



CARDINAL McCLOSKEY

COMMUNITY CHARTER SCHOOL

Family Educational Rights and Privacy Act (FERPA) Policy

The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education.

FERPA gives parents/guardians/guardians certain rights with respect to their children's education records. These rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level. Students to whom the rights have transferred are "eligible students".

Parents/guardians/guardians or eligible students have the right to inspect and review the student's education records maintained by the school. Schools are not required to provide copies of records unless, for reasons such as great distance, it is impossible for parents/guardians/guardians or eligible students to review the records. If records are requested, they will be provided free of charge.

Parents/guardians/guardians or eligible students have the right to request that a school correct records which they believe to be inaccurate or misleading. If the school decides not to amend the record, the parent or eligible student then has the right to a formal hearing. After the hearing, if the school still decides not to amend the record, the parent or eligible student has the right to place a statement with the record setting forth his or her view about the contested information.

Generally, schools must have written permission from the parent or eligible student in order to release any information from a student's education record.

However, FERPA allows schools to disclose those records, without consent, to the following parties or under the conditions (34 CFR § 99.31):

- School officials with legitimate educational interest; ■ Other schools to which a student is transferring;
- Specified officials for audit or evaluation purposes;
- Appropriate parties in connection with financial aid to a student;
- Organizations conducting certain studies for or on behalf of the school;

- Accrediting organizations;
- To comply with a judicial order or lawfully issued subpoena;
- Appropriate officials in cases of health and safety emergencies; and
- State and local authorities, within a juvenile justice system, pursuant to specific State law.

Schools may disclose, without consent, “directory” information such as a student’s name, address, telephone number, date and place of birth, honors and awards, and dates of attendance. However,

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schools must tell parents/guardians/guardians and eligible students about directory information and allow parents/guardians/guardians and eligible students a reasonable amount of time to request that the school not disclose directory information about them. Directory information will be available to all necessary institutions such as SUNY and the Department of Social Services. Schools must notify parents/guardians/guardians and eligible students annually of their rights under FERPA. The school’s FERPA policy will be updated annually and located on the school’s website under “Policies & Procedures” in the “Resources” tab.

The Principal shall be responsible for ensuring that all requirements under federal statutes and state

Regulations pertaining to the confidentiality of student records shall be carried out by the Cardinal McCloskey Community Charter School (CMCCS).

What records are maintained

What kind of student data is subject to the confidentiality and security requirements of Education Law §2-d? The law applies to personally identifiable information contained in student records of an educational agency listed above. The term “student” refers to any person attending or seeking to enroll in an educational agency, and the term “personally identifiable information” (“PII”) uses the definition provided in FERPA. Under FERPA, personally identifiable information or PII includes, but is not limited to:

- a. The student’s name;
- b. The name of the student’s parent or other family members;
- c. The address of the student or student’s family;
- d. A personal identifier, such as the student’s social security number, student number, or biometric record;
- e. Other indirect identifiers, such as the student’s date of birth, place of birth, and Mother’s Maiden Name;
- f. Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have

personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or

- g. Information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates.

An education records (K-12) under FERPA is defined as follows:

Education Records are those records, files, documents, and other materials which (i) contain information directly related to a student; **and** (ii) are maintained by an educational agency or institution **or by a person acting for such agency or institution.**

The term "education records" **does not** include:

- (i) records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto **which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute;**
- (ii) records maintained by a law enforcement unit of the educational agency or institution that were created by that law enforcement unit for the purpose of law enforcement;
- (iii) in the case of persons who are employed by an educational agency or institution but who are not in attendance at such agency or institution, records made and maintained in the normal course of business which relate exclusively to such person in that person's capacity as an employee and are not available for use for any other purpose; or
- (iv) records on a student who is eighteen years of age or older, or is attending an institution of postsecondary education, which are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his professional or paraprofessional capacity, or assisting in that capacity, and which are made, maintained, or used only in connection with the provision of treatment to the student, and are not available to anyone other than persons providing such treatment, except that such records can be personally reviewed by a physician or other appropriate professional of the student's choice

NOTE: student information that has been properly de-identified or that is shared under the "directory information" exception, is not protected by FERPA, and thus is not subject to FERPA's use and redisclosure limitations.

Privacy Laws and Confidentiality Policies for school employees

Privacy laws lead to establishing regulations that education agencies and schools must follow so that information about children is available only to officials who are authorized to know such information. The laws were passed by the U.S. Congress to ensure parents/guardians/guardians the right of access to information about their children, while allowing education officials the flexibility they need to use the information in making decisions that serve children well.

Federal and state privacy statutes pertaining to students in elementary and secondary schools build on concepts of common law and privacy guarantees found in the *U.S. Constitution*. Fundamental to the government's rulemaking about data collection, privacy, and appropriate use are three concepts--notification, disclosure, and informed consent.

Notification (according to FERPA) refers to an agency's responsibility to inform parents/guardians or students who are over eighteen of the legal basis for compiling data and the limited circumstances under which records can be released or disclosed. When school officials collect information about families or students, they must explain the rationale--or "give public notice"--of the reasons the data are being collected. **Disclosure** refers to access, release, or transfer of personal information about individuals. Privacy laws define appropriate or inappropriate information disclosures or releases. According to FERPA, data about students may be disclosed without parental consent only to school and other education officials who use it to provide educational services or to carry out legally specified administrative and statistical activities. Any instance in which unauthorized individuals see or use private information about students is an inappropriate and often illegal disclosure, unless the parent or the student gives consent or the law makes such access legal.

Informed consent involves providing a written account of why personal information is requested and how it will be used. In general, parents/guardians should have the option, without penalty, of agreeing or declining to provide the information an education agency or school requests. Certain information, however, is required by schools, and parents/guardians must provide the information in order for their children to be enrolled. Parents/guardians' agreement must be based on an understandable explanation of how the information will be used. Once a parent's informed consent is given for a particular purpose or set of purposes, the information cannot be "redisclosed"--used by a third party--except as originally indicated. FERPA regulations require that prior consent be given by parents/guardians for the disclosure of information to persons other than school officials.

What kind of student data is *not* subject to the confidentiality and security requirements of Education Law §2-d?

The confidentiality and privacy provisions of Education Law §2-d and FERPA extend only to PII, and not to student data that is not personally identifiable. Therefore, de-identified data (e.g., data regarding students that uses random identifiers), aggregated data (e.g., data reported at the school district level) or anonymized data that could not be used to identify a particular student is not considered to be PII and is not within the purview of Education Law §2-d.

PPRA Notice and Consent/Opt-Out for Specific Activities

The Protection of Pupil Rights Amendment (PPRA), 20 U.S.C. § 1232h, requires **Cardinal McCloskey Community Charter School** to notify you and obtain consent or allow you to opt your child out of participating in certain school activities. These activities include a student survey, analysis, or evaluation that concerns one or more of the following eight areas ("protected information surveys"):

1. Political affiliations or beliefs of the student or student's parent;
2. Mental or psychological problems of the student or student's family;
3. Sex behavior or attitudes;
4. Illegal, anti-social, self-incriminating, or demeaning behavior;
5. Critical appraisals of others with whom respondents have close family relationships;
6. Legally recognized privileged relationships, such as with lawyers, doctors, or ministers;
7. Religious practices, affiliations, or beliefs of the student or the student's parent; or
8. Income, other than as required by law to determine program eligibility.

This parental notification requirement and opt-out opportunity also apply to the collection, disclosure or use of personal information collected from students for marketing purposes ("marketing surveys"). Please note that parents/guardians are not required by PPRa to be notified about the collection, disclosure, or use of personal information collected from students for the exclusive purpose of developing, evaluating, or providing educational products or services for, or to, students or educational institutions. Additionally, the notice requirement applies to the conduct of certain physical exams and screenings. This includes any non-emergency, invasive physical exam or screening required as a condition of attendance, administered by the school or its agent, and not necessary to protect the immediate health and safety of a student. This does not include hearing, vision, or scoliosis screenings, or any physical exam or screening permitted or required by State law.

Cardinal McCloskey Community Charter School will provide parents/guardians, within a reasonable period of time prior to the administration of the surveys and activities, notification of the surveys and activities, an opportunity to opt their child out, as well as an opportunity to review the surveys. (Please note that this notice and consent/opt-out transfers from parents/guardians to any student who is 18 years old or an emancipated minor under State law.)

How can parents/guardians opt out? Every family has the right to opt out and can act on that decision by submitting the Opt Out Form on the next page.

Directory Information Opt Out Form

I understand that the Family Educational Rights and Privacy Act (FERPA), a federal law, allows my school or school district to disclose designated "directory information" to third parties without my written consent, unless I inform the school/district otherwise, and according to any existing policies and/or procedures.

I am submitting this form because: [choose one option)

My child's school or school district does not have a "directory information" policy.

My child's school or school district's existing "directory information" policy does not sufficiently protect my child's privacy.

Parent or guardian name: _____

Student name: _____

Student grade: _____

Student ID number: _____

School name: _____

Date: _____

Parent/Guardian signature (*if student is under 18*): _____

Parent or guardian email address: _____

Student signature (*if student is over 18*): _____

Directory information that I DO NOT want the school or district to share with ANYONE

My child's school or school district may not share any of the following **checked** directory information with **ANYONE** outside the school or district level:

- Student name
- Telephone numbers (e.g., home, cell, etc.)
- Parent personal information (e.g., name, address, phone, etc.)
- Photograph
- Video or electronic images
- Date of birth
- Place of birth
- Home or permanent address
- E-mail address

- O Dates of attendance
- O Weight/Height
- O Enrollment Status (e.g., full-time, part-time)
- O Grade or class standing (e.g., grade 3, or sophomore)
- O Most recent school or educational institution attended
- O Participation in officially recognized activities and sports
- O Degree(s) received
- O Awards and honors received
- O Clubs/Affiliations
- O Any information that might otherwise be considered personal or confidential
- O School or district issued student ID number*

** Note: A student ID number may or may not be considered as directory information depending on how the school/district uses it. According to the U.S. Department of Education, a student ID number can be classified as a type of “directory information” if it: “is displayed on a student ID badge, or is used to communicate in electronic systems, but only if the identifier cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user’s identity, such as a PIN, password, or other factor known or possessed only by the authorized user.”*

Annual Notification

At the beginning of each school year, CMCCS shall distribute its Family Handbook to parents/guardians and students. The Family Handbook will advise parents/guardians and students of their rights under the Family Education Rights and Privacy Act (“FERPA”) and the procedures for pursuing them. CMCCS shall also make the information available on its website.

The notice must include a statement that the parent or eligible student has a right to:

1. Inspect and review the student’s education records;
2. Be assured that the school intends to limit the disclosure of personally identifiable information contained in a student’s education records except:

- a. By prior written consent of the student's parent(s) or guardian(s) or the eligible student;
 - b. As directory information; or
 - c. Under certain limited circumstances, as permitted by FERPA.
3. Request that records be amended to ensure that they are not inaccurate, misleading, or otherwise in violation of the student's privacy or other rights;
 4. File a complaint with the U.S. Department of Education alleging failure of the district to comply with FERPA and its regulations; and
 5. Request and receive information regarding the procedure for exercising the right to inspect, review, and request amendment of student records.

The policy applicable to the release of student directory information (see 2. b above) applies equally to military recruiters, the media, colleges and universities, and prospective employers. Directory information includes, but is not limited to, the following: the student's name, parents/guardians/guardians' names, address, telephone number, date and place of birth, participation in school activities or sports, weight and height if a member of an athletic team, dates of attendance, degrees and awards received, and most recent educational institution attended. Parents/guardians/guardians and eligible students may choose not to allow the school to release directory information.

CMCCS shall arrange to provide translations of this notice, where necessary, to parents/guardians/guardians and eligible students in their native language or dominant mode of communication.

Procedures for locked storage/secure handling of student files in school, or password protected files if electronic

In order to assure compliance with FERPA, the following procedures are in place:

- All student data files and information will be password protected on computers. All physical files are locked in file cabinets that are only accessible to personnel granted with access.

Personnel with Access

Jennifer Fedele – Principal

Christian Adamkiewicz – Director of Operations/Compliance Officer

Stephanie Gonzalez – Office Manager

Grace Bendick – Director of Special Populations

Dr. Mary Anne DeVivio – Director of Curriculum

- Any student information/files transmitted to other appropriate recipients will also be protected. Information files must be encrypted and password protected.

- Student information/files may be faxed to appropriate personnel, but only to secure sites.
- Parental consent is required for the release of any personally identifiable information other than those specifically detailed on page 2 under “What kind of student data is not subject to the confidentiality and security requirements of Education Law §2-d.
- If a parent believes that the school is failing to comply with the requirements of FERPA, they have the right to file an official complaint with the U.S. Department of Education.

Student Privacy Policy Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

General Reference:

Family Educational Rights & Privacy Act 20 USC 1232-g; 34 CFR Part 99
Education Law §§2(13); 225; 301
Public Officers Law §87(2)(a)
Arts and Cultural Affairs Law, Article 57-A
Civil Practice Law and Rules §§2303; 2307

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