



Book	BHASD Policies
Section	200 Pupils
Title	Special Education Student Records
Code	216.2
Status	Active
Adopted	June 28, 2004
Last Revised	January 6, 2020

Purpose

The Brandywine Heights Area School District recognizes its obligation to protect the confidentiality of personally identifiable information regarding an exceptional student, or a student thought to be exceptional, or an eligible young child, or a young child thought to be eligible. The Board also recognizes its obligation to provide access to student records to the parents/guardians of the student or young child, or a representative of the parents/guardians, and to establish procedures to permit the parents/guardians to request the destruction of educational records. Accordingly, in order to comply with the Family Educational Rights and Privacy Act of 1974, the Individuals with Disabilities Education Act, and other applicable law, the Board hereby establishes procedures governing the collection, maintenance, dissemination and destruction of student records for exceptional, or thought to be exceptional, students or young child.

The following words and terms, when used in this section, shall have the following meanings, unless the context indicates otherwise.

Definitions

Destruction - shall mean the physical destruction or permanent removal of personally identifiable information from the educational records of the student so that the information in those records is no longer personally identifiable.

Directory Information - shall mean the student's name, address, telephone number, electronic mail address, photograph, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, the most recent previous educational agency or institution attended by the student, and other similar information.

Education Record or Records - shall include those records covered by the Family Educational Rights and Privacy Act, and the provisions of the General Educational Provisions Act, 20 U.S.C. § 1232f-1232i and 34 C.F.R. Part 99 (relating to family educational rights and privacy) of an exceptional student who currently receives or has received special education and related services from the district or Intermediate Unit, is enrolled or has been enrolled in an approved private school for exceptional students under the provisions of Section 1376 of the Public School Code of 1949 and the regulations, standards and guidelines thereunder, is enrolled or has been enrolled in a program of special education operated by the Pennsylvania Department of Education.

Educational records shall not include records of instructional, supervisory, and administrative personnel and educational personnel writings to those persons that are kept in the sole possession of the owner of the record, and are not accessible or recorded to any other person except a temporary substitute for the maker of the record.

Educational Agency - shall include the school district, or the Berks County Intermediate Unit, or any component part thereof, which collects, maintains, or uses an exceptional student's educational records containing personally identifiable information or from which records or information are obtained. It shall also include an approved private school or component thereof, with regard to an exceptional student who is enrolled or has been enrolled according to Section 1376 of the Public School Code of 1949, and the regulations, standards and guidelines thereunder, which collects, maintains or uses the exceptional student's educational records containing personally identifiable information or from which records or information are obtained. It shall also include the Pennsylvania Department of Education or any component parts thereof, to the extent that the Department collects, maintains or uses an exceptional student's educational records containing personally identifiable information, or releases records or information.

Personally Identifiable - shall mean data or information including the following:

1. The name of a student or any name of the student's family member.
2. The address of the student.
3. Personally identifying a piece of information such as the student's telephone number or social security number.
4. A list of personal characteristics or other information which would make the student's identity easily traceable.
5. Other similar information which would make the student's identity easily traceable.

Release - shall mean the giving of access or the transfer, disclosure or communication of the student's educational records, in whole or in part, which contain personally identifiable information to any party by any means.

Student - shall mean any individual who is or has been in attendance in the district schools with respect to whom the district maintains educational records.

Guidelines

Educational Records Plan

The district administration shall develop a plan that contains policies and procedures for the collection, maintenance and release, and subsequent destruction of educational records of exceptional students. The plan shall be updated or revised as necessary. Any updated or revised plan shall be submitted to the Pennsylvania Department of Education as requested or required.

Protection of Confidentiality

The school district shall protect the confidentiality of personally identifiable information at the collection, storage, disclosure and destruction stages of that information.

Parental Access Rights

The school district, upon request of a parent/guardian, shall permit the parent/guardian to inspect, review or copy educational records relating to an exceptional child of that parent/guardian when the record is collected, maintained, or used by the education agency. The education agency shall comply with the request without unnecessary delay, but not exceeding forty-five (45) days after the request is received. When the request is made to the district or to the Intermediate Unit, it shall be complied with prior to a conference regarding an IEP, and prior to a hearing relating to the identification, evaluation or placement of the child.

The right to inspect, review or copy educational records includes the following:

1. The right of a parent/guardian to request of and receive from the educational agency a reasonable explanation of information contained in the educational records of the child.
2. The right of a parent/guardian to be provided, upon request, with a copy of all or part of the educational records of the child.

3. The right of the parent/guardian to designate a representative who will inspect, review or copy the records. The educational agency may charge the parent/guardian a reasonable cost, which may not exceed the actual expense of the duplication, reproduction, or photocopying, in response to any request for copies of educational records for a child. The district may not charge a parent/guardian if the cost would effectively prevent the parent/guardian from inspecting or reviewing the records. No cost may be charged to a parent/guardian for the search for or retrieval of records.

A parent/guardian has a right to request a list of the types and location of a child's educational records collected, maintained, or utilized by the educational agency.

At the discretion of the educational agency, and for verification and recordkeeping purposes only, the district may require the parent/guardian to put in writing the following:

1. Their oral request to inspect, review, copy or receive copies of educational records.
2. Their oral designations of a representative.
3. Their oral request for a list of the types and locations of a child's educational records collected, maintained or utilized by the educational agency.

If the education record contains information on more than one child, the parents/guardians of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information. The parent/guardian has the right to copy from or to receive a copy of the educational record originally containing information on more than one child. Prior to the parent/guardian copying or receiving a copy of a record on more than one child, the educational agency shall delete, remove or obscure from the record or its copy personally identifiable information concerning any child who is not the child of the parent/guardian.

Student Access Rights

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 be accorded to and required only of the student.

Access to Records

The district shall keep a record of parties who have obtained access to the educational records of a student that are collected, maintained or used by the agency. The list of access to records shall include the name of the party, the date the access was given, and the purpose for which the party was allowed to use the records. The parent/guardian shall have the right to inspect the access record kept for the educational records of his/her child. The record of the authorized employees of the agency or the student's parents/guardians who have gained access to the educational records of a student is not required. The district shall maintain, for public inspection, a current list of the names and positions of agents and employees of the educational agency who are authorized by the educational agency to have access to personally identifiable information.

Destruction of Records

The district shall inform the parents/guardians of the student when personally identifiable information in the records of the student is no longer relevant to and necessary for the provision of educational services to the student.

Information no longer relevant to or necessary for the provision of educational services of the student shall be destroyed by the district, upon request of the parents/guardians. The written record of the student's directory information shall be maintained for at least one hundred (100) years beyond the date the student graduates. This policy shall not require the district to destroy educational records for a student except upon request of the parents/guardians.

If the district proposes to destroy personally identifiable information in the records of a student, it shall send written notification to the parents/guardians which shall inform the parents/guardians of their right to receive a copy of the material to be destroyed, prior to the destruction of the information.

The district shall not destroy educational records containing information necessary for the education of the student who is enrolled or has been enrolled in an education program offered through the district.

Release of Information

Parental consent shall be obtained by the district before educational records or personally identifiable information contained therein is released by the district to any party unless one of the following applies:

1. The release is authorized by provisions of federal law and applicable regulations, including the Family Educational Rights and Privacy Act.
2. The information released is directory information and the release is made under conditions specified hereinafter.
3. The release of information or records is between an approved private school providing educational services to the student and the district of residence, the student's assigned intermediate unit, or the Pennsylvania Department of Education in response to requests from the receiving agency in order to review, reevaluate or monitor the student's placement, educational progress, or enrollment status.
4. The release is to a school district to which the student is enrolled or seeks to be enrolled.

Where parental consent is required for the release of information, the district shall, prior to requesting consent, provide the parents/guardians with a concise, written explanation which shall include a general description of the information of record to be released, the form of the release, the reason the release of information was requested, and the party or agency requesting the release, and the party or agency to which the release is to be made.

Directory Information

The district may, without parental consent, release information from the educational records of a student who is no longer enrolled in the district if the information is directory information. Personally identifiable information may be included in the information released if the personally identifiable information falls within the categories included in the definition of directory information.

The district may, without parental consent, release personally identifiable information from the educational records of a student who is enrolled in the district, if that information has been designated as directory information pursuant to this policy.

The school district shall provide public notice of its designation of what shall constitute directory information, identifying the categories of personally identifiable information which the district has designated as directory information, and the right of the parent/guardian of the student to refuse to permit the designation of one or more of the categories of personally identifiable information with respect to that student as directory information. Such public notice shall also advise the parent/guardian of the student that s/he may prevent the release by the district of personally identifiable information designated as directory information if, within thirty (30) days after the publication of the public notice, the parent/guardian informs the district in writing that personally identifiable information is not to be designated as directory information with respect to that student.

Publication of the public notice under this provision may be accomplished by mailing the notice to parents of students in the district.

Dual Enrollment

For the purposes of this policy, a resident student enrolled in an approved private school shall be considered also to be enrolled in the district.

Parent's Request for Amendment of Records

A parent/guardian who believes that information and educational records collected, maintained, or used under this policy are inaccurate or misleading, or violate the privacy or other rights of a student, may request that the district amend the information.

At its discretion, the district may require that a parent's/guardian's request for amendment of the record be made in writing and contain a brief statement which specifies the records to be amended and the reason that the amendment is requested. The district shall decide whether to amend the information in accordance with the request of the parents/guardians within forty-five (45) days after receipt by the agency of the request to amend.

If the district decides to refuse to amend the information in accordance with the request of the parent/guardian, the district shall inform the parent/guardian in writing of its refusal and the specific reasons for the refusal, and shall notify the parent/guardian in writing of the right to request and receive a hearing regarding the request for amendment.

Upon parental request, the district shall provide a parent/guardian with an opportunity for a hearing to challenge the information and educational records if the parent/guardian alleges that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the student. The hearing, to be conducted in accordance with this section, shall be held at a mutually agreed upon time and place, within thirty (30) days after the district receives a request for a hearing from the parent. The parent/guardian shall receive notice in writing of the date, place and time of the hearing no later than five (5) days in advance of the hearing. The hearing shall be conducted by a party who does not have a direct interest in the outcome of the hearing. The parent/guardian shall be afforded a full and fair opportunity to present evidence relevant to the issue concerning the amendment of the record. The parent/guardian may be assisted or represented, at his/her own expense, by persons of his/her own choosing, including legal counsel at any hearing.

The district shall render a written decision on the issues presented at the hearing within thirty (30) days after the conclusion of the hearing. The decision shall be based solely upon evidence presented at the hearing, and shall include a summary of the evidence and the reasons for the decision.

If, as a result of the hearing, the district decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall amend the educational records accordingly and inform the parent/guardian of its decision to do so.

If, as a result of the hearing, the district decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall so inform the parent/guardian of his/her right to place in the educational record of the student a statement which sets forth the written comments of the parent/guardian upon the information in the educational records or reasons for disagreeing with decision of the district, or both written comments and reasons.

The statement of the parent/guardian shall be appended by the district to the educational record so long as the record or the contested portion thereof is maintained by the district. If the educational record of the student or the contested portion thereof is released by the district to any other party, the statement of the parent shall also be released to the party. This section shall not be interpreted to mean that the parent/guardian or the agency may not, by mutual agreement, meet prior to a parent/guardian request for a hearing, or the hearing itself, to discuss the concerns of the parent/guardian regarding the accuracy or inaccuracy of the records of the student.

Delegation of Responsibility

Maintenance of Records

The district shall designate an official who shall be responsible for ensuring that the district's educational records' confidentiality policies and procedures are enforced and administered. This official shall be the district's Director of Special Education or his/her designee. This official shall annually notify parents/guardian of the policies and procedures of the district regarding student education records and the rights of the parents/guardian under both state and federal law concerning the confidentiality of education records of exceptional students. The official shall also develop a system of safeguards which will protect the confidentiality of personally identifiable information at the point of collection, storage, release and destruction. S/He shall provide training and instruction in the implementation of federal, state and local records policy requirements for agency personnel who collect or use personally identifiable information. Finally, s/he shall maintain, for public inspection, a current list of the names and positions of agents and employees of educational agencies who are authorized by the district to have access to personally identifiable information.a