

KEYSTONE OAKS SCHOOL DISTRICT

# Policy

# Guide



Policy No. 113.4

Section PROGRAMS

Title CONFIDENTIALITY OF SPECIAL EDUCATION STUDENT INFORMATION

Adopted DECEMBER 13, 2016

Last Revised APRIL 20, 2021

| POLICY NO. 113.4<br>CONFIDENTIALITY OF SPECIAL EDUCATION<br>STUDENT INFORMATION |  |  |
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| <b>Section 1</b>  | <p><b><u>Authority</u></b></p> <p>The Board recognizes the need to protect the confidentiality of personally identifiable information in the education records of students with disabilities.</p> <p>The District shall maintain a system of safeguards to protect the confidentiality of students' educational records and personally identifiable information when collecting, retaining, disclosing and destroying student special education records, in accordance with Board policy, state requirements, and federal and state law and regulations.</p> <p>The rights provided by this policy apply to persons in parental relation of students who receive special education programming and services from the District or an outside program provided through the District.</p> | <p>Pol. 113, 216</p> <p>Pol. 216<br/>34 CFR 300.611-300.627</p> <p>34 CFR 300.520, 300.625</p> |
| <b>Section 2</b>  | <p><b><u>Definitions</u></b></p> <p><b>Destruction</b> shall mean the physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.</p> <p><b>Disclosure</b> shall mean to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records by any means,</p>  | <p>34 CFR 300.611</p> <p>34 CFR 99.3</p>   |

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including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record.

**Education Records**, for purposes of this policy, shall include the records and information covered under the definition of education records in the Family Educational Rights and Privacy Act (FERPA) and its implementing regulations.

34 CFR 99.3  
20 U.S.C. 1232g  
Pol. 216

**Personally identifiable information** includes, but is not limited to:

34 CFR 99.3,  
300.32

1. The name of a student, the student's parents/guardians or other family members.
2. The address of the student or student's family.
3. A personal identifier, such as the student's social security number, student number, or biometric record.
4. Other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name.
5. Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.
6. Information requested by a person who the District reasonably believes knows the identity of the student to whom the education record relates.

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**Section 3**

**Guidelines**

Access Rights

The District shall permit persons in parental relation to inspect and review any education records relating to their child(ren) that are collected, retained, or used by the District in connection with providing special education services to the student.

34 CFR 99.10,  
300.613

The District shall comply with a person in parental relation's request to inspect and review education records without unnecessary delay and before any meeting regarding an Individualized Education Program (IEP); any impartial due process hearing relating to the identification, evaluation, educational placement, or the provision of a free and appropriate public education (FAPE) to a student; a hearing related to the discipline of the student; and a resolution meeting.

The District shall presume a person in parental relation has authority to inspect and review records relating to their child unless it has been provided documentation that the requesting person in parental relation does not have this authority under applicable state law.

34 CFR 99.4,  
300.613

The District shall comply with a person in parental relation's request for review within forty-five (45) days following receipt of the request.

34 CFR 99.10,  
300.613

A person in parental relation's right to inspect and review education records includes the right to:

1. A response from the District to reasonable requests for explanations and interpretations of the records.
2. Request that the District provide copies of the records if failure to provide copies would effectively prevent the person in parental relation from exercising the right to inspect and review the records.
3. Have a representative inspect and review the records.

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| <p>If an education record includes information on more than one (1) student, the persons in parental relation shall have access only to the information relating to their child or shall be informed of the information in the record.</p>  | 34 CFR 99.12, 300.615 |
| <p>The District shall provide persons in parental relation, upon request, a list of the types and locations of education records collected, maintained, or used by the District.</p>  | 34 CFR 300.616        |
| <u>Fees</u>   |                       |
| <p>The District may charge a fee for copies of records that are made for persons in parental relation so long as the fee does not effectively prevent persons in parental relation from exercising their right to inspect and review those records.</p>                                     | 34 CFR 99.11, 300.617 |
| <p>The District shall not charge a fee to search for or to retrieve information in response to a person in parental relation's request.</p>   |                       |
| <u>Record Of Access</u>   |                       |
| <p>The District shall keep a record of parties obtaining access to education records collected, maintained, or used in providing special education and related services to students with disabilities, except access by persons in parental relation and authorized district employees.</p> | 34 CFR 300.614        |
| <p>The District's record of access shall include the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.</p>  |                       |
| <u>Amendment Of Records Upon Parental Request</u>   |                       |
| <p>If a person in parental relation believes that information in the student's education records is inaccurate, misleading or violates the privacy or other rights of the student, the person in parental relation may request that the District amend the information.</p>                 | 34 CFR 99.20, 300.618 |
| <p>The District shall decide whether to amend the information within a reasonable period of time from receipt of the request.</p>   |                       |

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If the District declines to amend the information in accordance with a parental request, the District shall inform the parent/guardian of the refusal and advise the person in parental relation of the right to a hearing.

Records Hearing

The District shall, on request, provide persons in parental relation with an opportunity for a hearing to challenge information in the student's education records to ensure that the information is not inaccurate, misleading, or otherwise in violation of the student's privacy or other rights. The District recognizes that persons in parental relation who believe that there is a due process violation relating to an alleged violation of confidentiality may also request a special education due process hearing.

34 CFR 99.21,  
300.510-300.516,  
300.619

Hearing Procedures

A hearing to challenge information in education records must meet the following requirements:

34 CFR 99.22,  
300.621

1. The District shall hold the hearing within a reasonable time after receiving the request for a hearing.
2. The District shall give the person in parental relation reasonable advanced written notice of the date, time, and place of the hearing.
3. The hearing may be conducted by any individual, including a district official, who does not have a direct interest in the outcome of the hearing.
4. The District shall give the person in parental relation a full and fair opportunity to present relevant evidence. The person in parental relation may, at their own expense, be assisted or represented by one (1) or more individuals of their choice, including an attorney.
5. The District shall inform persons in parental relation of its decision in writing within a reasonable period of time after the hearing.

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6. The decision must be based solely on the evidence presented at the hearing, and must include a summary of the evidence and the reasons for the decision.

Result of Hearing

If, as a result of the hearing, the District decides that the information is inaccurate, misleading, or otherwise in violation of the student's privacy or other rights, the District shall amend the information accordingly and inform the person in parental relation in writing.

If, as a result of the hearing, the District decides that the information is not inaccurate, misleading, or otherwise in violation of the student's privacy or other rights, the District shall inform the person in parental relation of the person in parental relation's right to place in the student's records a statement commenting on the information and/or providing any reasons for disagreeing with the District's decision.

Any explanation placed in the student's records shall be:

1. Maintained by the District as part of the student's records as long as the record or contested portion is maintained by the District; and
2. Included with the record or contested portion if the record or contested portion are disclosed to any party.

Storage, Retention And Destruction Of Information

The District shall store all education records and personally identifiable information of students receiving special education services in such a way as to protect the confidentiality and integrity of the records and information, prevent unauthorized access to and disclosure of records and information, and ensure compliance with other legal and regulatory requirements regarding records retention. Student records include any financial documents related to any services that a student receives.

34 CFR 99.21,  
300.620

34 CFR 300.623

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| <p>The District shall maintain, for public inspection, a current listing of the names and positions of those district employees who have access to personally identifiable information.</p>  | <p>34 CFR 300.623</p>   |
| <p>In order to comply with state compliance monitoring requirements, the District shall maintain education records for students receiving special education services for at least six (6) years.</p>   | <p>Pol. 216</p>   |
| <p>The District shall inform person in parental relation when personally identifiable information collected, maintained, or used is no longer needed to provide educational services to the student. After notice, such information shall be destroyed upon the person in parental relation's request.</p>   | <p>34 CFR 300.624</p>   |
| <p>No education record shall be destroyed if there is an outstanding request to inspect or review the record or if a litigation hold exists.</p>   | <p>34 CFR 99.10</p>   |
| <p>The District may maintain a permanent record of the student's name, address, phone number, grades, attendance record, classes attended, grade level completed, and year completed.</p>  | <p>34 CFR 300.624</p>   |
| <p>The District shall ensure the destruction of education records in a manner that protects the confidentiality and privacy rights of the student and the student's family.</p>  | <p>34 CFR 300.623</p>   |
| <p><u>Disclosure To Third Parties</u></p>  |   |
| <p>The District shall obtain person in parental relation's consent before disclosing personally identifiable information to parties other than school district officials with a legitimate educational interest or other educational institutions that provide special education services to the student for the purposes of meeting a requirement of law or regulation unless the information is contained in education records and the disclosure is permitted without parental consent under law and regulations.</p> | <p>34 CFR 99.30, 99.31, 300.154, 300.622<br/>Pol. 113.1, 113.2, 216</p> |
| <p>The person in parental relation's consent must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services.</p>   | <p>34 CFR 300.622</p>   |

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|  | <p>If a student is enrolled, or is going to enroll in a private school that is not located in the District of the person in parental relations' residence, person in parental relations' consent must be obtained before any personally identifiable information about the student is released between officials in the District where the private school is located and officials in the District of the person in parental relation's residence.</p> <p><u>Disclosure to Law Enforcement</u></p> <p>When reporting an incident committed by a student with a disability to the appropriate authorities, in accordance with applicable law, regulations and Board policy, the District shall provide the information required by state and federal laws and regulations and shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by these authorities. The District shall ensure compliance with the Family Educational Rights and Privacy Act when transmitting copies of the student's special education and disciplinary records.</p> | <p>34 CFR 300.622</p> <p>20 U.S.C. 1232g, 1415<br/>22 PA Code<br/>10.2,10.21, 10.22, 10.23<br/>34 CFR 99, 300.535<br/>Pol. 113.2, 216, 805.1</p> |
| <b>Section 4</b>   | <p><b><u>Delegation of Responsibility</u></b></p> <p>In order to maintain the confidentiality of the educational records and personally identifiable information of students with disabilities, the Board designates the Director of Special Education to coordinate the District's efforts to comply with this policy and applicable laws and regulations.</p> <p>All district employees collecting or using personally identifiable information shall receive training or instruction regarding Board policy, administrative regulations, and state and federal law and regulations regarding confidentiality of education records and personally identifiable information.</p>  | <p>34 CFR 300.623</p> <p>34 CFR 300.623</p>  |



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References:

State Board of Education Regulations – 22 U.S.C. Sec. 10.2,  
10.21, 10.22, 10.23

Individuals With Disabilities Education Act, Title 34, Code of  
Federal Regulations – 34 CFR Part 99, 99.3, 99.4, 99.10,  
99.11, 99.12, 99.20, 99.21, 99.22, 99.30, 99.31, 300.154,  
300.32, 300.510-300.516, 300.520, 300.535, 300.611-  
300.627 , 20 U.S.C. Sec. 1415

Family Educational Rights and Privacy Act – 20 U.S.C. Sec.  
1232g

Board Policy – 113, 113.1, 113.2, 216, 805.1