



Document Name:	Family and Student Records Privacy and Dissemination of Information Policy
First Approved Date:	February 26, 2018
Latest Approved Date:	June 11, 2018
Version Number:	2

## 1.0 Purpose

As of February 2018, this policy incorporates and replaces both the Wasatch Waldorf Charter School Family and Student Records Privacy Policy and the Dissemination of Information Policy.

Wasatch Waldorf 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.

This policy provides standards for the protection of private information within the curriculum and other school activities. All Wasatch Waldorf Charter School staff and parent volunteers are subject to the school's Family and Student Records Privacy and Dissemination of Information Policy.

The school may from time to time receive notice that a student has been detained or adjudicated for certain criminal offenses pursuant to Subsections 78A-6-112(3)(b) and 78A-6-117(1)(b) of the Utah Code. To protect the confidentiality of the information, this policy establishes which staff members have authority to receive confidential information about students, depending upon the offense and the circumstances.

## 2.0 Definitions

As set forth in FERPA, the term “education records” includes all records containing information directly related to a student and that are maintained by Wasatch Waldorf Charter School, or by a person acting for Wasatch Waldorf Charter School. 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.

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

## 3.0 Policy Content

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

FERPA is 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.

### **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. Wasatch Waldorf Charter School has designated the following as directory information:

- name, address and, telephone number;
- day and month of birth;
- parents’ email addresses;
- 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, only to current students, families, faculty or education service providers with whom the school has a contract for appropriate educational or community purposes. Under the provisions of FERPA, parents must be notified annually of their right to withhold the release of any or all directory information. Wasatch Waldorf Charter School 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 (found in appendix A). If parents wish, they may sign the form to withhold the release of their children’s directory information.

## 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 Wasatch Waldorf Charter School Family and Student Records Privacy and Dissemination of Information 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.

#### **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**

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.

### **U.S. Immigration and Customs Enforcement (ICE) for Foreign Students Attending School Under a Visa**

ICE 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 ICE. 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 ICE for the purpose of allowing ICE 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 Wasatch Waldorf Charter School will disclose personally identifiable information from the student's education records, unless one of the exceptions to FERPA's 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, Wasatch Waldorf Charter School 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, Wasatch Waldorf Charter School 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.

Wasatch Waldorf Charter School 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. The school will 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 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.

Wasatch Waldorf Charter School must inform parents of children with disabilities when information is no longer needed and will be destroyed.

Wasatch Waldorf Charter School 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.

### **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, Wasatch Waldorf Charter School 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 §53G-10-202 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.

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.

Two-weeks advanced notice of the above-listed information will not be provided in response to a situation that a Wasatch Waldorf Charter School 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.

#### **Training Requirement - Maintenance of Certified List of Authorized Employees**

Pursuant to the Utah Student Privacy Act, all school employees who have access to educational records shall complete training on student privacy laws. WCS administration shall facilitate training on student privacy laws and create and maintain a list of all WCS employees who are authorized to have access to student educational records (the "Certified List"). WCS administration shall provide the Certified List to the WCS Governing Board. The WCS Governing Board shall ensure that all employees on the Certified List have: (1) completed a training on student privacy laws, and (2) signed and provided to the Governing Board a statement certifying that the employee has completed a training on student privacy laws and understands student privacy requirements.

Student educational records may only be shared with employees who are on the Certified List and as is otherwise permitted by law. Student educational records may only be shared with a school employee who is not on the Certified List if the parent or guardian of the student has provided written consent.

### **Notice of Detainment and Adjudication**

The school may receive notice that a student has been detained or adjudicated for certain violent or weapons criminal offenses pursuant to Subsections 78A-6-112(3)(b) and 78A-6-117(1)(b) of the Utah Code.

1. Upon receipt of a notice pursuant to Utah Code Section 78A-6-112(3)(b) (notice that a minor was taken into custody or detention by law enforcement) or Section 78A-6-117(1)(b) (notice of adjudication by juvenile court), the Director shall:
  - a. make a notation in a secure file other than the student's permanent file; and
  - b. if the student is still enrolled in the school, notify staff members who, in his/her opinion, have both a right and a current need to know.
2. Access to the secure files noted in part 1.a of this policy shall be limited to persons authorized to receive information under this part.
3. Notwithstanding the foregoing, School officials may include appropriate information in the education record of any student concerning disciplinary action taken against the student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community.
4. School officials may disclose student discipline information described above to teachers and other School officials, including teachers and school officials in other schools, who have legitimate educational interests in the behavior of the student.
5. School officials shall not release personally identifiable student discipline records to other government agencies, including law enforcement agencies, unless the agency produces a subpoena or court order, or unless the student's parent or guardian has authorized disclosure.

## 5.0 Exhibits / Appendices / Forms

### 5.1 Appendix A: Directory Notification Form

**The Family Educational Rights and Privacy Act (FERPA)**, a Federal law, requires Wasatch Charter School, with certain exceptions, to obtain your written consent prior to the disclosure of personally identifiable information from your child’s education records. However, Wasatch Charter School may disclose appropriately designated “directory information” without written consent, unless you have advised Wasatch Charter School to the contrary in accordance with Wasatch Charter School procedures. The primary purpose of directory information is to allow Wasatch Charter School to include this type of information from your child’s education records in certain school publications and on Aspire, our student management and parent communication program.

Publication examples include but are not limited to the following:

- A playbill, showing your student’s role in a drama production
- The annual yearbook
- Honor roll or other recognition lists
- Graduation programs
- School or class directories
- Sports activity sheets

Directory information, which is information that is generally not considered harmful or an invasion of privacy, if released, can also be disclosed to outside organizations without a parent’s prior written consent. Outside organizations include, but are not limited to, companies that manufacture class rings or publish yearbooks or take school photographs. In addition, two federal laws require local educational agencies (LEAs)



receiving assistance under the Elementary and Secondary Education Act of 1965 (ESEA) to provide military recruiters, upon request, with three directory information categories - names, addresses, and telephone listings - unless parents have advised the LEA that they do not want their student’s information disclosed without their prior written consent.

If you do not want Wasatch Charter School to disclose directory information from your child’s education records without your prior written consent, you must notify Wasatch Charter School in writing by the first day your child physically attends school.

Wasatch Charter School has designated the following information as directory information:

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

\_\_\_\_\_ I DO            \_\_\_\_\_ I DO NOT

give permission for directory information to be published for my student.

\_\_\_\_\_  
Parent/Guardian Signature

\_\_\_\_\_  
Date