



POLICY 5.50

- 5-D** I recommend that the Board approve development of the proposed revised Policy 5.50, entitled "Student Records."

[Contact: Judith Klinek, PX 43876.]

Development

CONSENT ITEM

- This revision includes various updates and clarifications, including information on the types of student records and their location; fee schedules for copies of records; access by parents and adult students; written consent and waiver of confidentiality; and emergency disclosures.

POLICY 5.50

STUDENT RECORDS

1. The Board and Superintendent affirm their responsibility for establishing student records procedures compliant with law, including Fla. Stat. § 1002.22, State Board of Education Rule ("SBER") 6A-1.0955, 20 U.S.C. 1232g ("FERPA"), and 34 C.F.R. Part 99. Student records are defined by federal law, Fla. Stat. § 1002.22 (2) (c) & (d) and SBER 6A-1.0955 (2)(a). Personnel who handle student records are responsible for being acquainted with those laws, which this Policy implements and supplements.
2. **Annual Notice of FERPA and Florida Rights as to Student Records**-- An annual notice of parents' (and adult students') rights under FERPA and Fla. Stat. § 1002.22, regarding student records, shall be published in the School District's Student and Family Handbook or other printed materials distributed to students and on the School District's Web site at www.palmbeach.k12.fl.us/SupplementalEducationalSevices/Records.htm. This annual notice to students' parents/guardians and adult students, shall include, but is not be limited to, the following:
 - a. Right of access, right of waiver of access, right to challenge and hearing (pursuant to School Board Policy 5.1816), and right of privacy;
 - b. Notice of the location and availability of this Policy and Policy 5.1816 on education records; ~~and~~
 - c. The designation of certain non-School District agency personnel as "other school officials" who may have a "legitimate educational interest" in student records information;
 - d. A statement that the School Board has a policy of supporting the law on rights relating to student records; the types of information and data generally entered in the student records as maintained by the School Board; and the procedures to be followed in order to exercise such rights, and
 - e. Any other matters required by law.
3. **Types of Student Records and Their Location** -- Student education records include the Cumulative Record folder kept for each child at the school center as stated below in subparagraph (3)(c). This folder contains personal student information, student grades, and test results. The District shall maintain student information as required by SBER 6A-1.0955 (3)(a)3 and may retain student information as set forth in SBER 6A-1.0955 (4).

36 a. The following education records may be maintained to facilitate instruction
37 guidance and educational progress of students and adults enrolled in this
38 School District. The student's information can be found at the school center
39 and the student's cumulative record folder includes the student's legal name,
40 proof of birth information, last known address, name of parent/guardian,
41 location of last school attended, days absent/present, and date withdrawn and
42 date enrolled, courses taken, record of achievement, date of graduation or
43 withdrawal. Additional student information retained at a school center may
44 include: Health and background data, extracurricular information, guidance
45 information, standardized test scores, educational and career plans, honors,
46 work experience and teacher comments, exceptional student staffing
47 information, list of schools attended, driver education certificate,
48 correspondence from private or community agencies, written agreements of
49 corrections, deletions or expunctions of records and discipline records.

50 b. Other records that fall within the definitions in federal law, Fla. Stat. § 1002.22
51 (2) (c) & (d), or SBER 6A-1.0955 (2)(a) are also deemed student records for
52 purposes of confidentiality protections.

53 c. Records are kept by the school's records custodian and school's Principal at
54 the last school attended or graduated from for 3 years. Records are then sent
55 to the Records Management Department of the school district. Records
56 Management can be contacted at (561) 434-8951. These records also appear
57 on TERMS within the district's mainframe. School addresses are available on
58 the District's Web site.

59 4. **5-Access by Parents and Adult Students.--** Parents and adult students shall be
60 granted access to that student's records within 30 days after receipt of a request
61 by the ~~institution~~ School District. The right to access student records by the parent
62 or eligible student includes the right, upon request, to be shown any record or
63 report relating to such student maintained by the School District and that, upon a
64 reasonable request, the school shall furnish such parent or student with an
65 explanation or interpretation of any such record or report. Copies of any list, record,
66 or report requested under the provisions of Fla. Stat. § 1002.22(3) shall be
67 furnished to the parent or student upon request.

68 a. Both parents' right of access will be honored by the school unless there is a
69 binding legal document or court order, on file at the school, specifically
70 denying the right to one or both parents.

71 b. A parent or adult student shall have the right, upon request, to be shown any
72 record or report relating to that student and maintained by any public
73 educational institution. However, if the record or report includes information on
74 more than one pupil, the parent or adult student shall be entitled to receive, or

be informed of, only the part of the record that pertains to the student who is the subject of the request; the other pupils' information must be redacted.

- c. A minimal fee based on the fee schedule below, may be is charged for these copies, when the School District is providing a record not usually provided a parent, is providing a large quantity of documents, is providing documentation to a non-parent either with the consent of the parent or pursuant to court order or subpoena, or is a duplication of a record previously provided. However, the fee shall not exceed the actual cost to the School District for providing the copies and cannot be charged if it would deny availability of the records to the parent. The principal will make arrangements for access and notify the parent or eligible student of the time and place where the records may be inspected.
- d. Fee Schedule --Schedule of Fees -- When fees are authorized under section (4)(c) above, the School District shall furnish the parent a copy or certified copy of any student record upon payment of the fees prescribed below. Wherever the term "actual cost" appears in this Schedule, it shall mean "the cost of the material and supplies used to duplicate the record, but it does not include the labor cost or overhead cost associated with such duplication."

<u>TYPE OF RECORD DUPLICATED</u>	<u>FEES</u>
<u>Legal page, one side</u>	<u>\$0.15</u>
<u>Letter page, one side</u>	<u>\$0.15</u>
<u>Legal page, double-sided</u>	<u>\$0.20</u>
<u>Letter page, double-sided</u>	<u>\$0.20</u>
<u>Audio tape</u>	<u>Actual cost (approx. \$3.00 per tape)</u>
<u>Video tape</u>	<u>Actual cost (approx. \$5.00 per video)</u>
<u>Computer diskette</u>	<u>Actual cost (approx. \$0.45 per diskette)</u>
<u>Computer tape (cartridge)</u>	<u>Actual cost (approx. \$5.35 per tape)</u>
<u>CD</u>	<u>Actual cost</u>
<u>Computer tape (round)</u>	<u>Actual cost (approx. \$10.00 per tape)</u>

<u>ADDITIONAL SERVICES</u>	<u>FEES</u>
<u>Certified copy charge</u>	<u>\$1.00</u>

Other Types of Copies -- For any copies not listed above, the charge shall be limited to the actual cost of duplication.

5. Waiver - Parents and adult students have the right to waive the right of access to letters or statements of recommendation or evaluation for that student. Such waivers may not be required as a condition for admission to, receipt of financial aid from, or receipt of any other services or benefits from, any public agency or public educational institution in this state.

- 99 a. Such waiver shall apply to recommendations or evaluations only if:
- 100 i. the parent or student is, upon request, notified of the names of all persons
- 101 submitting confidential letters or statements; and
- 102 ii. such recommendations or evaluations are used solely for the purpose for
- 103 which they were specifically intended.

- 104 b. NOTE: The waiver shall include but not be limited to access to confidential
- 105 letters or statements. The waiver shall not be valid unless in writing and signed
- 106 by the adult student or the parent or guardian of the pupil, as appropriate. The
- 107 waiver may be revoked in writing with respect to actions occurring after the
- 108 revocation. The School District may not require that adult students or the
- 109 parent or guardian of pupils waive any other rights under Fla. Stat. § 1002.22.

- 110 6. **7. Disclosures and Exemption from Public Records Requests.**-- Student
- 111 records are confidential and exempt from the Public Records Act. That is,
- 112 personally identifiable records or reports of a student, and any personal information
- 113 contained therein, are confidential and exempt from Florida's Public Records
- 114 Statute. They cannot be obtained through public records requests. Even student
- 115 records that have been redacted to obscure personally-identifiable information
- 116 remain confidential and exempt from the Public Records Act, pursuant to *Florida*
- 117 *State University v. Hatton*, 672 So. 2d 576, 580 (Fla. 1st DCA 1996). However,
- 118 when a personnel investigative report or litigation records contains any personally-
- 119 identifiable student information, "all student identifying information [shall] be
- 120 redacted from the report prior to it being released." *Johnson v. Deluz*, 875 So. 2d 1
- 121 (Fla. 4th DCA 2004). See also Fla. AGO 2006-21

- 122 7. **Release of Student Records** -- The School District may not permit the release of
- 123 confidential student records, reports, or information without the written consent of
- 124 the student's parent, or of the student himself or herself if he or she is qualified as
- 125 eligible, to any individual, agency, or organization, except as allowed by law.
- 126 Personally identifiable records or reports of a student may be released, however,
- 127 without the consent of the student or the student's parent, to certain persons or
- 128 organizations, including to school officials and other school officials with a
- 129 legitimate educational interest, as well as under other conditions stated within Fla.
- 130 Stat. § 1002.22 (3)(d).

- 131 8. **Written Consent** -- Where prior written consent of the adult student or the parent
- 132 or guardian of a student, as appropriate, is required, written consent may be
- 133 obtained by the following
- 134

- 135 a. The written consent required must be signed and dated and shall include:

- 136 i. Specification of the records to be disclosed;

- 137 ii. The purposes of the disclosures; and
- 138 iii. The party or class of parties to whom a disclosure is to be made.
- 139
- 140 b. Personally identifiable information shall be disclosed only on the condition
141 that the party to whom the information is disclosed shall not disclose the
142 information to any other party without prior written consent of the adult
143 student or the parent or guardian of the pupil, as appropriate. Personally
144 identifiable information, which is disclosed to an institution, agency, or
145 organization, may be used by its officers, employees and agents, but only
146 for the purpose for which the disclosure was made.
- 147 c. Whenever written consent is required, the School District shall presume
148 that the adult student or the parent or guardian of the student, as
149 appropriate, "giving consent has the authority to do so unless the School
150 District has been provided with evidence that there is a legally binding
151 instrument, or state law or court order governing such matters as divorce,
152 separation, or custody which provides to the contrary.
- 153 d. When disclosure is made through prior written consent, if a parent or
154 eligible student so requests, the School District shall provide him or her
155 with a copy of the records disclosed; and if the parent of a student who is
156 not an eligible student so requests, the School District shall provide the
157 student with a copy of the records disclosed.
- 158 e. A record of requests and disclosures of personally identifiable information
159 from the education records, shall be maintained and kept with the
160 education records of the student. Such record of access shall be available
161 only to parents and to the school official and his/her assistants who are
162 responsible for the custody of such records. Records of requests and
163 disclosures do not have to be maintained when the disclosure is to the
164 adult student or to the parent or guardian of the pupil, when the disclosure
165 is based on written consent, or when the disclosure is to School District
166 officials or other school officials with a legitimate educational interest. The
167 record of requests for disclosure shall include but is not limited to the
168 following:
- 169
- 170 i. The parties who have requested or obtained personally identifiable
171 information; and
- 172 ii. The legitimate interests of the persons or entities requesting or
173 obtaining the information.
- 174
- 175 9. **3.-Access by "Other School Officials."**-- Joint agreements, which provide for the
176 exchange of information about students, may be negotiated with the Palm Beach

County Health Department, the Florida Department of Health, the Health Care District of Palm Beach County, the Children's Services Council of Palm Beach County, the Florida Department of Children and Families, and other agencies in specific circumstances where agency personnel have a legitimate educational interest in students jointly served, and brought to the School Board for approval, and such agency personnel are therefore designated by the Board as "other school officials" who may have a "legitimate educational interest" in student records information, pursuant to the Board's authority under 34 C.F.R. § 99.31(a)(1); 34 C.F.R. § 99.7(3)(iii); and Fla. Admin. Code R. 6A-1.0955(6)(h).

a. As required Fla. Stat. § 1002.22(3)(d)2, the agreement with such agencies shall specify that the agency shall impose safeguards to limit access only to those personnel "who have legitimate educational interests in the information contained in the records." Legitimate educational interests are defined as the need to review an education record in order to fulfill the employee's professional responsibilities and complete job duties in performing an official task that requires access to information in the education records of students jointly served.

b. Moreover, pursuant to State Board of Education Rule 6A-1.0955(6)(g), such inter-agency agreements shall allow personally-identifiable student information to be disclosed to such agencies "only on the condition that the party to whom the information is disclosed shall not disclose the information to any other party without prior written consent of the adult student or the parent or guardian of the pupil, as appropriate."

c. The scope and extent of legitimate educational interests that "other school officials" have will vary depending on the purpose of their need for access. For example, a yearbook vendor hired to publish a school's yearbook will have a very limited scope of student information in which he/she has legitimate educational interests: only the amount needed to complete the task under contract. By contrast, an attorney retained by the School District to defend a case would have a much greater scope of legitimate educational interests—in many cases, it could include the entire student-records file, when such access is needed to fulfill the attorney's professional responsibility. The School District has the sole authority to determine the scope of legitimate educational interests held by "other school officials."

d. Pursuant to the Board's authority under 34 C.F.R. § 99.31(a)(1); 34 C.F.R. § 99.7(3)(iii); and Fla. Admin. Code Rule 6A-1.0955(6)(h), the School District hereby designates "other school officials" who shall be deemed to have a "legitimate educational interest" in student records information.

i. The Board designates such "school officials" to include an administrator, supervisor, instructor, or support staff member (including health or

217 medical staff, ~~and school police, a university student who is placed in a~~
218 ~~school under a Professional Development School Partnership or student-~~
219 ~~teaching internship), or a School Board member, who needs to access~~
220 student records information in order to carry out his or her official duties
221 or fulfill his/her professional responsibility.

- 222 ii. “Other school officials” shall also include pursuant to an information-
223 sharing agreement as stated above, persons such as: the School
224 District’s health care partners and other governmental and social
225 agencies jointly serving students, to the extent student records
226 information is needed to provide and/or evaluate health services and
227 governmental/social services to students; a person or company with
228 whom the school has contracted or partnered to perform a special task
229 (such as a class ring or yearbook vendor under contract with the school,
230 or an attorney, auditor, nurse, psychologist, medical consultant, or
231 therapist under contract with the School District); ~~a university student who~~
232 ~~is placed in a school under a Professional Development School~~
233 ~~Partnership or student-teaching internship;~~ and a parent or student or
234 other person serving on an official committee (such as a disciplinary or
235 grievance committee) or assisting another school official in performing his
236 or her tasks; or an official of a charter school of this School District (to
237 access name/address mailing labels of School District students to the
238 extent legitimately needed for recruiting purposes and only upon
239 agreement not to redisclose the information to third parties.

240 10. ~~4.~~ **Transfer of Records**

- 241 a. The school and School District will disclose education records without consent
242 to officials of another school district in which a student seeks or intends to
243 enroll, upon request of those officials.
- 244 b. Federal law requires the School District to “facilitate the transfer of disciplinary
245 records, with respect to a suspension or expulsion . . . to any private or public
246 elementary school or secondary school for any student who is enrolled or
247 seeks, intends, or is instructed to enroll, on a full- or part-time basis, in the
248 school.” 20 U.S.C. § 7165(b).

- 249 11. ~~6.~~ **Access by Military Recruiters and Institutions of Higher Learning.--**
250 Because the School Board does not have a directory information Policy,
251 information that many school districts have designated as “directory information”
252 will be released only upon written parental consent unless otherwise allowed by
253 law. However, as part of the No Child Left Behind Act of 2001, Congress has
254 required that school districts receiving assistance under the Elementary and
255 Secondary Education Act of 1965 (ESEA) must give military recruiters access to
256 certain directory information.

a. Federal law (20 U.S.C. § 7908(a)(1)) now requires that high schools “shall provide, on a request made by military recruiters or an institution of higher education, access to secondary school students’ names, addresses, and telephone listings.” This requirement is also found in 10 U.S.C. § 503(c)(1)(A)(ii). The information will be used for military recruiting purposes and other legitimate purposes such as informing students of scholarship opportunities at institutions of higher learning. Parental consent is not required before providing the information to recruiters and institutions of colleges, although parents may “opt out.”

b. In accordance with those laws, military recruiters are entitled to receive the name, address, and telephone listing of high school students, unless the parent or student have advised the school that they do not want the student’s information to be disclosed without specific prior written consent.

c. Parents will be notified of the right to opt out in the School District’s Family Student Handbook and New and Returning Student Registration form.

d. ~~e.—“A secondary school student or the parent of the student may request that the student’s name, address, and telephone listing . . . not be released without prior written parental consent” to military recruiters or institutions of higher learning. 20 U.S.C. § 7908(a)(2). Therefore, if if a high school student or parent does not want the school or the School District to disclose one or more of these categories of information (name, address, or telephone) to military recruiters or officials of institutions of higher learning without prior written consent, the parent or student must notify the school principal in writing within 10 days after the annual distribution of the Student and Family Handbook, and the principal should also forward to Student Services.~~

12. ~~8.—~~**Production of Student Records Pursuant to a Subpoena or Court Order.--**
If a party to litigation presents a subpoena or court order for release of student records, the School District shall ensure that the “student’s parent are notified of the order or subpoena in advance of compliance therewith by the educational institution or agency.” Fla. Stat. § 1002.22(3)(d)11.

a. As stated in 34 C.F.R. §99.31(a)(9)(ii), the purpose of this notice is to allow the student and parents to object or seek protective action. Non-party students and parents shall receive 10 days’ notice; and students and parents who are a party to the litigation shall receive 5 days’ notice.

b. Litigants seeking student records should bear in mind that discovery of confidential records is limited by law. The requestor of confidential records must demonstrate “extraordinary necessity” or “exceptional circumstances.” See *State, Department of Highway Safety and Motor Vehicles v. Krejci Co. Inc.*, 570 So. 2d 1322, 1324-25 (Fla. 2d DCA 1990); *Henderson v. Perez*, 835

So.2d 390 (Fla. 2d DCA 2003). See also *Florida State University v. Hatton*, 672 So. 2d 576, 580 (Fla. 1st DCA 1996) (requiring a balancing test to determine whether the requestors have a legitimate need that outweighs the students' express, substantial statutory privacy rights in the confidentiality of student information.)

- c. Moreover, if the court allows discovery of confidential records, it should take "all precaution to ensure the confidentiality of the records." *Krejci Co. Inc.*, 570 So. 2d at 1325. For example, Fla. Admin. Code R. 6A-1.0955(6)(g)2 delineates that: "Personally identifiable information shall be disclosed only on the condition that the party to whom the information is disclosed shall not disclose the information to any other party with out prior written consent of the adult student or the parent or guardian of the pupil, as appropriate." Other appropriate means of safeguarding the information would be: clearing the courtroom if documents are allowed to be submitted at trial; instructing jurors not to redisclose the information, and sealing such records from public access in court files.

13. **Emergency Disclosure -- The School District may disclose personally identifiable student information in health and safety emergencies determined based upon, but not limited to, the following factors.**

- a. The seriousness of the threat to the health or safety of the pupil or adult student or other individuals;
- b. The need for the information to meet the emergency;
- c. Whether the parties to whom the information is disclosed are in a position to deal with the emergency; and
- d. The extent to which time is of the essence in dealing with the emergency.

STATUTORY AUTHORITY: Fla. Stat. §§ 1001.32(2); 1001.41(2); 1001.43(8); 1002.22(4)

LAWS IMPLEMENTED: Fla. Stat. § 1002.22; 20 U.S.C. § 1232g; 34 C.F.R. Part 99

RULE SUPPLEMENTED: State Board of Education Rule 6A-1.0955

HISTORY: 2/18/72; 2/28/72; 1/18/78; 4/6/83; 8/2/2004; / 2008

Legal Signoff:

The Legal Department has reviewed proposed Policy 5.50 and finds it legally sufficient for development by the Board.

Attorney

Date