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EMID 6067 Board Policy 515
(required policy)

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515 PROTECTION AND PRIVACY OF PUPIL RECORDS

I. PURPOSE

EMID recognizes its responsibility for the collection, maintenance and dissemination of pupil records and the protection of the privacy rights of students as provided in federal law and state statutes.

II. GENERAL STATEMENT OF POLICY

The following procedures and policies regarding the protection and privacy of parent/guardian and students are adopted by EMID, pursuant to the requirements of 20 U.S.C. §1232g, *et seq.*, (Family Educational Rights and Privacy Act) 34 C.F.R. Part 99 and consistent with the requirements of the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, and Minn. Rules Parts 1205.0100-1205.2000.

III. DEFINITIONS

A. Dates of Attendance

Date of attendance, as referred to in Directory Information, means the period of time during which a student attends or attended an EMID program. The term does not include specific daily records of a student's attendance in an EMID program.

B. Dependent Student

A "dependent student" is an individual who during each of five (5) calendar months during the calendar year in which the taxable year of the parent/guardian begins is a full-time student at an educational institution.

C. Directory Information

Directory information means information contained in an education record of a student which is public. Directory information includes the following: the student name, gender, grade level, dates of enrollment, participation in officially recognized activities, awards received, the most recent education agency or institution attended, and photographs used in yearbooks or district publications. Directory information does not include personally identifiable data which references religion, race, color, social position or nationality.



D. Education Records

1. What constitutes “education records”. Education records mean those records which: (1) are directly related to a student; and (2) are maintained by EMID or by a party acting for EMID.
2. What does not constitute an education record. The term “education records” does not include:
 - a. Records of a law enforcement unit provided educational records maintained by EMID are not disclosed to the unit, and the law enforcement records are:
 - (1) maintained separately from education records;
 - (2) maintained solely for law enforcement purposes; and
 - (3) disclosed only to law enforcement officials of the same jurisdiction.
 - b. Records relating to an individual, including a student, who is employed by EMID which:
 - (1) are made and maintained in the normal course of business;
 - (2) relate exclusively to the individual in that individual’s capacity as an employee; and
 - (3) are not available for use for any other purpose.
 - c. Records that only contain information about an individual after he or she is no longer a student in EMID programs.

E. Eligible Student

“Eligible student” means a student who has attained eighteen (18) years of age or is attending an institution of post-secondary education.

F. Juvenile Justice System

“Juvenile justice system” includes criminal justice agencies and the judiciary when involved in juvenile justice activities.

G. Legitimate Educational Interest



“Legitimate educational interest” includes interest directly related to teaching, student achievement and progress, discipline of a student, student health and welfare, and the ability to respond to a request for education data. It includes a person’s need to know in order to:

1. Perform an administrative task required in the position description approved by the Board;
2. Perform a supervisory or instructional task directly related to the student’s education; or
3. Perform a service or benefit for the student or the student’s family such as health care, counseling, student job placement or student financial aid.
4. Perform a task directly related to responding to a request for data.

H. Parent/Guardian

“Parent/guardian” means a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent/guardian of the student in the absence of a parent or guardian. EMID may presume the parent/guardian has the authority to exercise the rights provided herein, unless it has been provided with evidence that there is a state law or court order governing such matters as marriage dissolution, separation or child custody, or a legally binding instrument which provides to the contrary.

I. Personally Identifiable

“Personally identifiable” means that the data or information includes, but is not limited to: (a) a student’s name; (b) the name of the student’s parent/guardian or other family member; (c) the address of the student or student’s family; (d) a personal identifier such as the student’s social security number or student number; (e) a list of personal characteristics that would make the student’s identity easily traceable; or (f) other information that would make the student’s identity easily traceable.

J. Record

“Record” means any information or data recorded in any way including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm and microfiche.

K. Responsible Authority

“Responsible authority” means the Executive Director.



L. Student

“Student” includes any individual who is or has been registered in an EMID integration program and regarding whom EMID maintains education records. Student also includes applicants for enrollment or registration in EMID integration programs,

M. District Official

“District official” includes: (a) a person duly appointed to the Board; (b) a person employed by the Board in an administrative, supervisory, instructional or other professional position; (c) a person employed by the Board as a temporary substitute in a professional position for the period of his or her performance as a substitute; and (d) a person employed by, or under contract to, the Board to perform a special task such as a secretary, a clerk, as public information officer or data practices compliance official, an attorney or an auditor for the period of his or her performance as an employee or contractor.

N. Summary Data

“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 the individual is ascertainable.

O. Other Terms and Phrases

All other terms and phrases shall be defined in accordance with applicable state and federal law or ordinary customary usage.

IV. GENERAL CLASSIFICATION

State law provides that all data collected, created, received or maintained by EMID is public unless classified by state or federal law as not public or private or confidential. State law classifies all data on individuals maintained by EMID which relates to a student as private data on individuals. This data may not be disclosed to parties other than the parent/guardian or eligible student without consent, except pursuant to a valid court order, certain state statutes authorizing access, and the provisions of 20 U.S.C. §1232g and the regulations promulgated there under.

V. STATEMENT OF RIGHTS

A. Rights of /Guardians and Eligible Students

Parents/guardians and eligible students have the following rights under this policy:



1. The right to inspect and review the student's education records;
2. The right to request the amendment of the student's education records to ensure that they are not inaccurate, misleading or otherwise in violation of the student's privacy or other rights;
3. The right to consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that such consent is not required for disclosure pursuant to this policy, state or federal law, or the regulations promulgated there under;
4. The right to refuse release of secondary students' names, addresses, and home telephone numbers to military recruiting officers;
5. The right to file a complaint with the U.S. Department of Education concerning alleged failures by EMID to comply with the federal law and the regulations promulgated there under;
6. The right to be informed about rights under the federal law; and
7. The right to obtain a copy of this policy at the location set forth in the COPIES OF POLICY section of this policy.

B. Eligible Students

All rights and protections given parents/guardians under this policy transfer to the student when he or she reaches eighteen (18) years of age or enrolls in an institution of post-secondary education. The student then becomes an "eligible student." However, the parent/guardian of an eligible student who is also a "dependent student" are entitled to gain access to the educational records of such student without first obtaining the consent of the student.

VI. DISCLOSURE OF EDUCATION RECORDS

A. Consent Required for Disclosure

1. EMID shall obtain a signed and dated written consent of the parent/guardian of a student or the eligible student before disclosing personally identifiable information from the education records of the student, except as provided herein.
2. The written consent required by this subdivision must be signed and dated by the parent/guardian of the student or the eligible student giving the consent and shall include:



- a. a specification of the records to be disclosed;
 - b. the purpose or purposes of the disclosure;
 - c. the party or class of parties to whom the disclosure may be made; and
 - d. if appropriate, a termination date for the consent.
3. When a disclosure is made under this subdivision:
- a. if the parent/guardian or eligible student so requests, EMID shall provide him or her with a copy of the records disclosed; and
 - b. if the parent/guardian of a student who is not an eligible student so requests, EMID shall provide the student with a copy of the records disclosed.
4. A signed and dated written consent may include a record and signature in electronic form that:
- a. identifies and authenticates a particular person as the source of the electronic consent; and
 - b. indicates such person's approval of the information contained in the electronic consent.
5. If the responsible authority seeks an individual's informed consent to the release of private data to an insurer or the authorized representative of an insurer, informed consent shall not be deemed to have been given unless the statement is:
- a. in plain language;
 - b. dated;
 - c. specific in designating the particular persons or agencies the data subject is authorizing to disclose information about the data subject;
 - d. specific as to the nature of the information the subject is authorizing to be disclosed;
 - e. specific as to the persons or agencies to whom the subject is authorizing information to be disclosed;



- f. specific as to the purpose or purposes for which the information may be used by any of the parties named in clause e above, both at the time of the disclosure and at any time in the future; and
- g. specific as to its expiration date which should be within a reasonable time, not to exceed one year except in the case of authorizations given in connection with applications for life insurance or non-cancellable or guaranteed renewable health insurance and identified as such, two years after the date of the policy.

6. Eligible Student Consent

Whenever a student has attained eighteen (18) years of age or is attending an institution of post-secondary education, the rights accorded to and the consent required of the parent/guardian of the student shall thereafter only be accorded to and required of the eligible student, except as provided in the STATEMENT OF RIGHTS section of this policy.

B. Prior Consent for Disclosure Not Required

EMID may disclose personally identifiable information from the education records of a student without the written consent of the parent/guardian of the student or the eligible student unless otherwise provided herein, if the disclosure is:

1. To other officials, within EMID whom the district determines have a legitimate educational interest in such records;
2. To officials of the student's home district. The records shall include information about disciplinary action taken as a result of any incident in which the student possessed or used a dangerous weapon and with proper annual notice (See Part XIX.), data regarding a student's history of violent behavior. The records also shall include a copy of any probable cause notice or any disposition or court order under Minn. Stat. § 260B.171, unless the data are required to be destroyed under Minn. Stat. § 120A.22, Subd. 7(c) or § 121A.75. On request, EMID will provide the parent/guardian or eligible student with a copy of the education records which have been transferred and provide an opportunity for a hearing to challenge the content of those records in accordance with the REQUEST TO AMEND RECORDS; PROCEDURES TO CHALLENGE DATA section of this policy;
3. 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 the Commissioner of the Minnesota



Department of Education or his or her representative, subject to the conditions relative to such disclosure provided under federal law;

4. To state and local officials or authorities to whom such information is specifically allowed to be reported or disclosed pursuant to state statute adopted:
 - a. before November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and such system's ability to effectively serve the student whose records are released; or
 - b. after November 19, 1974, if the 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, provided the officials and authorities to whom the records are disclosed certify in writing to EMID that the data will not be disclosed to any other party, except as provided by state law, without the prior written consent of the parent/guardian of the student. At a minimum, EMID shall disclose the following information to the juvenile justice system under this paragraph: a student's full name, home address, telephone number, and date of birth; a student's program schedule, and photographs, if any; and parent's/guardian's name, home address, and telephone numbers;
5. To organizations 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 does not permit the personal identification of parents/guardians or students by individuals other than representatives of the organization and the information is destroyed when no longer needed for the purposes for which the study was conducted. For purposes of this provision, the term "organizations" includes, but is not limited to, federal, state and local agencies and independent organizations. In the event the Minnesota Department of Education determines that a third party outside of EMID to whom information is disclosed violates this provision, EMID may not allow that third party access to personally identifiable information from education records for at least five years.
6. To the parent/guardian of a dependent student;
7. To comply with a judicial order or lawfully issued subpoena, provided, however, that EMID makes a reasonable effort to notify the parent/guardian or eligible student of the order or subpoena in advance of compliance therewith so that the parent/guardian or eligible student may



seek protective action, unless the disclosure is in compliance with a federal grand jury subpoena, or any other subpoena issued for law enforcement purposes, and the court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed. In addition, if EMID initiates legal action against a parent/guardian or student it may disclose to the court, without a court order or subpoena, the education records of the student that are relevant for EMID to proceed with the legal action as plaintiff. Also, if a parent/guardian or eligible student initiates a legal action against EMID, EMID may disclose to the court, without a court order or subpoena, the student's education records that are relevant for EMID to defend itself.

8. 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. In addition, an educational agency or institution may include in the educational records of a student appropriate information concerning disciplinary action taken against the student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the integration program. This information may be disclosed to officials within EMID and/or teachers and school officials in other schools who have legitimate educational interests in the behavior of the student;
9. To the juvenile justice system if information about the behavior of a student who poses a risk of harm is reasonably necessary to protect the health or safety of the student or other individuals;
10. Information EMID has designated as "directory information" pursuant to the RELEASE OF DIRECTORY INFORMATION section of this policy;
11. To military recruiting officers pursuant to the MILITARY RECRUITMENT section of this policy;
12. To the parent/guardian of a student who is not an eligible student or to the student himself or herself;
13. To appropriate health authorities to the extent necessary to administer immunization programs and for bona fide epidemiologic investigations which the commissioner of health determines are necessary to prevent disease or disability to individuals in the public educational agency or institution in which the investigation is being conducted;
14. To volunteers who are determined to have a legitimate educational interest in the data and who are conducting activities and events sponsored by or



endorsed by the educational agency or institution for students or former students; or

15. To the juvenile justice system, on written request that certifies that the information will not be disclosed to any other person except as authorized by law without the written consent of the parent/guardian of the student:
 - a. the following information about a student must be disclosed: a student's full name, home address, telephone number, date of birth; a student's program schedule, and photographs, if any; and any parent's/guardian's name, home address, and telephone numbers.
 - b. the existence of the following information about a student, not the actual data or other information contained in the student's educational record, may be disclosed provided that a request for access must be submitted on the statutory form and it must contain an explanation of why access to the information is necessary to serve the student: (1) use of a controlled substance, alcohol, or tobacco; (2) assaultive or threatening conduct that could result in dismissal from the program; (3) possession or use of weapons or look-alike weapons; (4) theft; or (5) vandalism or other damage to property. Prior to releasing this information, the program supervisor who receives such a request must, to the extent permitted by federal law, notify the student's parent or guardian by certified mail of the request to disclose information. If the student's parent or guardian notifies the district official of an objection to the disclosure within ten (10) days of receiving certified notice, the district official must not disclose the information and instead must inform the requesting member of the juvenile justice system of the objection. If no objection from the parent or guardian is received within fourteen (14) days, the district official must respond to the request for information.

The written requests of the juvenile justice system member(s), as well as a record of any release, must be maintained in the student's file.

VII. RELEASE OF DIRECTORY INFORMATION

A. Classification

Directory information is public except as provided herein.

B. Former Students



EMID may disclose directory information from the education records generated by it regarding an individual who is no longer in EMID programs without meeting the requirements of Paragraph C. of this section.

C. Present Students and Parents/Guardians

EMID may disclose directory information from the education records of a student and information regarding parents/guardians without prior written consent of the parent/guardian of the student or eligible student, except as provided herein. Prior to such disclosure EMID shall:

1. Annually give public notice by any means that are reasonably likely to inform the parent/guardian and eligible students of:
 - a. the types of personally identifiable information regarding students and/or parent/guardian that EMID has designated as directory information;
 - b. the parent's/guardian's or eligible student's right to refuse to let EMID designate any or all of those types of information about the student and/or the parent/guardian as directory information; and
 - c. the period of time in which a parent/guardian or eligible student has to notify EMID in writing that he or she does not want any or all of those types of information about the student and/or the parent/guardian designated as directory information.
2. Allow a reasonable period of time after such notice has been given for a parent/guardian or eligible student to inform EMID, in writing, that any or all of the information so designated should not be disclosed without the parent's/guardian's or eligible student's prior written consent, except as provided in the DISCLOSURE OF EDUCATION RECORDS section of this policy.

D. Procedure for Obtaining Nondisclosure of Directory Information

The parent's/guardian's or eligible student's written notice shall be directed to the responsible authority and shall include the following:

1. Name of the student and/or parent/guardian as appropriate;
2. Home address;
3. School presently attended by student;
4. Parent's/guardian's legal relationship to student, if applicable; and



5. Specific categories of directory information to be made not public without the parent's/guardian's or eligible student's prior written consent, which shall only be applicable for that school year.

E. Duration

The designation of any information as directory information about a student or parent/guardian will remain in effect for the remainder of the school year unless the parent/guardian or eligible student provides the written notifications provided herein.

VIII. DISCLOSURE OF PRIVATE RECORDS

A. Private Records

For the purposes herein, education records are records which are classified as private data on individuals by state law and which are accessible only to the student who is the subject of the data and the student's parent/guardian if the student is not an eligible student. EMID may not disclose private records or their contents except as summary data, or except as provided in the DISCLOSURE OF EDUCATION RECORDS section of this policy, without the prior written consent of the parent/guardian or the eligible student.

B. Private Records Not Accessible to Parent/Guardian

In certain cases state law intends, and clearly provides, that certain information contained in the education records of EMID pertaining to a student be accessible to the student alone, and to the parent/guardian only under special circumstances, if at all.

1. The responsible authority may deny access to private data by a parent/guardian when a minor student who is the subject of that data requests that the responsible authority deny such access. The minor student's request must be submitted in writing setting forth the reasons for denying access to the parent/guardian and must be signed by the minor. Upon receipt of such request the responsible authority shall determine if honoring the request to deny the parent/guardian access would be in the best interest of the minor data subject. In making this determination the responsible authority shall consider the following factors:
 - a. whether the minor is of sufficient age and maturity to be able to explain the reasons for and understand the consequences of the request to deny access;



- b. whether the personal situation of the minor is such that denying parental access may protect the minor data subject from physical or emotional harm;
- c. whether there are grounds for believing that the minor data subject's reasons for precluding parental access are reasonably accurate;
- d. whether the data in question is of such a nature that disclosure of it to the parent/guardian may lead to physical or emotional harm to the minor data subject; and
- e. whether the data concerns medical, dental or other health services provided pursuant to Minn. Stat. §§ 144.341-144.347, in which case the data may be released only if the failure to inform the parent/guardian would seriously jeopardize the health of the minor.

C. Private Records Not Accessible to Student

Students shall not be entitled to access to private data concerning financial records and statements of the student's parent/guardian or any information contained therein.

IX. DISCLOSURE OF CONFIDENTIAL RECORDS

A. Confidential Records

Confidential records are those records and data contained therein which are made not public by state or federal law, and which are inaccessible to the student and the student's parent/guardian or to an eligible student.

B. Reports Under the Maltreatment of Minors Reporting Act

Pursuant to Minn. Stat. § 626.556, reports pertaining to a neglected and/or physically and/or sexually abused child shall be accessible only to the appropriate welfare and law enforcement agencies. In respect to other parties, such data shall be confidential and will not be made available to the parent/guardian or the subject individual by EMID. The subject individual, however, may obtain a copy of the report from either the local welfare agency, county sheriff or the local police department subject to the provisions of Minn. Stat. § 626.556, Subd. 11.

C. Investigative Data

Data collected by EMID as part of an active investigation undertaken for the purpose of the commencement or defense of pending civil legal action, or which are retained in anticipation of a pending civil legal action are classified as



protected nonpublic data in the case of data not on individuals, and confidential data in the case of data on individuals.

1. EMID may make any data classified as protected non-public or confidential pursuant to this subdivision accessible to any person, agency or the public if the district determines that such access will aid the law enforcement process, promote public health or safety, or dispel widespread rumor or unrest.
2. A complainant has access to a statement he or she provided to EMID
3. Once a civil investigation becomes inactive, civil investigative data becomes public unless the release of the data would jeopardize another pending civil legal action, except for those portions of such data that are classified as not public data under state or federal law. Any civil investigative data presented as evidence in court or made part of a court record shall be public. For purposes of this provision, a civil investigation becomes inactive upon the occurrence of any of the following events:
 - a. a decision by EMID, or by the chief attorney for EMID, not to pursue the civil legal action. However, such investigation may subsequently become active if EMID or its attorney decides to renew the civil legal action;
 - b. the expiration of the time to file a complaint under the statute of limitations or agreement applicable to the civil legal action; or
 - c. the exhaustion or expiration of rights of appeal by either party to the civil legal action.
4. A “pending civil legal action” for purposes of this subdivision is defined as including, but not limited to, judicial, administrative or arbitration proceedings.

XII. LIMITS ON REDISCLOSURE

A. Redisclosure

Consistent with the requirements herein, EMID may only disclose personally identifiable information from the education records of a student on the condition that the party to whom the information is to be disclosed will not disclose the information to any other party without the prior written consent of the parent/guardian of the student or the eligible student, except that the officers, employees and agents of any party receiving personally identifiable information under this section may use the information, but only for the purposes for which the disclosure was made.



B. Redisclosure Not Prohibited

1. Subdivision A. of this section does not preclude EMID from disclosing personally identifiable information under the DISCLOSURE OF EDUCATION RECORDS section of this policy with the understanding that the party receiving the information may make further disclosures of the information on behalf of EMID provided:
 - a. The disclosures meet the requirements of the DISCLOSURE OF EDUCATION RECORDS section of this policy; and
 - b. EMID has complied with the record-keeping requirements of the RESPONSIBLE AUTHORITY; RECORD SECURITY; AND RECORD KEEPING section of this policy.
2. Subdivision A. of this section does not apply to disclosures made pursuant to court orders or lawfully issued subpoenas or litigation, to disclosures of directory information, to disclosures to a parent or student, or to parent/guardian of dependent students.

C. Classification of Disclosed Data

The information disclosed shall retain the same classification in the hands of the party receiving it as it had in the hands of EMID.

D. Notification

EMID shall, except for disclosures made pursuant to court orders or lawfully issued subpoenas, disclosure of directory information under the RELEASE OF DIRECTORY INFORMATION section of this policy, or disclosures to a parent/guardian or student, EMID shall inform the party to whom a disclosure is made of the requirements set forth in this section. In the event that the Family Policy Compliance Office determines that a third party improperly rediscloses personally identifiable information from education records, the educational agency or institution may not allow that third party access to personally identifiable information from education records for at least five years.

XIII. RESPONSIBLE AUTHORITY, RECORD SECURITY AND RECORD KEEPING

A. Responsible Authority

The responsible authority shall be responsible for the maintenance and security of student records.

B. Record Security



The program supervisor of each integration program shall be the records manager, and shall have the duty of maintaining and securing the privacy and/or confidentiality of student records.

C. Plan for Securing Student Records

The program supervisor shall submit to the Executive Director a written plan for securing students records. The written plan shall contain the following information:

1. A description of records maintained;
2. Titles and addresses of person(s) responsible for the security of student records;
3. Location of student records, by category;
4. Means of securing student records; and
5. Procedures for access and disclosure.

D. Review of Written Plan for Securing Student Records

The Executive Director shall review the plans submitted pursuant to Paragraph C. of this section for compliance with the law, this policy and the various administrative policies of EMID. The Executive Director shall then promulgate a chart incorporating the provisions of Paragraph C., which shall be attached to and become a part of this policy.

E. Record Keeping

1. The program supervisor shall, for each request for and each disclosure of personally identifiable information from the education records of a student, maintain a record with the education records of the student which indicates:
 - a. the parties who have requested or received personally identifiable information from the education records of the student; and
 - b. the legitimate interests these parties had in requesting or obtaining the information;
2. In the event EMID discloses personally identifiable information from an education record of a student pursuant to Paragraph B. of the LIMITS ON REDISCLOSURE section of this policy, the record of disclosure required under this section shall also include:



- a. the names of the additional parties to which the receiving party may disclose the information on behalf of EMID; and
 - b. the legitimate interests under the DISCLOSURE OF EDUCATION RECORDS section of this policy which each of the additional parties has in requesting or obtaining the information.
3. Paragraph (1) of Record Keeping does not apply to requests by or disclosure to a parent/guardian of a student or an eligible student, disclosures pursuant to the written consent of a parent/guardian of a student or an eligible student, requests by or disclosures to other district officials under Paragraph B.1 of the DISCLOSURE OF EDUCATION RECORDS section of this policy, to requests for disclosures of directory information under the RELEASE OF DIRECTORY INFORMATION section of this policy, or to a party seeking or receiving the records as directed by a Federal grand jury or other law enforcement subpoena and the issuing court or agency has ordered that the existence or the contents of the subpoena or the information provided in response to the subpoena not be disclosed.
4. The record of requests of disclosures may be inspected by:
- a. the parent/guardian of the student or the eligible student;
 - b. the student's home school official or his or her assistants who are responsible for the custody of the records; and
 - c. the parties authorized by law to audit the record-keeping procedures of the district.
5. The record of requests and disclosures shall be maintained with the education records of the student as long as EMID maintains the student's education records.

XIV. RIGHT TO INSPECT AND REVIEW EDUCATION RECORDS

A. Parent/Guardian of a Student, an Eligible Student or the Parent/Guardian of an Eligible Student Who is Also a Dependent Student

EMID shall permit the parent/guardian of a student, an eligible student or the parent/guardian of an eligible student who is also a dependent student who is or has been in EMID programs to inspect or review the education records of the student, except those records which are made confidential by state or federal law or as otherwise provided in the DISCLOSURE OF PRIVATE RECORDS section of this policy.



B. Response to Request for Access

EMID shall respond to any request pursuant to Subdivision A. of this section immediately, if possible, or within ten (10) days of the date of the request, excluding Saturdays, Sundays and legal holidays.

C. Right to Inspect and Review

The right to inspect and review education records under Subdivision A. of this section includes:

1. The right to a response from EMID to reasonable requests for explanations and interpretations of records; and
2. If circumstances effectively prevent the parent/guardian or eligible student from exercising the right to inspect and review the education records, EMID shall provide the parent/guardian or eligible student with a copy of the records requested, or make other arrangements for the parent/guardian or eligible student to inspect and review the requested records.
3. Nothing in this policy shall be construed as limiting the frequency of inspection of the educational records of a student with a disability by the student's parent/guardian or guardian or by the student upon the student reaching the age of majority.

D. Form of Request

Parent/guardian or eligible students shall submit to EMID a written request to inspect education records which identify as precisely as possible the record or records he or she wishes to inspect.

E. Collection of Student Records

If a student's education records are maintained in more than one location, the responsible authority may collect copies of the records or the records themselves from the various locations so they may be inspected at one site. However, if the parent/guardian or eligible student wishes to inspect these records where they are maintained, the district shall attempt to accommodate those wishes. The parent/guardian or eligible student shall be notified of the time and place where the records may be inspected.

F. Records Containing Information on More Than One Student



If the education records of a student contain information on more than one student, the parent/guardian or eligible student may inspect and review or be informed of only the specific information which pertains to that student.

G. Authority to Inspect or Review

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

H. Fees for Copies of Records

1. EMID shall charge a reasonable fee for providing photocopies or printed copies of records unless printing a copy is the only method to provide for the inspection of data. In determining the amount of the reasonable fee, EMID shall consider the following:
 - a. the cost of materials, including paper, used to provide the copies;
 - b. the cost of the labor required to prepare the copies;
 - c. any schedule of standard copying charges established by EMID in its normal course of operations;
 - d. any special costs necessary to produce such copies from machine based record-keeping systems, including but not limited to computers and microfilm systems; and
 - e. mailing costs.
2. If 100 or fewer pages of black and white, letter or legal size paper copies are requested, actual costs shall not be used, and instead, the charge shall be no more than 25 cents for each page copied.
3. The cost of providing copies shall be borne by the parent/guardian or eligible student.
4. The responsible authority, however, may not impose a fee for a copy of an education record made for a parent/guardian or eligible student if doing so would effectively prevent or, in the case of the student with a disability, would impair the parent/guardian or eligible student from exercising their right to inspect or review the student's education records.



5. EMID reserves the right to make a charge for copies such as transcripts it forwards to potential employers or post-secondary institutions for employment or admissions purposes. The fee for such copies and other copies forwarded to third parties with prior consent as a convenience will be determined by the superintendent.

XV. REQUEST TO AMEND RECORDS; PROCEDURES TO CHALLENGE DATA

A. Request to Amend Education Records

The parent/guardian of a student or an eligible student who believes that information contained in the education records of the student is inaccurate, misleading or violates the privacy or other rights of the student may request that EMID amend those records.

1. The request shall be in writing, shall identify the item the requestor believes to be inaccurate, misleading or in violation of the privacy or other rights of the student, shall state the reason for this belief, and shall specify the correction the requestor wishes EMID to make. The request shall be signed and dated by the requestor.
2. EMID shall decide whether to amend the education records of the student in accordance with the request within a reasonable period of time after receiving the request.
3. If EMID decides to refuse to amend the education records of the student in accordance with the request, it shall inform the parent/guardian of the student or the eligible student of the refusal and advise the parent/guardian or eligible student of the right to a hearing under Subdivision B. of this section.

B. Right to a Hearing

If EMID refuses to amend the education records of a student, EMID, on request, shall provide an opportunity for a hearing in order to challenge the content of the student's education records to ensure that information in the education records of the student is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student.

XVI. PROBLEMS ACCESSING DATA

- A. The data practices compliance official is the designated employee to whom persons may direct questions or concerns regarding problems in obtaining access to data or other data practices problems.
- B. Data practices compliance official means the Executive Director.



XVII. COMPLAINTS FOR NONCOMPLIANCE

A. Where to File Complaints

Complaints regarding alleged violations of rights accorded parents/guardians and eligible students by 20 U.S.C. §1232g, and the rules promulgated there under, shall be submitted in writing to the Family Policy Compliance Office, U.S. Department of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202-4605.

B. Content of Complaint

A complaint filed pursuant to this section must contain specific allegations of fact giving reasonable cause to believe that a violation of 20 U.S.C. §1232g and the rules promulgated there under has occurred.

XVIII. WAIVER

A parent/guardian or eligible student may waive any of his or her rights provided herein pursuant to 20 U.S.C. §1232g. A waiver shall not be valid unless in writing and signed by the parent/guardian or eligible student. EMID may not require such a waiver.

XIX. ANNUAL NOTIFICATION OF RIGHTS

A. Contents of Notice

EMID shall give the parent/guardian of students currently in attendance and eligible students currently in attendance annual notice by such means as are reasonably likely to inform the parent/guardian and eligible students of the following:

1. That the parent/guardian or eligible student has a right to inspect and review the student's education records and the procedure for inspecting and reviewing education records;
2. That the parent/guardian or eligible student has a right to seek amendment of the student's education records to ensure that those records are not inaccurate, misleading, or otherwise in violation of the student's privacy or other rights and the procedure for requesting amendment of records;
3. That the parent/guardian or eligible student has a right to consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that federal and state law and the regulations promulgated there under authorize disclosure without consent;



4. That the parent/guardian or eligible student has a right to file a complaint with the U.S. Department of Education regarding an alleged failure by the district to comply with the requirements of 20 U.S.C. §1232g, and the rules promulgated there under;
5. The criteria for determining who constitutes an official and what constitutes a legitimate educational interest for purposes of disclosing education records to other school officials whom EMID has determined to have legitimate educational interests; and
6. That EMID forwards education records on request to a school in which a student is enrolled.

B. Notification to Parent/Guardian of Students Having a Primary Home Language Other Than English

EMID shall provide for the need to effectively notify parent/guardian of students identified as having a primary or home language other than English.

C. Notification to Parent/Guardian or Eligible Students Who are Disabled

EMID shall provide for the need to effectively notify parent/guardian or eligible students identified as disabled.

XX. DESTRUCTION AND RETENTION OF RECORDS

Destruction and retention of records by EMID shall be controlled by state and federal law.

XXI. COPIES OF POLICY

Copies of this policy may be obtained by parents/guardians and eligible students on the district website

- Legal References:**
- Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)
 - Minn. Stat. § 120A.22 (Compulsory Instruction)
 - Minn. Stat. § 121A.75 (Sharing Disposition Order and Peace Officer Records)
 - Minn. Stat. § 121A.40-121A.56 (The Pupil Fair Dismissal Act)
 - Minn. Stat. § 127A.852 (Military-Connected Youth Identifier)
 - Minn. Stat. § 144.341-144.347 (Consent of Minors for Health Services)
 - Minn. Stat. § 260B.171, Subds. 3 and 5 (Disposition Order and Peace Officer Records of Children)
 - Minn. Stat. § 363A.42 (Public Records; Accessibility)
 - Minn. Stat. § 626.556 (Reporting of Maltreatment of Minors)
 - Minn. Rules Parts 1205.0100-1205.2000
 - 18 U.S.C. § 2331 (Definitions)
 - 18 U.S.C. § 2332b (Acts of Terrorism Transcending National Boundaries)



20 U.S.C.1232g *et seq.* (Family Educational Rights and Privacy Act)
20 U.S.C. §6301 *et. seq.* (No Child Left Behind)
26 U.S.C. §§ 151 and 152 (Internal Revenue Code)
34 C.F.R. §§ 99.1-99.67 (Family Educational Rights and Privacy)
Gonzaga University v. Doe, 536 U.S. 273 (2002)
122 S. Ct. 2268, 153 L. Ed. 2d309

Cross References:

EMID Policy 414 (Mandated Reporting of Child Neglect or Physical or Sexual Abuse)
EMID Policy 417 (Chemical Use and Abuse)
EMID Policy 506 (Student Discipline)
EMID Policy 519 (Interviews of Students by Outside Agencies)
EMID Policy 520 (Student Surveys)
MSBA Service Manual, Chapter 13, School Law Bulletin “I” (School Records – Privacy – Access to Data)