biometric record;
5. Other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name;

6. A list of personal characteristics that would make the student’s identification easily traceable; or
7. Other information that would make the student’s identity easily traceable.

RELEASE OF INFORMATION WITHOUT PRIOR CONSENT (34 CFR § 99.31)

The school district will not disclose personally identifiable information (PII) from an educational record without the prior written consent of the parent or eligible student, except under specific circumstances and when the disclosure is for the following purposes:

1. To teachers or other school officials who have a legitimate educational interest.
2. To officials of another school, school system, or institution of post-secondary education where the student seeks or intends to enroll or where the student is enrolled. MHSD may disclose an education record of a student in attendance to another educational agency or institution if the student is enrolled in or receives services from the other agency or institution. (20 U.S.C. 1232g(b)(1)(B))
3. To authorized representatives of federal, state, and local educational authorities; the Comptroller General of the United States; the Attorney General of the United States; the Secretary; in connection with audit or evaluation of federal- or state-supported education programs, or for the enforcement of or compliance with federal legal requirements related to those programs.
4. In connection with financial aid for which the student has applied, or which the student has received. (20 U.S.C. 1232a(b)(1)(D))
5. State and local officials or authorities to whom this information is specifically allowed to be reported or disclosed if the allowed reporting or disclosure concerns the juvenile justice system and the system's ability to effectively serve the student whose records are released.
6. To an agency caseworker or other representative of a state or local child welfare agency, or tribal organization, when the state or tribal organization is legally responsible for the care and protection of the student.
7. To organizations conducting studies, for or on behalf, of the district to develop, validate, or administer predictive tests, administer student aid programs, or improve instruction. developing tests, validating, or administering student aid programs, and improving instruction; the study is conducted in a manner that does not permit personal identification of parents and students by individuals other than representatives of the organization that have legitimate interests in the information.
 - a. The information is destroyed when no longer needed for the purposes for which the study was conducted.

- b. The school district enters into a written agreement with the organization that specifies the purpose, scope, and duration of the study or studies and the information to be disclosed.
 - c. Requires the organization to use personally identifiable information from education records only to meet the purpose or purposes of the study as stated in the written agreement.
 - d. Requires the organization to conduct the study in a manner that does not permit personal identification of parents and students, by anyone other than representatives of the organization with legitimate interests.
 - e. Requires the organization to destroy or return to the school district all personally identifiable information when the information is no longer needed for the purposes for which the study was conducted, and specifies the time period in which the information must be returned or destroyed.
8. To accrediting organizations to carry out their accrediting functions.
9. To parents of an eligible student if the student is a dependent for Internal Revenue Service (IRS) tax purposes.
10. To comply with a judicial order or lawfully issued subpoena, provided that the school district makes a reasonable effort to notify the parent or eligible student of the order or subpoena in advance of compliance so that the parent or eligible student may seek protective action. However, the prior notification requirement does not apply where the subpoena is issued by a federal grand jury or for any law enforcement purpose and the issuing court or agency has ordered that the subpoena not be disclosed; if the school district initiates legal action against a parent or student, the school district may disclose to the court, without a court order or subpoena, the education records of the student that are relevant for the school district to proceed with the legal action as plaintiff; if a parent or eligible student initiates legal action against the school district, the school district may disclose to the court, without a court order or subpoena, the student's education records that are relevant for the school district to defend itself.
 - a. A party that receives a court order or lawfully issued subpoena and re-discloses personally identifiable information from education records on behalf of MHSB in response to that order or subpoena under §99.31(a)(9) must provide the notification required under §99.31(a)(9)(ii). (20 U.S.C. 1232g(b)(4)(B))
11. To appropriate officials in connection with a health or safety emergency.
12. Information that this district has designated as “directory information.”
13. To the parent of a student under 18, or to the student, if 18 or older to include a non-custodial parent.

14. To a contractor, consultant, volunteer, or other party to whom the District has outsourced institutional services or functions may be considered a school official under this paragraph provided that the outside party performs an institutional service or function for which the District would otherwise use employees; is under the direct control of the agency or institution with respect to the use and maintenance of education records; and is subject to the requirements of §99.33(a) governing the use and re-disclosure of personally identifiable information from education records. (20 U.S.C. 1232g(b)(1)(D))
 - a. An educational agency or institution must use reasonable methods to ensure that school officials obtain access to only those education records in which they have legitimate educational interests. An educational agency or institution that does not use physical or technological access controls must ensure that its administrative policy for controlling access to education records is effective and that it remains in compliance with the legitimate educational interest requirement in paragraph (a)(1)(i)(A) of this section.
 - b. This does not prevent the District from disclosing personally identifiable information with the understanding that the party receiving the information may make further disclosures of the information on behalf of the school district.

15. The school district, having received education records or information from education records, may release de-identified student level data from education records for the purpose of education research by attaching a code to each record that may allow the recipient to match information received from the same source, provided that if the school district releases de-identified data does not disclose any information about how it generates and assigns a record code, or that would allow a recipient to identify a student based on a record code; the record code is used for no purpose other than identifying a de-identified record for purposes of education research and cannot be used to ascertain personally identifiable information about a student; and the record code is not based on a student's social security number or other personal information. (20 U.S.C. 1232g(a)(5)(A), (b), (h), (i), (j))
 - a. The disclosure concerns sex offenders and other individuals required to register under section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. 14071, and the information was provided to MHSD under 42 U.S.C. 14071 and applicable Federal guidelines.
 - b. De-identified records and information – The school district, having received education records or information from education records, may release the records or information without the consent required by §99.30 after the removal of all personally identifiable information provided that the school district has made a reasonable determination that a student's identity is not personally identifiable, whether through single or multiple releases, and taking into account other reasonably available information;

****Parents and eligible students may not, by opting out of directory information, prevent an LEA or school from requiring a student to wear or present a student ID or badge.

ACCESS LOG

A record of each request for access to and each disclosure of PII from the educational record of each student will be maintained in the student's educational records using the Access Log Form. This access log will be maintained with the student's educational records as long as the records are maintained. The access log will specify the individuals who have requested or received personally identifiable information from the educational records and the legitimate educational interest the parties had in requesting or obtaining the information. If the information was released without prior parental consent, the specific exception for such consent will also be set forth.

A record will not be kept when a student's record is accessed by the parent or eligible student or a school official with legitimate educational interest, a written consent has been received from the parent or eligible student, a request is received for directory information only, or the district is ordered to not disclose the request for records.

DIRECTORY INFORMATION (20 U.S.C. 1232g(a)(5)(A))

Directory information includes, but is not limited to:

1. Student name;
2. Address;
3. Telephone listing;
4. Electronic mail address (e-mail);
5. Photographs, Videos, and Electronic Images;
 - a. Student photos and names can be considered directory information by themselves, but when combined they create the potential to violate FERPA and State Law.
 - b. Student photos in combination with other PII, such as the student's name, class, subject, etc., MAY NOT be used by the school district for publication on the District or school's website if a reasonable person in the school community, who does not have a personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.
 - Avoid the use of any photos that can identify individual students. A safe compromise is to only use photos taken from behind students.
 - If a student(s) photo must be used, don't use the student's name in the file name and don't refer to the student by name, even their first name, in the caption under the photo or in the post.
 - Names, especially full names, should not be used, and if they are, the names need to be kept separate from the images.

- c. Student photos in combination with other PII MAY be used for school publications such as the yearbook, awards pamphlets, student achievement and recognition, and community relations, but not published on the website.
 - d. Video recordings of the student in common areas by electronic surveillance, recorded for the purpose of maintaining the physical security and safety of the school; to the extent electronic surveillance video recordings exist, they may be a public record or may become an education record pursuant the District’s Video Surveillance Policy. The District reserves the right to edit, including concealing identities, any electronic surveillance recordings to comply with applicable state and federal law prior to any release or disclosure.
 - e. None of the above apply to local newspaper agencies.
6. Date and place of birth;
 7. Major field of study;
 8. Grade level;
 9. Enrollment status;
 10. Participation in officially recognized activities such as sports;
 11. Weight and height of members of athletic teams;
 12. Dates of attendance;
 13. Degrees, honors, and awards received;
 14. The most recent previous school, school district, or institution attended; and
 15. A student identification number, user identification, or other unique personal identifier, but only if the identifier cannot be used to access education records. student ID number, user ID, or other unique personal identifier used by the student for purposes of accessing or communicating in electronic systems, but only if the identifier cannot be used to gain access to education records.

DISCLOSURE OF DIRECTORY INFORMATION (20 U.S.C. 1232g(a)(5)(A)(B))

This district may disclose directory information without prior written consent after giving public notice annually to parents of students in attendance and eligible students in attendance that:

1. All information in the definition of directory information as set forth in this policy has been designated as directory information by this district.
2. A parent or eligible student has the right to refuse to allow this district to designate any or all of the types of information about the student as directory information, except that the

- district cannot be prevented from disclosing or requiring a student to disclose the student's name, identifier, or email address in a class in which the student is enrolled, or prevent the district from requiring a student to wear, to display publicly, or to disclose a student identification card or badge that contains directory information.
3. A parent or eligible student must notify MHSD in writing, or use the REQUEST OF NON-DISCLOSURE OF DIRECTORY INFORMATION FORM that the parent or eligible student does not want any or all of those types of information about the student released within thirty (30) calendar days after receiving notice, which is published annually in the local newspaper in the month of July or August and permanently published on the school district website, that directory information may be disclosed.
 4. Federal Law requires that the District will provide, on a request made by military recruiters or an institution of higher education, access to secondary school students' names, addresses, and telephone listings unless a parent or secondary school student requests, in writing, that the student's name, address, and telephone listing not be released without prior written parental consent.
 5. If reporting or disclosure allowed by State statute concerns the juvenile justice system and the system's ability to effectively serve, prior to adjudication, the student whose records are released, this school district may disclose education records under §99.31(a)(5)(i)(B).
 - a. The officials and authorities to whom the records are disclosed shall certify in writing to MHSD that the information will not be disclosed to any other party, except as provided under State law, without the prior written consent of the parent of the student. (20 U.S.C. 1232g(b)(1)(J))
 6. Disclosure is also permitted without consent to any person for research and statistical reporting or planning provided that no student or parent(s)/guardian(s) can be identified; to any person named in a court order; to appropriate persons if the knowledge of such information is necessary to protect the health or safety of the student or other persons.

The district may disclose directory information about former students without notice. However, the district will continue to honor any valid request to opt-out of the disclosure of directory information made while a student was in attendance unless the student rescinds the opt-out request.

NON-COMPLIANCE

A parent or eligible student has the right to file a written complaint with the U.S. Department of Education concerning alleged failures by the school district to comply with the requirements of FERPA. The name and address of the office that administers FERPA is:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, DC 20202-5901

PROCEDURE TO AMEND RECORDS (§ 99.20)(20 U.S.C. 1232g(a)(2))

If a parent or eligible student believes that the educational records relating to the student contain information that is inaccurate, misleading, or in violation of the student's right of privacy, they may seek to amend the record in writing, by clearly identifying the part of the record they want changed and specify why it should be changed. The right to seek amendment or to challenge school student records does not apply to: (1) academic grades of their child, and (2) references to expulsions or out-of-school suspensions, if the challenge is made at the time the student's school student records are forwarded to another school to which the student is transferring, or(3) an individual's opinion (unless the grade or the opinion has been inaccurately recorded) or the school district's decision to create or maintain particular education records. When a request to amend educational records is received, it will be in writing and the following procedure will be followed:

Review Process

1. Within thirty calendar (30) days of receiving the written request to amend the record, MHSD, through its designee, will determine whether the information contained in a record is inaccurate, misleading, or in violation of the student's right of privacy. If the District determines that the requested amendment is appropriate, it will correct the record and provide written notice of the changes to the parent or eligible student. (20 U.S.C. 1232g(a)(2))
2. If the District determines that the information in the student's education record is not inaccurate, misleading, or in violation of the student's right of privacy, it will inform the parent or eligible student, in writing, of its decision and the reasons why it denied the request to amend the record, and the right to a hearing. (20 U.S.C. 1232g(a)(2))

Hearing Process (20 U.S.C. 1232g(a)(2))

1. The parent or eligible student, on request, has an opportunity for a hearing to challenge the contents of the student's educational records on the grounds that the information contained in the educational records is inaccurate, misleading, or in violation of the privacy rights of the student.
2. The District will hold the requested hearing within thirty (30) school days after it receives a request for the hearing. Notice of the date, time, and place will be given to the parent or eligible student at least ten (10) school days prior to the hearing.
3. Any individual, including a district employee who does not have a direct interest in its outcome, may conduct the hearing. The parent or eligible student will be given a full and fair opportunity to present evidence relevant to the issues raised at the hearing. The parent or eligible student may, at their own expense, be assisted or represented by an individual of his or her own choice, including an attorney.
4. The individual conducting the hearing is not bound by common law or by the rules of evidence. Evidence will be admitted and given weight only if it is the kind of evidence which reasonable persons are accustomed to rely on in the conduct of serious affairs.

5. The hearing officer will make his/her decision in writing within fourteen (14) school days after the close of the hearing. The decision will be based solely on the evidence presented at the hearing and will include a summary of the evidence and the reasons for the decision. The hearing officer's decision will be the final decision of the District.
6. If the hearing officer concludes that the information being contested is inaccurate, misleading, or otherwise in violation of the privacy rights of the student, the District will amend the records at issue and inform the parent or eligible student of the amendment in writing.
7. If the hearing officer concludes that the information in the educational record is not inaccurate, misleading, or otherwise in violation of the privacy rights of the student, the District will inform the parent or the eligible student of the right to place a statement in the record commenting on the contested information stating why he or she disagrees with the District's decision. If such a statement is received by the District, it will remain as part of the record for as long as the student's record is maintained and the statement will be disclosed whenever the District discloses the portion of the record to which the statement relates. (20 U.S.C. 1232g(a)(2))

LAW ENFORCEMENT UNIT

The district may designate one or more law enforcement units as provided under FERPA. A law enforcement unit may consist of a single individual and need not be a law enforcement officer. All school security records including, but not limited to, school security campus or school bus videotapes, records relating to weapons screening devices, visitor logs, and any records of interviews relating to potential violations of the law may be maintained by the law enforcement unit. These records are not deemed to be educational records.

The district may disclose any law enforcement unit records, files, documents, and other materials pertaining to the investigation of a violation of the law to a law enforcement agency or the Idaho Department of Health and Welfare. The disclosure of such records to a law enforcement agency or the department of health and welfare does not prohibit the use of those records for educational purposes such as student discipline.

MAINTENANCE OF RECORDS (§ 99.32) (20 U.S.C. 1232g(b)(1)(b)(4)(A))

1. Permanent records should be kept in locked files at all times.
2. The School will maintain a record, Access Log, of each request for or disclosure of the education record or of personally identifiable information for each student as well as the names of State and local educational authorities and Federal officials and agencies that may make further disclosures of personally identifiable information from the student's education records without consent under §99.33(b).

- a. This Access Log will be maintained with the educational records of each student as long as the records are maintained. This list will be available for inspection and review by the parent or eligible student upon request.
 - b. The Access Log will specify the individuals who have requested or obtained educational records or personally identifiable information and the legitimate interest the parties had in requesting or obtaining the information including the parents or eligible student.
 - c. The names of the additional parties to which the receiving party may disclose the information on behalf of the school district; and
 - d. The legitimate interests in which each of the additional parties has in requesting or obtaining the information.
 - e. If the information was released without prior parental consent, the specific exception for such consent will also be set forth.
3. MHSD will record the following information when it discloses personally identifiable information (PII) from education records under the health or safety emergency exception in §99.31(a)(10) and §99.36:
- a. The articulable and significant threat to the health or safety of a student or other individuals that formed the basis for the disclosure; and
 - b. The parties to whom the agency or institution disclosed the information.
4. A State, local school district, Federal official, or agency listed in §99.31(a)(3) that makes further disclosures of information from education records under §99.33(b) must record the names of the additional parties to which it discloses information on behalf of the school district or institution and their legitimate interests in the information under §99.31 if the information was received from:
- a. An educational agency or institution that has not recorded the further disclosures under paragraph (b)(1) of this section; or
 - b. Another State or local educational authority or Federal official or agency listed in §99.31(a)(3);
 - c. Upon request of an educational agency or institution, a State or local educational authority, or Federal official or agency listed in §99.31(a)(3) that maintains a record of further disclosures under paragraph (b)(2)(i) of this section must provide a copy of the record of further disclosures to the district within a reasonable period of time not to exceed 30 days.

5. Confidential and personal working files of professionals (school psychologists, social workers, counselors, teachers or substitute teachers, etc.) may be maintained. Personal and confidential files containing working notes, transcripts of interviews, clinical observations and memory aides for their own use in counseling pupils are permissible. Any and all data that is considered to be the personal property of the professional should be in the possession of the professional and used only by that individual. If the individual communicates personal information to a second person, however, it is no longer considered a private record. Evaluation data and/or test outcomes used to qualify students for placement in particular programs shall be available in education records.
6. FERPA does not set forth any time requirements for maintaining educational records.
 - a. The General Education Provisions Act-Enforcement (34 C.F.R. part 81) and the federal regulations for State-Administered Programs (34 C.F.R. part 76) both require that records be retained for at least five years to show compliance with federal requirements. (The Idaho Special Education Manual also requires special education records be retained at least five years.)

TRANSFER OF STUDENT RECORDS (Idaho Code 33-209, 18-4511)

1. It is school district procedure to obtain parental or eligible student consent prior to releasing student records, however, the District will honor requests for transfer of records to schools in which the student seeks or intends to enroll.
2. In connection with the transfer of records to other schools, the District shall make a reasonable effort to notify the parent or eligible student that the record is being transferred unless the parent or eligible student initiated the request for records. Notice of the pending transfer will be sent to the parent's or eligible student's last known address. A copy of material to be transferred shall be made available to the parents or eligible student upon request or within twenty-one (21) calendar days after a request for transfer of such records is received from the other school.
3. Whenever a student transfers from one school to another, within the district, within the state, or elsewhere, and the sending school is requested to forward student records, the sending school shall respond by forwarding a certified copy of the transferred student's record within ten (10) days, except as provided in section 18-4511, Idaho Code.
 - a. When the school record contains information concerning violent or disruptive behavior or disciplinary action involving the student, this information shall be included in the transfer of records but shall be contained in a sealed envelope, marked to indicate the confidential nature of the contents, and addressed to the principal or other administrative officer of the school.
 - b. The parent or guardian of a student transferring from out-of-state to a school within the state of Idaho is required, if requested, to furnish the school within the State of Idaho accurate copies of the student's school records, including records containing

information concerning violent or disruptive behavior or disciplinary action involving the student. This information shall be contained in a sealed envelope, marked to indicate the confidential nature of the contents, and addressed to the principal or other administrative officer of the school.

4. The school district may grant access to student records in order to comply with a judicial order lawfully issued subpoena, provided that the school district makes a reasonable effort to notify the parent of the student or the eligible student of the order or subpoenas in advance of compliance.
5. The school district may grant access to student records in a health or safety emergency.

SPECIAL EDUCATION INCLUDING GIFTED & TALENTED RECORDS

The District recognizes the right of parents of students with disabilities and eligible students with disabilities to inspect and review educational records relating to the student that are collected, maintained, or used by this district.

The District will also comply with a request to inspect and review such records without unnecessary delay, and:

1. In no case more than forty-five (45) calendar days after the request has been made;
2. Before any meeting regarding the student’s individualized education program (IEP);
3. Before any hearing relating to the identification, evaluation, or educational placement of the student or the provision of a free appropriate public education (FAPE) to the student; or
4. Before a resolution session.

The right of parents of students with disabilities and eligible students with disabilities to inspect and review education records includes:

1. The right to a response to reasonable requests for explanations and interpretations of the records;
2. The right to request copies of the records if failure to provide copies would effectively prevent the parent from exercising the right to inspect and review records; and
3. The right to have a representative of the parent inspect and review the records.

When records of individual testing and/or psychological information are received by a school from another school, institution, individual, or agency, the information should be reviewed by appropriate personnel in the school. (IDEA and 34 CFR 300.560–300.577)

The individual test(s) and/or psychological information should then be filed in the Special Education room school office, or as per individual building policy. (IDEA and 34 CFR 300.560–300.577)

If the student required follow-up services or additional psychological testing, then a referral should be initiated and forwarded to appropriate school or district personnel. (IDEA and 34 CFR 300.560–300.577)

In dealing with the educational records of exceptional students with disabilities, the school district will inform parents when personally identifiable information collected, maintained, or used is no longer needed to provide educational services to the child. The information must be destroyed at the request of the parents. However, the school district may maintain a permanent record of the student’s name, address, and phone number, his or her grades, attendance records, classes attended, grade level completed, and year completed without time limitation. (34 CFR 300.573)

RETENTION AND DESTRUCTION OF SPECIAL EDUCATION RECORDS

Educational records will be maintained for at least five (5) years after disenrollment of a student with disabilities from the District. Medicaid-related records, specifically expenditure documentation, cost allocation process, all student records related to the Medicaid billing and service delivery (e.g., data sheets, IEPs, health care plans, physician recommendations for assessments and IEP services, evaluation recommendations, documented supervision of paraprofessionals), and revenue documentation, will be maintained for a period of six (6) years.

The District will inform a parent and/or eligible student when PII collected, maintained, or used is to be destroyed because the information is no longer needed to provide educational services to the student. The parent and/or eligible student must be informed of PII that the district intends to destroy and that the information will be destroyed no earlier than forty-five (45) calendar days from the date of the notice. The parent and/or eligible student must also be informed of the procedure to follow if he or she wishes to formally object to the destruction of the information and wants the records sent to him or her.

Written records of individual students are confidential and will be shredded, destroyed, or redacted as appropriate under supervision of the staff member responsible for the records, if not released to the parent and/or eligible student. The records manager will maintain a log that documents the date of destruction or release of the records.

A permanent record of the student’s name, address, phone number, grades, classes attended, immunization records, test scores, attendance records, grade level, and year completed may be maintained by the district without a time limitation. Any other PII will be destroyed at the request of the parent and/or eligible student if it is older than five (5) years and no longer needed to provide special education. When informing the parent and/or eligible student of his or her rights, the district should remind the parent and/or eligible student that the records might be needed for Social Security benefits or other purposes in the future.

SPECIFIC PROCEDURES FOR RELEASE AND RECEIPT OF SPECIAL EDUCATION RECORDS IN MOUNTAIN HOME SCHOOL DISTRICT

In the case of special education records, psychological reports, permanent record cards, and test scorecards, only duplicate copies of these documents or their contents can be released (mailed, hand-carried, etc.). The originals must stay in the school district in accordance with District procedures.

When a student leaves the Mountain Home School District:

1. During the school year: The parent, guardian, or eligible student may hand-carry the cumulative file, duplicate of the permanent record card, duplicate of the test score card, and transfer sheet (if used).
2. When school is not in session: The parent, guardian, or eligible student may hand-carry the items listed above. If this is not possible or practical, then these items will need to be mailed upon receipt of a properly signed “request” or “authorization” to release information.
3. Special education/individual testing records: No records of individual testing and/or psychological information should be hand-carried by the parents, etc.

Upon receipt of a properly signed release form (theirs or ours), the school will send duplicate copies of the pertinent material to the requesting school district or agency. All originals of the test protocols, IEP/IIP’s, etc., must be kept in the District.

The signed release form and the student’s record of individual testing/special education records are then sent to the office of the Director of Student Services.

4. Additional information concerning student files: If a student leaves the District during the school year, special education/testing records should be retained in the building until copies of the contents are sent. If a request for information is not received by at least the first month of the following school year, then these records should then be sent to the office of the Director of Student Services

FORMS:

1. Request of Non-disclosure of Directory Information Form – Form should be available upon request in the administrative office of each school.
 - a. If a parent or eligible student delivers a signed Request of *Non-disclosure of Directory Information Form* to the school, a copy must be sent to the school building Web Master and to the District Web Master and to the Director of Technology.
2. Request to Inspect School Records – Form should be available upon request in the administrative office of each school.

3. Authorization to Release/Exchange Records/Information – Directions for use are on the form.
4. Memorandum of Understanding Agreement – Disclosure of Data/Information to Other Agencies/Organizations – Form must be signed and submitted by any outside agency/organization/office/program that request student data/information.
5. Access Log – Directions for use are on the form.



LEGAL REFERENCE:

Family Educational Rights and Privacy Act of 1974 (FERPA)

<http://www.gpo.gov/fdsys/pkg/USCODE-2011-title20/pdf/USCODE-2011-title20-chap31-subchapIII-part4-sec1232g.pdf>

Electronic Code of Federal Regulations pertaining to FERPA: 34 CFR Part 99

<http://www.ecfr.gov/cgibin/textidx?c=ecfr&sid=11975031b82001bed902b3e73f33e604&rgn=div5&view=text&node=34:1.1.1.1.33&idno=34>

U.S. Department of Education, Family Policy Compliance Office

<http://www2.ed.gov/policy/gen/guid/fpco/index.html>

Idaho Student Data Accessibility, Transparency and Accountability Act of 2014

Idaho Code Title 33, Section 133 – Definitions – Student Data – Use and Limitations – Penalties

Idaho Code Section 32-717A – Parents’ Access to Records and Information

<http://legislature.idaho.gov/legislation/2014/S1372E1.pdf>

10 U.S.C. § 503(c)

20 USC 1232g

20 USC 1412(2)(D) and 1417 (Reauthorized 2004)

20 U.S.C. § 7908

34 CFR Section 300.560 through Section 300.576

34 CFR Sections 300.610 through 300.626

34 CFR Part 99

Uninterrupted Scholars Act, Pub.L. 112-278 (2013)

Individuals with Disabilities Education Improvement Act

P.L. 93-380 (FERPA)

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Elementary and Secondary Education Act, Section 9528

ADOPTED: August 19, 1975

Reviewed: February 21, 2006

Revised: June 21, 1988

Revised: January 17, 2012

Revised: May 21, 2002

Revised: November 15, 2016