



Document Number: A-11  
 Document Name: Family and Student Records Privacy (Confidentiality) Policy  
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### 1.0 Purpose

Wasatch Charter School (WCS) recognizes the importance of confidentiality with regard to sensitive student and family information and will comply with State and Federal laws concerning family educational rights and privacy. The laws referenced in this policy are for summary purposes only. The laws cited in this policy may be referenced for further detail. Any new legislation on school privacy laws will be enforced as well.

### 2.0 Definition

This policy provides standards for the protection of private information within the curriculum and other school activities. All WCS staff and parent volunteers are subject to the school's Confidentiality Policy.

### 3.0 Policy Content

#### Family Educational Rights and Privacy Act (FERPA)

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FERPA was enacted as a species of civil rights legislation, designed to assert and protect the rights of students and their parents. According to its sponsors, “The purpose of the Act is two-fold - to assure parents of students. . . access to their education records, and to protect such individuals’ rights to privacy by limiting the transferability of their records without their consent.”

### FERPA and Its Protections

FERPA is a federal law that protects the privacy interests of students. It affords parents the right to access and request that their children’s education records be amended, and gives them some control over the disclosure of the information in these records. FERPA generally prevents schools from sharing student records, or personally identifiable information in these records, without the written consent of a parent, except as provided by law.

### Education Records

Under FERPA, the term “education records” includes all records containing information directly related to a student and are maintained by WCS, or by a person acting for WCS. This includes all records regardless of medium, including, but not limited to, files, documents, handwriting, email, videotape or audiotape, electronic or computer files, film, print, microfilm, and microfiche. Examples of “education records” include grades, class lists, course schedules, transcripts, health records, and discipline files. Personal notes made by teachers or other staff are not considered education records if they are:

- kept in the sole possession of the maker;
- not accessible or revealed to any other person except a temporary substitute, and
- used only as a memory aid.

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Records created and maintained by a law enforcement unit for law enforcement purposes are also excluded.

### Directory Information

The term “directory information” is used for the portion of the education record that, if disclosed, would not generally be considered harmful or an invasion of privacy. WCS has designated the following as directory information:

- name, address and, telephone number;
- day and month of birth;
- parent’s email address;
- participation in officially recognized activities and sports;
- dates of attendance;
- awards received;
- most recent previous education agency or institution attended; and
- photograph.

Directory information may be released at the discretion of school officials, without consent, for appropriate reasons. Under the provisions of FERPA, parents must be notified annually of their right to withhold the release of any or all directory information. WCS will honor a parent’s request that their student’s directory information not be released. At the beginning of each school year, students will be sent home with a Directory Notification Form. If parents wish, they may sign the form to withhold the release of their children’s directory information.

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## 4.0 Relevant Procedures, Guidelines & Restrictions

### Annual Notification of Rights to Parents

FERPA regulations require schools to give annual notification to parents of their rights under FERPA. The annual notification must ensure that parents understand that they have the right to:

- inspect and review their student’s education record;
- seek to amend the record if they believe it to be inaccurate; and
- consent to disclosures of personally identifiable information, with some exceptions as outlined in the Disclosure of Student Information section below.

At the beginning of each school year, parents will be asked to refer to the WCS Confidentiality Policy located on the school’s website at: [wasatchwaldorf.org](http://wasatchwaldorf.org).

### Disclosure of Student Information

Generally, schools must have written parent permission to release any information from a student’s education records. However, in addition to properly designated “directory information,” FERPA allows disclosure, without consent, to the following parties or under the following conditions:

#### A Legitimate Educational Interest

School officials with a “legitimate educational interest” may access student records under FERPA. Generally, this refers to individuals in the school who need to know information in the student’s education record in order to perform their professional responsibility.

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Other Schools Into Which a Student is Transferring or Enrolling

Schools that submit a records request or in which a student has enrolled are eligible to receive information from that student’s education records, so long as the disclosure is for purposes related to the student’s enrollment, or transfer. This includes post-secondary institutions to which the student is applying.

Judicial Orders or Lawfully Issued Subpoenas

Schools must release information requested by judicial order or legal subpoena. However, the school must make a reasonable effort to notify the parent in advance of compliance, unless the court or other issuing agency has ordered that the contents of the subpoena not be disclosed, or that the protected education records not be included.

Health and Safety Emergencies

Disclosure to appropriate officials is valid if the information contained in the education record is necessary to protect the health or safety of the student or other individuals. This exception is limited to the period of the emergency and generally does not allow for a blanket release of personally identifiable information from a student’s education records. When making a disclosure under the health or safety emergency provision in FERPA, schools are specifically required to record the articulable and significant threat to the health or safety of a student or other individuals that formed the basis for the disclosure and the parties to whom the school disclosed the information.

The Juvenile Judicial System

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Schools may release information to state and local juvenile justice authorities after receiving written certification that the information will not be disclosed to any other agency, organization, or third party without the parent’s permission, except as allowed by state law.

Specified Officials for Audit or Evaluation Purposes

This exception refers to federal, state, and local education agencies that must collect data or student information to audit, evaluate, or enforce educational programs.

The Immigration and Naturalization Service (INS) for Foreign Students Attending School Under a Visa

INS requires foreign students attending an educational institution under an F-1 visa to sign the Form-I-20. The form contains a consent provision allowing for the disclosure of information to INS. This consent is sufficiently broad to permit an educational institution to release personally identifiable information of a student who has signed a Form I-20 to the INS for the purpose of allowing the INS to determine the student’s non-immigrant status.

Ex Parte Orders

Schools must release information in response to an ex parte order from the Attorney General of the United States or his designee in connection with the investigation or prosecution of terrorism crimes. An ex parte order is an order issued by a court of competent jurisdiction without notice to an adverse party.

Parent Consent to Release Student Records

A parent must provide written consent before WCS will disclose personally identifiable information from the student’s education records, unless one of the exceptions to FERPA’s

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general consent rule applies (see Disclosure of Student Information). FERPA requires that a consent be signed and dated by the parent and:

- specify the records that may be disclosed;
- state the purpose of the disclosure; and
- identify the party or class of parties to whom the disclosure may be made.

### Documenting Release of Student Record

Generally, WCS will maintain a record of “each request for access to and each disclosure of personally identifiable information from the education records of each student.” However, WCS need not maintain any information about requests for access to or disclosures of personally identifiable information from education records to the following individuals or organizations:

- the parents of the student;
- a school official with a legitimate educational interest;
- a party who has written consent from the parent;
- a party seeking directory information; or
- a party seeking or receiving information under a subpoena in connection with which the issuing authority has ordered nondisclosure.

When a record of the disclosure is required, the school must note at a minimum: (1) the parties who have requested or received personally identifiable information from the education records; and (2) the legitimate interest the parties had in requesting or obtaining the information. Documentation should remain with the education record as long as the record is maintained.

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WCS may presume that either parent has authority to inspect and review the education records of their child or consent to disclosure. Evidence denying a parent’s FERPA rights must be furnished to the school in the form of a court order that specifically restricts a parent’s access to their child’s education records. If the school is not familiar with the person, the school may request identification to establish that they are in fact the child’s parent with rights under FERPA. Honor any request within a reasonable time but in no case longer than 45 days. The right of parents to access information is limited to their own child or children. If the education record includes information about other students, that information must be removed prior to disclosure so that parents do not have access to any other child’s records.

### Transfer of School Disciplinary Records

When a student is suspended or expelled for ten or more school days, a letter will be generated to the student’s parents explaining the terms of their suspension or expulsion. A copy of this letter should be placed in the student’s permanent file thereby creating a record which will follow the student when transferring to another school.

### Videotapes

For FERPA purposes, surveillance videotapes (or other media) with information about a specific student are considered education records if they are kept and maintained by the school system, and thereby subject to protection. Videotapes may be reviewed by school officials who have a legitimate educational interest. Parents have the right, upon request to inspect and review their student’s education record. However, if the videotape contains personally identifiable information about a student other than the parent’s own student, and the information cannot be easily separated, in order to limit access to only the relevant student’s information, a school

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official shall summarize the contents of the videotape and inform the parents of the contents either verbally or in writing.

### **Other Federal Laws Protecting Student Privacy**

#### **Individuals with Disabilities Education Act (IDEA)**

In addition to the requirements of FERPA, the IDEA provides additional privacy protections for students who are receiving special education and related services tailored to protect special confidentiality concerns for children with disabilities and their families.

WCS must inform parents of children with disabilities when information is no longer needed and will be destroyed.

WCS must have one official who is responsible for ensuring the confidentiality of any personally identifiable information and must train all persons who are collecting or using personally identifiable information about confidentiality and FERPA.

#### **Health Insurance Portability and Accountability Act (HIPAA)**

HIPAA's Privacy Rules exclude health information contained in an education record. Health records maintained by an education agency or institution are, however, subject to FERPA. For example, immunization records and school nurse records would be considered "education records" subject to FERPA.

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Protection of Pupil Rights Amendment (PPRA) and Utah Family Educational Rights and Privacy Act

Utah statute affords parents and students additional protections that do not exist under current federal law.

Under the Utah Family Educational Rights and Privacy Act, WCS must obtain prior written consent from a student’s parent or legal guardian if the school plans to administer any psychological or psychiatric examination, test, treatment, or any survey, analysis or evaluation that has the purpose or evident intended effect of causing the student to reveal information, whether the information is personally identifiable or not, concerning the student’s or any family member’s:

- political affiliations or, except as provided under UCA §53A-13-101.1 or rules of the Utah State Board of Education, political philosophies;
- mental or psychological problems;
- sexual behavior, orientation, or attitudes;
- illegal, anti-social, self-incriminating, or demeaning behavior;
- critical appraisals of individuals with whom the student or family member has close family relationships;
- religious affiliations or beliefs;
- legally recognized privileged and analogous relationships, such as those with lawyers, medical personnel, or ministers; and
- income, except as required by law.

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The prohibitions above also apply within the curriculum and other school activities unless prior written consent is obtained. Thus, parents or legal guardians must provide written consent before a student can participate in curriculum discussion “in which the purpose or evident intended effect is to cause the student to reveal” the prohibited information listed above, subject to certain exceptions discussed below. Student are free, however to exercise “free speech” and related rights allowed by other state legislation. The Utah Family Educational Rights and Privacy Act does not prohibit students from spontaneously expressing sentiments or opinions that might otherwise be protected against disclosure under the Act.

Generally, for consent to be valid, the parent or legal guardian will be provided with notice that a copy of the survey questions to be asked of the student is available at the school and a reasonable opportunity to obtain written information regarding the following, at least two weeks before the test/treatment/survey/analysis/evaluation is administered or information listed above is sought:

- the information and relationships that will be examined or requested;
- how the records or information will be examined or reviewed;
- the means by which the information will be obtained;
- the purposes for which the records or information are needed;
- the entities or persons (public or private) who will have access to the personally identifiable information; and
- how a parent can give permission to access or examine the personally identifiable information.

Following disclosure of the above-listed information, a parent or guardian may waive the two-week notification period.

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Two-weeks advanced notice of the above-listed information will not be provided in response to a situation that a WCS employee reasonably believes to be an emergency, or as authorized under applicable Child Abuse or Neglect Reporting Requirements, or by order of a court of law.

Parental authorization is valid only for the activity for which it was granted. A parent may withdraw consent by submitting a written withdrawal of authorization to the school executive director prior to or during the course of the activity.

Notwithstanding anything in this policy, when a school employee believes that a situation exists which presents a serious threat to the well being of the student, the employee must notify the student’s parent or guardian without delay, unless the matter has already been reported to DCFS, in which case it is the responsibility of DCFS to notify the student’s parent or guardian of any possible investigation or take other appropriate action.

Notwithstanding anything in this policy, when a school employee believes that a student is at-risk of attempting suicide, physical self-harm, or harming others, the employee may intervene and ask the student questions regarding the student’s suicidal thoughts, physical self-harming behavior, or thoughts of harming others for the purposes of (1) referring the student to appropriate prevention services, and (2) informing the parent or legal guardian.

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6.0 Exhibits / Appendices / Forms

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