



SECTION J: Students

JRC-O CEC Rights Concerning Student Records

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JRC-O CEC Rights Concerning Student Records

In recognition of the confidential nature of student education records, no person or agency may access student education records without prior written consent from the student's parent/guardian or the eligible student, except as set forth in law and this policy.

Content and custody of student education records

The Head of School is the official custodian of student education records in his or her building.

Student education records in all formats and media, including photographic and electronic, are those records that relate directly to a student. Student education records may contain, but will not necessarily be limited to, the following information: identifying data; academic work completed; level of achievement (grades, standardized achievement test scores); attendance data; scores on standardized intelligence, aptitude and psychological tests; interest inventory results; health and medical information; family background information; teacher or counselor ratings and observations; reports of serious or recurrent behavior patterns and any individualized education program (IEP).

Nothing in this policy shall prevent administrators, teachers or staff from disclosing information derived from personal observation and not derived from a student's education records.

In accordance with applicable law, requests for inspection and review of student education records, requests for copies of such records, and disclosure of personally identifiable information therein shall be maintained as a part of each student's education record.

School personnel shall use reasonable methods to authenticate the identity of parents, students, school officials, and any other party to whom they disclose student education records. Authentication of identity prior to disclosure of electronic records through passwords or other security measures shall be required.

Access to Student Education Records by Parents and Eligible Students

A parent or guardian ("parent") has the right to inspect and review their child's education records, if the student is under 18 years of age. If a student is 18 years old or older ("eligible student"), the student may inspect or review his or her own education records and provide written consent for disclosure of such records and personally identifiable information therein. However, the parent is also entitled to access his or her child's education records, despite the lack of written consent from the eligible student, if the eligible student is a dependent for federal income tax purposes or the disclosure is in connection with a health or safety emergency.

Request to Amend Student Education Records

A parent or eligible student may ask CEC to amend a student education record they believe is inaccurate, misleading, or otherwise violates the privacy rights of the student. Student grades cannot be challenged pursuant to this policy.

Disclosure with Written Consent

Whenever CEC is required by law or policy to seek written consent prior to disclosing personally identifiable information from a student's education record, the notice provided to the parent or eligible student shall contain the following:

- A. The specific records to be disclosed;
- B. The specific reasons for such disclosure;
- C. The specific identity of any person, agency or organization requesting such information and the intended uses of the information;
- D. The method or manner by which the records will be disclosed; and
- E. The right to review or receive a copy of the records to be disclosed.

The parent's or eligible students' consent shall only be valid for the specific instance for which it was given. Consent for a student to participate in any course, school activity, special education program or in any other school program shall not constitute the specific written consent required by this policy.

Disclosure Without Written Consent

CEC may disclose student education records or personally identifiable information contained therein without written consent of the parent or eligible student if the disclosure meets one of the following conditions:

1. The disclosure is to a school official having a legitimate educational interest in the student education record or the personally identifiable information contained therein. In accordance with law, only those school officials who have a legitimate educational interest as described in this policy shall be permitted access to specific student education records.
 - a) For purposes of this policy, a "school official" is a person employed by CEC as an administrator, supervisor, teacher or support staff member (including health or medical staff and law enforcement unit personnel); a person serving on the board of education; a person or company with whom CEC has outsourced services it would otherwise use its own employees to perform (such as an attorney, auditor, consultant or therapist); a parent or student serving on an official committee; or a parent, student or other volunteer assisting another school official in performing his or her tasks.
 - b) A school official has a "legitimate educational interest" if disclosure to the school official is: (1) necessary for that official to perform appropriate tasks that are specified in his or her position description or by a contract agreement; (2) used within the context of official school business and not for purposes extraneous to the official's areas of responsibility; (3) relevant to the accomplishment of some task or to a determination about the student; and (4) consistent with the purposes for which the data are maintained.
2. The disclosure is to officials of another school, school system or postsecondary institution that has requested the records and in which the student seeks or intends to enroll, or has enrolled. Any records sent during the student's application or transfer period may be supplemented, updated or corrected as necessary.

3. The disclosure is to authorized representatives of the Comptroller General of the United States, the Attorney General of the United States, the Secretary of the U.S. Department of Education, or state and local educational authorities.
4. The disclosure is in connection with a student's application for, or receipt of, financial aid.
5. The disclosure is to state and local officials and concerns the juvenile justice system's ability to effectively serve, prior to adjudication, the student whose records are disclosed as provided under the Colorado Open Records Act and Colorado Children's Code. Such records and personally identifiable information shall only be disclosed upon written certification by the officials that the records and information will not be disclosed to any other party, except as specifically authorized or required by law, without the prior written consent of the parent or eligible student.
6. The disclosure is to organizations conducting studies for, or on behalf of, educational agencies or institutions to develop, validate or administer predictive tests; to administer student aid programs; or to improve instruction.
7. The disclosure is to accrediting organizations for accrediting functions.
8. The disclosure is to the parent of an eligible student and the student is a dependent for IRS tax purposes.
9. The disclosure is in connection with an emergency, if knowledge of the information is necessary to protect the health or safety of the student or others.
10. The disclosure is to comply with a judicial order or lawful subpoena. CEC shall make a reasonable effort to notify the parent or eligible student prior to complying with the order or subpoena unless:
 - a) The court order or subpoena prohibits such notification; or
 - b) The parent is a party to a court proceeding involving child abuse and neglect or dependency matters and the court order is issued in the context of that proceeding
11. The disclosure is to the Secretary of Agriculture, or authorized representative from the USDA Food and Nutrition Service or contractors acting on behalf of the USDA Food and Nutrition Service, for the purposes of conducting program monitoring, evaluations and performance measurements of state and local educational agencies receiving funding or providing benefits of program(s) authorized under the National School Lunch Act or Child Nutrition Act.
12. The disclosure is to an agency caseworker or other representative of a state or local child welfare agency or tribal organization who has the right to access the student's case plan because such agency or organization is legally responsible, in accordance with applicable state or tribal law, for the care and protection of the student.
13. The disclosure is of "directory information" as defined by this policy.

Disclosure of Directory Information

Directory information may also be disclosed without written consent of the parent or eligible student. "Directory information" means information contained in a student's education record that would not generally be considered harmful or an invasion of privacy if disclosed. Directory information which may be released includes but is not limited to the student's name, photograph, major field of study, participation in officially recognized

sports and activities, height and weight of members of athletic teams, dates of attendance, grade level, enrollment status, degrees, honors and awards received, the most recent previous education agency or institution attended by the student, and other similar information. Directory information also includes a student identification number or other unique personal identifier used by the student to access or communicate in electronic systems, but only if the identifier cannot be used to gain access to student education records except when used in conjunction with one or more factors that authenticate the user's identity, such as a password known only by the authorized user.

Student telephone numbers and addresses shall not be disclosed pursuant to this section.

The parent or eligible student has the right to refuse to permit the designation of any or all of the categories of directory information if such refusal is submitted in writing to the school.

Disclosure of Disciplinary Information to School Personnel

In accordance with state law, the Head of School or designee shall communicate disciplinary information concerning any student enrolled in the school to any teacher who has direct contact with the student in the classroom and to any counselor who has direct contact with the student. Any teacher or counselor to whom disciplinary information is reported shall maintain the confidentiality of the information and shall not communicate it to any other person.

State law requires the Head of School or designee to inform the student and the student's parent when disciplinary information is communicated and to provide a copy of the shared disciplinary information.

Disclosure to Military Recruiting Officers

Names, addresses, and home telephone numbers, as well as directory information, of secondary school students shall be released to military recruiting officers within 90 days of the request, unless a parent or student submits a written request that such information not be released. Reasonable and customary actual expenses directly incurred by CEC in furnishing this information will be paid by the requesting service.

Disclosure to Medicaid

In all cases in which a student is enrolled in the Colorado Medicaid program, CEC shall release directory information consisting of the student's name, date of birth and gender to Health Care Policy and Financing (Colorado's Medicaid agency) to verify Medicaid eligibility of students. CEC shall obtain written consent annually from a parent before the release of any non-directory information required for billing.

Disclosure to The Colorado Commission on Higher Education (CCHE)

On or before December 31 of each school year, the CEC shall disclose to the CCHE the names and mailing addresses of those students enrolled in the eighth grade for use in mailing the notice of postsecondary educational opportunities and higher education admission guidelines as required by state law.

Security Videos

As with any other "education record," a photo or video of a student is an education record, subject to specific exclusions, when the photo or video is: (1) directly related to a student; and (2) maintained by an educational agency or institution or by a party acting for the agency or institution. (20 U.S.C. 1232g(a)(4)(A); 34 CFR § 99.3 "Education Record")

FERPA regulations do not define what it means for a record to be "directly related" to a student. In the context of photos and videos, determining if a visual representation of a student is directly related to a student (rather than just incidentally related to him or her) is often context-specific, and educational agencies and institutions should examine certain types of photos and videos on a case by case basis to determine if they directly relate

to any of the students depicted therein. Among the factors that may help determine if a photo or video should be considered “directly related” to a student are the following:

- The educational agency or institution uses the photo or video for disciplinary action (or other official purposes) involving the student (including the victim of any such disciplinary incident);
- The photo or video contains a depiction of an activity:
 - that resulted in an educational agency or institution’s use of the photo or video for disciplinary action (or other official purposes) involving a student (or, if disciplinary action is pending or has not yet been taken, that would reasonably result in use of the photo or video for disciplinary action involving a student);
 - that shows a student in violation of local, state, or federal law;
- that shows a student getting injured, attacked, victimized, ill, or having a health emergency;
- The person or entity taking the photo or video intends to make a specific student the focus of the photo or video (e.g., ID photos, or a recording of a student presentation); or
- The audio or visual content of the photo or video otherwise contains personally identifiable information contained in a student’s education record.

A photo or video should not be considered directly related to a student in the absence of these factors and if the student’s image is incidental or captured only as part of the background, or if a student is shown participating in school activities that are open to the public and without a specific focus on any individual.

Annual Notification of Rights

CEC shall notify parents and eligible students of their rights pursuant to this policy at the beginning of each academic year. For notice to parents or eligible students who are disabled or whose primary or home language is other than English, the format or method of notice will be modified so it is reasonably likely to inform them of their rights.

A copy of the Family Educational Rights and Privacy Act, and this policy may be obtained from the CEC Network Support Office during normal business hours.

Governing Law

CEC shall comply with the Family Educational Rights and Privacy Act (FERPA) and its regulations as well as state law governing the confidentiality of student education records. CEC shall be entitled to take all actions and exercise all options authorized under the law.

In the event this does not address a provision in applicable state or federal law, or is inconsistent with or in conflict with applicable state or federal law, the provisions of applicable state or federal law shall control.

Special Education Records

The parents of a student with disabilities must be informed when student records related to special education assessments and services are no longer needed to provide educational services to the student. If the parent of a student with disabilities requests that the personally identifiable information contained in records no longer needed to provide education services be destroyed, the request should be granted by removing all personal identifiers from the information. Nevertheless, the student’s name, address, phone number, grades, attendance record, classes attended, grade level completed, and year completed may be retained even when all other personal identifiers have been removed from a student’s records. No record will be destroyed by the removal of personal identifiers while still needed to provide educational services to a student. Special education student records shall be retained five years after all special services/special education and related services have ended provided CEC has issued a notice of pending destruction to the parents and/or guardians. This is in accordance with the requirement of the Colorado State Archives.

All signed consent forms shall be retained by CEC.

Additional Legal Refs.:

20 U.S.C. 1232g (Family Educational Rights and Privacy Act)

20 U.S.C. 7908 (military recruiter information contained in No Child Left Behind Act of 2001)

34 C.F.R. 99.1 et seq. (FERPA regulations)

C.R.S. 19-1-303 and 304 (records and information sharing under Colorado Children's Code)

C.R.S. 22-1-123 (district shall comply with FERPA)

C.R.S. 22-32-109 (1)(ff) (duty to establish policy on disclosing eighth grade students names and mailing addresses to the Colorado Commission on Higher Education)

C.R.S. 22-32-109.1(6) (duty to establish policy on sharing information consistent with state and federal law in the interest of making schools safe)

C.R.S. 22-32-109.3 (2) (duty to share disciplinary and attendance information with criminal justice agencies)

C.R.S. 22-33-106.5 (court to notify of conviction of crime of violence and unlawful sexual behavior)

C.R.S. 22-33-107.5 (school district to notify of failure to attend school)

C.R.S. 24-72-204 (2)(e) (denial of inspection of materials received, made or kept by Safe2Tell Program)

C.R.S. 24-72-204 (3)(a)(VI) (schools cannot disclose address and phone number without consent)

C.R.S. 24-72-204 (3)(d) (information to military recruiters)

C.R.S. 24-72-204 (3)(e)(I) (certain FERPA provisions enacted into Colorado Law)

C.R.S. 24-72-204 (3)(e)(II) (disclosure by staff of information gained through personal knowledge or observation)

C.R.S. 24-72-205(5) (fee for copying public record)

C.R.S. 25.5-1-116 (confidentiality of HCPF records)

Colorado School District Records Management Manual, Colorado State Archives

Policy Reference:

Student Handbook

JICD-O Conduct and Discipline

JRC-G Student Data Privacy and Security

Colorado Early Colleges

FERPA CONSENT TO RELEASE STUDENT INFORMATION

TO: _____
(Colorado Early Colleges Campus)

Please provide information from the educational records of _____
[Name of Student requesting the release of educational records]

to: _____
[Name(s) of person to whom the educational records will be released, and if appropriate the relationship to the student such as "parents" or "prospective employer" or "attorney"]
(Note: this Consent does not cover medical records held solely by Student Health Services or the Counseling Center – contact those offices for consent forms.)

The only type of information that is to be released under this consent is:

- _____ transcript
- _____ disciplinary records
- _____ recommendations for employment or admission to other schools
- _____ all records
- _____ other (specify) _____

The information is to be released for the following purpose:

- _____ family communications about school experience
- _____ employment
- _____ admission to an educational institution
- _____ other (specify) _____

I understand the information may be released orally or in the form of copies of written records, as preferred by the requester. I have a right to inspect any written records released pursuant to this Consent. I understand I may revoke this Consent upon providing written notice to the Colorado Early Colleges Campus listed above permitted to release the educational records. I further understand that until this revocation is made, this consent shall remain in effect and my educational records will continue to be provided to [Name of Person listed above to whom the educational records will be released] for the specific purpose described above.

Name (print) _____

Signature _____

Student ID Number _____

Date _____

Copy to CEC Network Office