

# Infinity Charter School

SECTION: STUDENT POLICIES

TITLE: STUDENT RECORDS

APPROVED: June 10, 2007

REVISED: November 8, 2016

## 323. Student Records

### PURPOSE

Infinity Charter School (“ICS” or the “School”) recognizes its responsibility for the compilation, retention, disposition and security of student records, and also recognizes the legal requirement to maintain the confidentiality of student records.

This policy has been prepared to ensure that records compilation and storage is conducted in accordance with applicable law, and to establish safeguards to protect the student and his/her family from an invasion of privacy when collecting, retaining and disseminating student information and providing access to authorized persons.

This policy incorporates provisions from the Regulations of the State Board of Education of Pupil Records (PA Code 22, Ch. 12), the Family Educational Rights and Privacy Act of 1974, the Confidentiality Section of P.L. 94-142, and the Confidentiality Section of PA Special Education Regulations and Standards.

Information in this policy will be reviewed and updated as necessary.

### DEFINITIONS

**Authorized school official** – means an administrator, supervisor, instructor, or other school official who has a legitimate educational interest (as defined below) in the student’s education.

**Destruction** – means physical destruction or permanent expungement of personally identifying data from a student’s educational records so the information in those records is no longer personally identifiable.

**Directory information** – includes the following information relating to a student: the student’s name, address, email address, telephone number, date and place of birth, names of parents and siblings, whether the student graduated and date of graduation, 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 student identification number, user identification number, or code when such number or code cannot alone be used to access education records, without some other identifier known only to the authorized user of an electronically access information system or database.

**Education record/records** – any personally identifiable information recorded or stored by any means that is directly related to a student and is maintained by ICS. The term does not include

the following: (a) records of instructional, supervisory, and administrative personnel that are kept in the sole possession of the maker of the record and the contents of which are not accessible or revealed to any other person except a substitute for the maker of the record; (b) records that contain only information about the student after he or she is no longer a student at ICS; (c) grades and other forms of peer assessment or rating before they are collected and recorded by a teacher; and (d) other records specifically excluded from the definition of “education record” under the Family Educational Rights and Privacy Act (“FERPA”), 20 U.S.C. § 1232g, and its implementing regulations at 34 C.F.R. Part 99.

**Eligible student** – means a student who has attained eighteen (18) years of age, or is attending an institution of postsecondary education.

**Maintain or maintained** – In the case of personally identifiable information on paper, the term shall mean kept in a secure file or desk drawer or in the continuous and secure control of a school official with a legitimate educational interest in the content thereof. In the case of personally identifiable information that is electronically-stored, including email, the term shall mean kept in a secure database located on a server, disk, or other electronic storage system specifically designated by ICS as a site for the storage of student records.

**Personally identifiable** – Any one or more of the following:

1. The student’s name;
2. The name, including maiden names, of any member of the student’s family;
3. The current or past address, or the date or place of birth, of the student or any member of the student’s family;
4. A personal identifier such as a social security number, student number or code, or biometric information consisting of one or more measurable biological or behavioral characteristics that can be used for automatic identification of an individual;
5. Information that, alone or in combination, is linked or linkable to a specific student such that a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, could use such information to identify the student with reasonable certainty; or
6. Information requested by a person whom the educational agency or institution reasonably believes knows the identity of the student to whom such information relates.

**Release** – the giving of access to or the allowance of inspection, transfer, disclosure, or communication of any portion of a student’s education records which includes in it personally identifiable information; the term also means release to any person by any means.

**School official with a legitimate educational interest** – Any employee, officer, agent, consultant, or contractor of, or any volunteer acting on behalf of ICS, any public or private school or facility that ICS is using or is proposing to use to provide elementary education to the student in place of a public school, who is or will be responsible for providing or supervising the provision of education or education-related services, when particular information concerning that student is presently or potentially relevant to the design or provision of instruction or other education services, or such information is necessary to protect the health, safety, or welfare of the student or others.

**Student** - means school-aged person who was or is enrolled in ICS, with respect to whom ICS maintains education records.

**Parent** – includes a parent, guardian or a surrogate parent who acts as a parent in the absence of

a parent or guardian. Unless there is a state law or court order which provides to the contrary, Infinity Charter School may presume that the parent has the authority to exercise the rights inherent in the Family Educational Rights and Privacy Act of 1974.

### **COLLECTION OF EDUCATION RECORDS**

- A. Initiation of education records – An official student record shall be initiated by ICS and shall be maintained by the CEO or his/her designee. The Special Education Coordinator shall maintain special education records under the same conditions.
- B. Transfer of special education records
  - 1. When education records for a child with a disability are transferred from a public agency to ICS, the public agency, private school, approved private school or private agency from which the child transferred shall forward all of the child's education records, including the most recent IEP, within 10 days after the public agency, private school or private agency is notified in writing that the child is enrolled in a charter school. ICS shall seek these records for all newly enrolled students and follow up on any unfulfilled requests for records.
  - 2. When a child with a disability transfers to another public agency, public school, or private school from ICS, the charter school shall forward the child's education records, including the most recent IEP, within 10 school days after the charter school is notified in writing that the child is enrolled at another public agency, private school, approved private school or private agency.
- C. Transfer of regular education records
  - 1. If ICS receives a request for educational records from another school district or charter school, ICS shall forward the records within ten (10) business days of receipt of the request.

### **INSPECTION AND DISCLOSURE OF EDUCATION RECORDS**

- A. Access
  - 1. Education records subject to this Policy, other than those records or portions of records that contain “directory information,” are not considered “public records” subject to access or disclosure under the Pennsylvania Right to Know Law, 65 Pa.C.S. § 67.101 *et seq.*
- B. Parent's right to inspect or examine official student records.
  - 1. Parent or eligible student – The School shall permit parents or an eligible student to inspect and review any relevant education records that are collected, maintained, or used within forty-five (45) calendar days of receipt of a verbal or written request to do so. ICS staff shall make every reasonable effort to

ensure that requested records are provided to the parents at the earliest possible date.

2. Parents of students receiving specialized services – Parents of children in special education may also review all education records relating to the identification, evaluation, educational placement of, and the provision of free appropriate public education for their child. Written requests to inspect or examine records should be addressed to the CEO. Such requests will be met before any IEP meeting or hearing, and in no case more than 20 business days after a request is received.

a. The right to inspect and review education records includes:

(1) The right to a response from ICS to reasonable requests for explanations and interpretations of the record.

(2) The right to request that ICS provide copies of the records containing the information. Failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review.

(3) The right to have a representative of the parent inspect and review the records.

b. The School may charge a fee, equal to the actual cost of reproduction, for copies of records that are made for parents, if the fee does not effectively prevent the parents from exercising their right to inspect and review the records. The School will not charge a fee to search for or to retrieve information.

c. In the event that parents of a student are separated or divorced, either or both parents may have access unless a legal restraining order prohibits such access to a particular parent.

d. Parents and students will be informed of the list of types of student records and their right of access to them. The information will be distributed annually, with the issuance of the first report card.

e. If any education record includes information on more than one child, the parents of one of the children have the right to inspect and review only the information relating to their child or to be informed of that specific information.

f. The School shall provide parents, on request, a list of the types and locations of education records collected, maintained or used by the School.

C. Disclosure of records with written consent – Whenever records are inspected or disclosed upon written consent, it shall be only under the following circumstances:

1. The parent or eligible student shall provide a signed and dated written consent before ICS discloses personally identifiable information from the student's education records (except as provided in FERPA, Sec. 99.31)
  2. The written consent must specify the records that may be disclosed, state the purpose of the disclosure, and identify the party to whom the disclosure may be made. Upon request, the parent or eligible student shall be provided with a copy of the records disclosed.
  3. Where individual consent is required, the student's consent shall also be obtained when he or she is reasonably competent to understand the nature and consequences of his or her decision.
  4. No statement of consent shall be binding unless it is freely given after the parent or eligible student has been fully informed as to the methods by which the information will be collected and the uses to which it will be put.
- D. Disclosure of records without written consent – Pursuant to Sec. 99.31 (FERPA), ICS may disclose personally identifiable information from the education record of a student without consent of the Parent if the disclosure meets the conditions therein, including but not limited to one or more of the following conditions:
1. The disclosure is made to the professional staff of ICS or other parties deemed school officials who have been determined to have a specific, legitimate educational interest, including teachers, administrative personnel, counselors, speech therapists, psychologists, and school nurse. Specifically excluded are student teachers and teaching assistants. Written consent must be obtained by student teachers for the preparation of case histories to fulfill college requirements.
  2. Law enforcement and judicial authorities may receive a report of a crime committed by a child with a disability from the School. The School is not prohibited from reporting a crime committed by a child with a disability to appropriate authorities or to prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law.
    - a. When reporting a crime committed by a child with a disability, the School shall ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom it reports the crime.
    - b. When reporting a crime under this section, the School may transmit copies of the child's special education and disciplinary records only to the extent that the transmission is permitted by FERPA.

3. The officials of another school system in which the student intends to enroll, upon condition that reasonable effort be made to notify the parent or eligible student of the material to be disclosed and of their right to obtain copies of the material to be disclosed and to request amendment of the records.
4. Federal and state officials for the purpose of an audit and evaluation of federally supported education programs or for enforcing or complying with federally legal requirements which relate to these programs. Information provided shall contain the minimum necessary information that is personally identifiable, and such information shall be destroyed upon completion of such audit, evaluation, enforcement or compliance.
5. Persons or agencies in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals.
6. Persons or agencies in compliance with a judicial order pursuant to any lawfully issued subpoena. The parent or eligible student shall be notified of all such orders and the School's compliance therewith. The parent or eligible student may receive a copy of the information released, if desired. Copies will be provided at the actual cost of reproduction.
7. The disclosure is to authorized representatives of the Secretary of Education of the United States, or to state and local educational authorities.
8. The school may provide anonymous directory information from its records, including the official student record, for research purposes without consent under conditions where there is no likelihood of identifying any individual.
9. Disclosure of Directory Information – Directory Information may be released without the consent of a parent. However, each school year ICS must tell parents about directory information and allow parents a reasonable amount of time to request that the school not disclose directory information of his or her child. That notice shall be presented in the following, or substantially similar, form:

If you do not want Infinity Charter School to disclose directory information from your child's education records without your prior written consent, please write and sign a letter to the school including the statement below within sixty (60) days of your students' enrollment:

*I have read this statement of privacy rights to information in my student's education record and request that Infinity Charter School NOT disclose any personally-identifiable information from my student's records, including what is called "directory information," without my prior written consent, to any outside person or organization.*

- E. Lists identifying names and addresses of students shall not be released to any outside agency.
- F. Requests for inspection and disclosure
  - 1. Infinity Charter School shall maintain a record, with the student's education record, of each request for access to and each disclosure of personally identifiable information. For each request or disclosure, the record must include the parties who have requested or received information and their legitimate interest.
  - 2. Exceptions include the Parent(s), eligible student, school officials, a party with written consent from the parent or eligible student, a party seeking directory information, or a party seeking or receiving the records as directed by a Federal grand jury or other law enforcement.
  - 3. The CEO of ICS shall maintain a current listing of the names and positions of those who are authorized to have access to personally identifiable information in the education records of all students.

**MAINTENANCE AND DESTRUCTION OF EDUCATION RECORDS**

- A. ICS shall collect and maintain the types of records described in subparagraphs (1) through (3) and may collect and maintain records described in subparagraphs (4) through (10) below:
  - 1. Core data, consisting of the name of the student; last known address and domicile of the parents or guardian of the student or, if the student is emancipated, of the student; the birth date of the student; the course, subject area, or project work completed by the student and the level of achievement attained; the last grade attended or the date of graduation; and attendance data.
    - i. This data shall be maintained for a period of six (6) years beyond the school year during which the student to whom such data pertains attains age twenty-one.
    - ii. For special education students, "core data" shall also include copies of the first and last evaluation reports of the multi-disciplinary team, NOREPs, and the first and last IEP.
    - iii. For students receiving services pursuant to a Section 504 Service agreement, copies of the first and last such plan and the notice by which the parents initially consented to the provision of the services.
    - iv. For students who were evaluated for eligibility for specialized services but found to be ineligible, copies of all evaluation reports supporting such determination, and all notices by which parents indicated agreement with such determination.

2. Discipline and law enforcement records, including the sworn statement or affirmation of suspension or expulsion required at registration (“Act 26 Statement”) and the records of incidents of violence maintained in a form prescribed by the Pennsylvania Public School Code.
  - i. These records shall be maintained as long as the information contained therein remains relevant to the education of the particular student or to the design and provision of educational programs in general or as long as such information remains essential to the protection of the legal interests of ICS.
3. Health records including immunization information, results of vision and hearing screenings, results of state-mandated physical examinations, in-school treatment and drug dispensing or administration orders or prescriptions from physicians, treatment and drug dispensing or administration logs, and health-related information provided by parents or guardians.
  - i. These records shall be maintained for a period of at least two (2) years beyond the date on which the student ceases to be enrolled in the School.
4. Student work samples and teacher grade books retained for purposes of ongoing assessment, instructional planning, or grade calculation; the results of group standardized or criterion-referenced testing and state-wide criterion-referenced assessments, if any, in which the student participated; and non-cumulative report cards;
5. Guidance department, psychologist, and student assistance team records, except for personal records and notes which are not subject to this Policy;
6. Results of vocational and career aptitude and interest surveys, or of surveys to assist in planning for a providing guidance, health, or drug and alcohol abuse prevention instruction or programs;
7. Reports of and other assessment by instructional support, child study, multi-disciplinary, or IEP teams, or by professional staff responsible for determining eligibility for Title I, ESL, and other remedial programs;
8. Scoring sheets, answer books, rating forms, observation notes, anecdotal logs, running record forms, and other forms of raw data gathered in the course of testing and assessment or progress monitoring and assessment;
9. Records of awards and distinctions earned by students for work or activities in school and in the community and of participation in ICS-approved extracurricular activities; and



10. Other records required by law or deemed by instructional or supervisory staff to be both accurate and necessary to the provision of education, education-related services, or extracurricular activities.
  - i. The records identified in subparagraphs (4) through (10) above shall be maintained as long as the information contained therein remains relevant to the education of the particular student or to the design and provision of educational programs in general or as long as such information remains essential to the protection of the legal interests of ICS.
- B. The ICS Board of Trustees hereby gives consent for the collection of records and information described in subparagraphs (1), (4), and (5) above.
- C. The ICS Board of Trustees hereby gives consent for the collection of records and information described in subparagraphs (2), (3), and (6) above, unless the collection of such records and information is accomplished by use of a survey, analysis, or evaluation that requires or encourages the student to reveal political affiliations or beliefs of the student or student's family, mental or psychological problems of the student or his/her family, sexual behavior and attitudes, illegal or self-incriminating behavior, information protected by legal privilege, income (unless income information is required by law to determine eligibility for a program or service), or religious practices.
- D. ICS shall maintain education records for children with and without disabilities in a manner consistent with applicable law. Nothing in this Policy shall be construed as altering requirements for written consent where Parental consent is required by law.
- E. Relevant files that are stored in more than one location are regarded as part of the student's overall education records. At the School, cumulative record folders are maintained in the main office. Medical records are stored in the Nurse's office; psychological test protocols are stored in the main office along with speech and language records. All records are confidential, secure, and made available only to authorized personnel with the approval of the CEO.
- F. For students with disabilities receiving specialized services, Parents shall be informed when ICS determines that any portion of the education record of the particular student is no longer relevant to his/her education. ICS shall notify Parents in writing of this determination via notice to the last known address of the Parent and shall (1) identify the specific records that no longer relevant; (2) contain an explanation that ICS shall destroy the records if the Parent so requests and that ICS may destroy such records without a request; and (3) contain the name and number of a contact person whom the parents can contact to obtain additional information about or seek clarification concerning the records.
- G. ICS shall not destroy any record that is the subject of a request for access from a parent or eligible student.

### **AMENDMENT OF EDUCATION RECORDS**

- A. A parent or student who believes that information contained in the education records collected, maintained, or used is inaccurate or misleading or violates the privacy rights of the child, may make a request to the CEO that the records be amended.
- B. ICS shall decide whether to amend the information in accordance with the request within 10 business days from receipt of the request.
- C. If the School agrees to amend the disputed information, the parent or student shall be notified in writing.
- D. If the School refuses to amend the information in accordance with the request, it shall inform the parent or eligible student in writing of the refusal, the reason(s) for that refusal, and his or her rights to a hearing under FERPA, Sec. 99.21.

### **HEARINGS: RIGHTS AND PROCEDURES**

- A. The School shall, on request, provide an opportunity for a hearing to challenge information in education records to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy rights of the child.
- B. The hearing must meet, at a minimum, the following requirements:
  - 1. The School shall hold the hearing within 20 business days after it has received the request for a hearing.
  - 2. The school shall give the parent or eligible student notice of the date, time, and place of the hearing, within 5 business days of the request.
  - 3. The hearing may be conducted by any individual, including an official of the educational agency or institution, who does not have a direct interest in the outcome of the hearing.
  - 4. The parent or eligible student shall be afforded a full and fair opportunity to present evidence relevant to issues raised, and may be assisted or represented by individuals of his or her choice, including an attorney, at his or her own expense.
  - 5. The decision of the hearing panel shall be based solely upon the evidence presented at the hearing and shall include a summary of the evidence and the reasons for the decision. This decision will be rendered in writing within thirty days after conclusion of the hearing. A copy of the decision will be retained in the official student record.
- C. Hearing Results

1. If, as a result of the hearing, ICS decides that the information is inaccurate, misleading or otherwise in violation of the privacy rights of the child, it shall amend the information accordingly and so inform the parent in writing.
2. If, as a result of the hearing, ICS decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy rights of the child, it shall inform the parent of the right to place in the child's records, a statement commenting on the information or setting forth reasons for disagreeing with the decision. The statement must:
  - a. Be maintained as part of the records of the child as long as the contested portion is maintained.
  - b. Be disclosed, if the records of the child or the contested portion is disclosed to any party.

### **PARENT NOTIFICATION**

- A. Annually, parents will receive a description of their rights under FERPA and implementing regulations, including the right to:
  1. Inspect and review the student's education records
  2. Seek amendment of the student's education records that the parent or eligible student believes to be inaccurate, misleading, or otherwise in violation of the student's privacy rights.
  3. Be notified of the procedures for:
    - a. Exercising the right to inspect and review education records
    - b. Requesting the amendments of records
  4. Consent to disclosure of personally identifiable information contained in the student's education records, except to the extent that FERPA, Sec. 99.31 authorizes disclosure without consent to, for example, school officials with legitimate educational interest.
  5. File, with the U.S. Department of Education, a complaint concerning alleged failures by the School to comply with the requirements of the Act.
- B. Upon request, parents may receive:
  1. A description of the children on whom personally identifiable information is maintained, the types of information sought, the methods used to gather information (including the source), and the uses to be made of the information.
  2. A summary of the policies and procedures regarding the storage, disclosure to third parties, retention, and destruction of personally identifiable information.

3. Specification of criteria for determining who constitutes school officials and what constitutes a legitimate educational interest.
  4. A list of the types and locations of education records collected, maintained, or used by ICS.
- C. ICS shall provide effective notification to parents or eligible students identified as having a primary or home language other than English and to parents or eligible students who are disabled.

### **SAFEGUARDS**

- A. ICS shall protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.
- B. The CEO shall assume responsibility for ensuring the confidentiality of any personally identifiable information
- C. All persons collecting or using personally identifiable information shall receive training or instructions regarding policies and procedures.
- D. The School shall maintain, for public inspection, a current listing of the names and positions of those school employees who may have access to personally identifiable information.
- E. Children shall be afforded rights of privacy similar to those afforded to parents, taking into consideration the age of the child and type of severity of disability, if any.
- F. Parents and students who wish to file complaints with regard to compliance with this policy may do so by contacting the CAO. If further appeal is necessary, the parent or eligible student may contact the Family Policy Compliance Office, U.S. Department of Education, 600 Independence Ave. SW, Washington, DC 20202-4605, Phone: (202) 260-3887. With regard to complaints concerning violation of privacy rights in special education, contact may be made to: Chief, Division of Compliance, Monitoring and Planning, Bureau of Special Education, Pennsylvania Department of Education, 333 Market St., 7<sup>th</sup> Floor, Harrisburg, PA171260333.

### **IMPLEMENTATION**

- A. CEO or designated professional personnel will screen all students' records to eliminate any material in contradiction to this Policy.
- B. Items removed from the file during the screening process will be destroyed.

- C. Upon adoption of this policy by the Infinity Charter School Board of Trustees:
  - 1. Parents and eligible students will be notified annually of the policies and procedures.
  - 2. Professional staff will be informed of this policy through in-service education.
- D. Copies of this Policy will remain on file with the CEO and be available upon request.