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8330 - **STUDENT RECORDS**

In order to provide appropriate educational services and programming, the Board of Managers must collect, retain, and use information about individual students. Simultaneously, the Board recognizes the need to safeguard student's privacy and restrict access to student's personally identifiable information.

Student "personally identifiable information" ("PII") includes but is not limited to: the student's name; the name of the student's parent or other family members; the address of the student or student's family; a personal identifier, such as the student's social security number, student number, or biometric record; other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name; 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 information requested by a person whom the Cooperative reasonably believes knows the identity of the student to whom the education record relates.

A social security number of a student contained in the records of the Cooperative may be disclosed if the record is specifically required by a State or a Federal Statute or is ordered by a court under the rules of discovery.

PII concerning students shall be protected against theft, unauthorized access, alteration, disclosure, misuse, or invasion of privacy. Unless specifically authorized by the Director or produced pursuant to a request under the Indiana Access to Public Records Act, PII concerning students shall not be left unprotected, shared or transferred from Cooperative records to any place not within the control of the Cooperative. This includes any laptop computer or portable storage medium.

The Board is responsible for maintaining records of all students receiving special education or related services in this Cooperative. The Board also authorizes the collection of other student information including, but not limited to:

- A. observations and ratings of individual students by professional staff members acting within their sphere of competency;
- B. samples of student work;
- C. information obtained from professionally acceptable standard instruments of measurement such as:
 - 1. interest inventories and aptitude tests,
 - 2. vocational preference inventories,
 - 3. achievement tests,

4. standardized intelligence tests,

5. _____;

D. verified reports of serious or recurrent behavior patterns;

E. psychological tests.

In all cases, permitted, narrative information in student records shall be objectively-based on the personal observation or knowledge of the originator.

Student records shall be available only to parents, eligible students, and designated school officials who have a legitimate educational interest in the information and other individuals or organizations as permitted by law.

The term "parents" includes legal guardians or other persons standing in loco parentis (such as a grandparent or stepparent with whom the child lives or a person who is legally responsible for the welfare of the child). The term "eligible student" includes any student who is eighteen (18) years of age or older, unless their rights are otherwise restricted by law, or who is enrolled in a postsecondary institution regardless of his/her age.

In situations in which a student has both a custodial and a noncustodial parent, both shall have access to the student's educational records unless stated otherwise by court order. In the case of an eligible student, that is a student who is eighteen (18) years of age or older, parents will be allowed access to the records without the student's consent, provided the student is considered a dependent under Section 152 of the Internal Revenue Code.

A "school official" is a person employed by the Board as a Director, an administrator, supervisor, teacher/instructor (including substitutes), school psychologist, speech language pathologist, therapist (including but not limited to occupational therapists and physical therapists), social worker, counselor, behavior consultant, behavior coach, or support staff member (including but not limited to paraprofessionals, health or medical staff, and law enforcement unit personnel); and a person serving on the Board. The Board further designates the following individuals and entities as "school officials" for purposes of FERPA:

- A. persons or companies with whom the Board has contracted to perform a specific task (such as an attorney, auditor, insurance representative, or medical consultant)
- B. an outside contractor, including but not limited to school psychologists, speech language pathologists, occupational therapists, physical therapists and behavior analysts, for purposes of the referral, evaluation and identification of students suspected to have a disability
- C. contractors, consultants, volunteers or other parties to whom the Board has outsourced a service or function otherwise performed by Board employees (e.g. a therapist, authorized information technology (IT) staff, and approved online educational service providers)

The above-identified outside parties must (a) perform institutional services or functions for which the Board would otherwise use its employees, (b) be under the direct control of the Board with respect to the use and maintenance of education records, and (c) be subject to the requirements of 34 C.F.R. 99.33(a) governing the use and re-disclosure of PII from education records.

Finally, a parent or student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his/her tasks (including volunteers) is also considered a "school official" for purposes of FERPA provided s/he meets the above-referenced criteria applicable to other outside parties. "Designated school official" also includes an insurance carrier providing a defense to the Cooperative or its employees or agents, including defense counsel.

In the case of a health or safety emergency, "appropriate officials" include local or State law enforcement officials, Department of Child Services (DCS) officials, trained medical personnel, and school administrators whose knowledge of PII in a student's education records is necessary to protect the health or safety of students or other persons on Cooperative property. The term "school administrator" includes a principal, an assistant principal, a director of special education, and an assistant director of special education. (.) The term "school administrator" also includes a superintendent, ~~director of special education, or assistant superintendent~~ ~~director of special education~~. [END OF OPTION]

"Legitimate educational interest" includes but is not limited to: 1) a direct or delegated responsibility for helping the student achieve one (1) or more of the student's educational goals; 2) review of the record is necessary in order for the designated school official to perform an administrative, supervisory or instructional task for the Cooperative; or 3) review of the record is necessary to perform a service or benefit for the student or the student's family or to provide a defense to the Cooperative with respect to any of these tasks. The Board directs that reasonable and appropriate methods (including but not limited to physical

and/or technological access controls) are utilized to control access to student records and to make certain that school officials obtain access to only those education records in which they have a legitimate educational interest.

The Board authorizes the administration to:

- A. forward student records including disciplinary records with respect to suspensions and expulsions upon request to a private or public school or school corporation in which a student of this Cooperative seeks or intends to enroll, or is instructed to enroll, on a full-time or part-time basis, upon condition that:
 1. a reasonable attempt is made to notify the student's parent or eligible student of the transfer (unless the disclosure is initiated by the parent or eligible student; or the Board's annual notification – Form 8330 F9 - includes a notice that the Board will forward education records to other agencies or institutions that have requested the records and in which the student seeks or intends to enroll or is already enrolled so long as the disclosure is for purposes related to the student's enrollment or transfer);
 2. the parent or eligible student, upon request, receives a copy of the record; and
 3. the parent or eligible student, upon request, has an opportunity for a hearing to challenge the content of the record;
 - B. forward student records, including disciplinary records with respect to suspensions and expulsions, upon request to a public school or school cooperative in which a student in foster care is enrolled. Such records shall be transferred within one (1) school day of the enrolling school's request.
 - C. provide, "personally identifiable" information disclose, or report on the education records of a student, including PII contained in the education records, without the consent of the student's parent or eligible student, to appropriate parties, including officials and the parents of an eligible student, whose knowledge of the information is necessary to protect the health or safety of the student or other individuals, if there is an articulable and significant threat to the health or safety of a student or other individuals, considering the totality of the circumstances;
- Information concerning any suspicious activity or potential criminal activity related to a child that is shared between a law enforcement officer and the Cooperative or an appropriate official shall not be stored or maintained in any type of database.
- D. request each person or party requesting access to a student's record to abide by the Federal and State regulations concerning the disclosure of information to a third party;
 - E. report a crime committed by a child to appropriate authorities, and, with respect to reporting a crime committed by a student with a disability, to transmit copies of the student's special education and disciplinary records to the authorities for their consideration, subject to the limitations of 34 C.F.R. 99.33 and 511 IAC 7-44-10;
 - F. disclose personally identifiable information from education records, without consent, to organizations conducting studies "for, or on behalf of" the Cooperative for purposes of developing, validating or administering predictive tests, administering student aid programs, or improving instruction;

Information disclosed under this exception must be protected so that students and parents cannot be personally identified by anyone other than representative(s) of the organization conducting the study, and must be destroyed when no longer needed for the study. In order to release information under this provision, the Cooperative will enter into a written agreement with the recipient organization that specifies the purpose of the study. (See Form 8330 F14.) Further, the following personally identifiable information will not be disclosed to any entity: a student or his/her family member's social security number(s); religion; political party affiliation; voting history; or biometric information.

[Cooperatives without administrative guidelines should include the following paragraph]

This written agreement must include: (1) specification of the purpose, scope, duration of the study, and the information to be disclosed; (2) a statement requiring the organization to use the personally identifiable information only to meet the purpose of the study; (3) a statement requiring the organization to conduct the study in a manner that prevents personal identification of parents and students by anyone other than a representative of the organization with legitimate interests; and (4) a requirement that the organization destroy all personally identifiable information when it is no longer needed for the study, along with a specific time period in which the information must be destroyed.

While the disclosure of personally identifiable information (other than social security numbers, religion, political party affiliation, voting record, or biometric information) is allowed under this exception, it is recommended that de-identified

information be used whenever possible. This reduces the risk of unauthorized disclosure.

- G. disclose personally identifiable information from education records without consent, to authorized representatives of the Comptroller General, the Attorney General, and the Secretary of Education, as well as State and local educational authorities. The disclosed records must be used to audit or evaluate a Federal or State supported education program, or to enforce or comply with federal requirements related to those education programs. A written agreement between the parties is required under this exception if the State or local educational agency uses an authorized representative who is not an employee to obtain this information (see Form 8330 F16);

[NOTE: CHOOSE OPTION A OR OPTION B.]

(x) Option A [NOTE: The following sentence should be selected by Cooperatives with administrative guidelines.]

The Cooperative will verify that the authorized representative complies with FERPA regulations.

~~(-) Option B [NOTE: The following two paragraphs should be selected by Cooperatives without administrative guidelines.]~~

~~This written agreement must: 1) designate the receiving entity as an authorized representative; 2) specify the information to be disclosed; 3) specify the purpose of the disclosure; 4) describe the activity sufficiently to ensure the disclosure falls within the exception, including an explanation of how personally identifiable information will be used; 5) a statement requiring the authorized representative to destroy all personally identifiable information when it is no longer needed for the purpose specified, along with a specific time period in which the information must be destroyed; and 6) a statement of policies and procedures that will protect personally identifiable information from further disclosure or unauthorized use.~~

~~Under the audit exception, the Cooperative will use "reasonable methods" to verify that the authorized representative complies with FERPA regulations. Specifically, the Cooperative will verify, to the greatest extent practical, that the personally identifiable information is used only for the audit, evaluation or enforcement of a government supported educational program. The Cooperative will also ascertain the legitimacy of the audit or evaluation and will disclose only the specific records that the authorized representative needs. Further, the Cooperative will disclose such records subject to use of the records only for the specified purpose and on condition that the information is not disclosed further, such as for another audit or evaluation. Finally, the Cooperative will verify that the agency has procedures in place that ensure information is destroyed when no longer needed for the audit, evaluation, or compliance activity.~~

~~[END OF OPTIONS]~~

- H. disclose or report educational records to a State or local juvenile agency when the disclosure or reporting relates to the ability of the juvenile justice system to serve, before adjudication, the student whose records are being released; and the juvenile justice agency receiving the information certifies, in writing, that the agency or individual receiving the information has agreed not to disclose it to a third party, other than another juvenile justice agency, without the consent of the child's parent, guardian, or custodian.

A disclosure or reporting of educational records concerning a child who has been adjudicated as a delinquent child shall be treated as related to the ability of the juvenile justice system to serve the child before adjudication if the agency provides documentation to the Cooperative that the agency seeks the information in order to identify and intervene with the child as a juvenile at risk of delinquency rather than to obtain information solely related to the supervision of the child as an adjudicated delinquent child.

The juvenile court may grant a school owned or operated by a Cooperative access to all or a portion of the juvenile court records of a child who is a student at the school if the Director submits a written request establishing that the juvenile court records are necessary for the school to serve the educational needs of the child whose records are requested or to protect the safety or health of a student, an employee, or a volunteer at the school.

The school shall keep the records confidential. However, the confidentiality order does not prohibit the school from forwarding the juvenile records to another school or a person if a parent, guardian, or custodian of the child consents to the release of the juvenile court records to the person.

The Cooperative will comply with a legitimate request for access to a student's records within a reasonable period of time but not more than forty-five (45) days after receiving the request or within such shorter period as may be required by law. Upon the request of the viewer, a record shall be reproduced, unless said record is copyrighted, and the viewer may be charged a fee equivalent to the cost of handling and reproduction. Based upon reasonable requests, viewers of education records will receive explanation and interpretation of the records.

The Cooperative shall maintain a record of those persons to whom information about a student has been disclosed. Such disclosure records will indicate the name of the student, person viewing the record, purpose of disclosure, information disclosed, date of disclosure, and date parental/eligible student consent was obtained (if required).

Only "directory information" regarding a student shall be released to any person or party, other than the student or his/her parent, without the written consent of the parent or, if the student is an eligible student, the written consent of the student, except those persons or parties stipulated by the Cooperative's policy and administrative guidelines and/or those specified in the law.

DIRECTORY INFORMATION

Each year the Director shall provide public notice to students and their parents of the Cooperative's intent to make available, upon request, certain information known as "directory information". The Board designates as student "directory information": a student's (☒) name; (☐) address; (☐) telephone number; (☒) age date and place of birth; (☒) dates of attendance; (☒) date of graduation; or (☒) awards received.

[NOTE: The following option should be selected if the Board assigns school email accounts to students per Policy 7540.03. This option is provided to address potential confidentiality issues presented by Policy 7540.03 and is supported by Federal FERPA regulation 34 CFR 99.37(d).]

~~[] The Board designates school assigned email accounts as "directory information" for the limited purpose of facilitating students' registration for access to various online educational services, including mobile applications/apps that will be utilized by the student for educational purposes. School assigned email accounts shall not be released as directory information beyond this limited purpose and to any person or entity but the specific online educational service provider.~~

Directory information shall not be provided to any organization for profit-making purposes. The Director may allow access to a school campus or give students' directory information to organizations that make students aware of educational or occupational options.

In accordance with Federal law, the Board shall comply with FERPA when releasing students' information to a recruiting officer for any branch of the United States Armed Forces or an institution of higher education who requests such information.

Parents and eligible students may refuse to allow the Cooperative to disclose any or all of such "directory information" upon written notification to the Cooperative within ten (10) days after receipt of the Director's annual public notice.

Whenever consent of the parent(s)/eligible student is required for the inspection and/or release of a student's health or education records or for the release of directory information, either parent may provide such consent unless specifically stated otherwise by court order.

The Cooperative may disclose "directory information" on former students without consent of the parent(s)/eligible student, unless the parent or eligible student previously submitted a request that such information not be disclosed without their prior written consent.

Student Mental and Behavioral Health Services Records

Student Mental and Behavioral Health Services (SMBHS) records are documents relating to mental health or behavioral health services provided to students by (1) a provider certified or licensed by the State to provide mental or behavioral health services who is contracted or employed by the Cooperative Corporation or a school corporation special education cooperative of which the Corporation is a member of the Cooperative or (2) a community mental health center established under State law with whom the Cooperative Corporation or a school corporation special education cooperative of which the Corporation is a member of the Cooperative has entered into a memorandum of understanding. SBMHS records include but are not limited to mental health records, reports, notes, diagnosis(es) and/or appointments relating to a student who was referred by Cooperative Corporation officials to receive mental or behavioral health services pursuant to State law or under a memorandum of understanding between the Cooperative Corporation and a community mental health center established under State law or a provider certified or licensed by the state to provide mental or behavioral health services to students. SMBHS records are to be considered medical records and are confidential. SMBHS records that include any reports, notes, diagnosis(es) or appointments that result from a student's participation in any treatment relating to mental or behavioral health services provided by a community mental health center or appropriate provider that is contracted and paid for by the Cooperative Corporation or a school corporation special education cooperative of which the Corporation is a member of the Cooperative shall not be maintained in a student's permanent educational file/cumulative file. SMBHS records kept by a provider employed or contracted by the Cooperative Corporation or a school corporation special education cooperative of which the Corporation is a member of the Cooperative shall be maintained in separate student folders in a secured file under the control of the provider. Sharing of any reports or notes resulting from a conference with the student and the student's parent to address the student's potential need for and benefit from mental or behavioral health services with other Cooperative Corporation officials is strictly prohibited.

Disclosure of Lists of Students for Political or Commercial Purposes

It is the policy of the Board not to release the lists of students for commercial or political purposes. This policy shall be equally applied to similarly situated organizations and persons. (I.C. 5-14-3-3(f))

Inspection of Information Collection Instrument

The parent of a student or an eligible student has the right to inspect upon request any instrument used in the collection of personal information before the instrument is administered or distributed to a student. Personal information for this section is defined as individually identifiable information including a student or parent's first and last name, a home or other physical address (including street name and the name of the city or town), a telephone number, or a Social Security identification number. In order to review the instrument, the parent or eligible student must submit a written request to the building level administrator at least ten (10) business days before the scheduled date of the activity. The instrument will be provided to the parent or eligible student within ten (10) business days of the building level administrator receiving the request.

The Director shall directly notify the parent(s) of a student and eligible students, at least annually at the beginning of the school year, of the specific or approximate dates during the school year when such activities are scheduled or expected to be scheduled.

This section does not apply to 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, such as the following:

- A. college or other postsecondary education recruitment or military recruitment
- B. book clubs, magazine, and programs providing access to low-cost literary products
- C. curriculum and instructional materials used by elementary and secondary schools
- D. tests and assessments used by elementary and secondary schools to provide cognitive, evaluative, diagnostic, clinical, aptitude, or achievement information about students (or to generate other statistically useful data for the purpose of securing such tests and assessments) and the subsequent analysis and public release of the aggregate data from such tests and assessments
- E. the sale by students of products or services to raise funds for school-related or education-related activities
- F. student recognition programs

The Director shall prepare procedures to ensure that students and parents are adequately informed each year regarding their rights to:

- A. inspect and review the student's education records;
- B. request amendments if the record is inaccurate, misleading, or otherwise in violation of the student's privacy rights;
- C. consent to disclosures of personally-identifiable information contained in the student's education records, except disclosures allowed without parental consent;
- D. challenge Board noncompliance with a parent's request to amend the records through a hearing;
- E. file a complaint of Cooperative noncompliance with the United States Department of Education;
- F. obtain a copy of the Cooperative's policy and administrative guidelines on student records.

The Director also shall develop procedural guidelines for:

- A. (☒) the proper storage and retention of records including a list of the type and location of records;
- B. (☒) informing Cooperative employees of the Federal and State laws concerning student records.

The Board authorizes the use of the microfilm process or electromagnetic processes of reproduction and electronic storage on Cooperative computers or networks for the recording, filing, maintaining, and preserving of records.

No liability shall attach to any member, officer, or employee of this Cooperative specifically as a consequence of permitting access or furnishing students' records in accordance with this policy and administrative guidelines.

Any entity receiving personally identifiable information pursuant to a study, audit, evaluation or enforcement/compliance activity must comply with all FERPA regulations. Further, such an entity must enter into a written contract with the Cooperative delineating its responsibilities in safeguarding the disclosed information when required by law. Specifically, the entity must demonstrate the existence of a sound data security plan or data stewardship program and provide assurances that the personally identifiable information will not be redisclosed without prior authorization from the Cooperative. Further, the entity conducting the study, audit, evaluation, or enforcement/compliance activity is required to destroy the disclosed information once it is no longer needed or when the time frame for the activity has ended, as specified in its written agreement with the Cooperative. See Form 8330 F14 and Form 8330 F16 for additional contract requirements.

Address Confidentiality Program

If a parent (or adult student) presents information to the Cooperative certifying that the parent (or adult student), his/her child, or a member of the parent's household is a participant in the Address Confidentiality Program administered by the State Attorney General, the Cooperative shall refrain from including the student's actual/confidential residential address in any student records or files (including electronic records and files) or disclosing the student's actual/confidential residential address when releasing student records. Because student records are available to non-custodial parents, designated school officials who have a legitimate educational interest in the information, and other individuals or organizations as permitted by law (including the public in some situations), the Cooperative shall list only the address designated by the Attorney General's Office to serve as the student's address in any student records or files, including electronic records and files. Further, the Cooperative shall use the student's designated address for any and all communications and correspondence between the Board or Cooperative employees and the parent(s) of the student (or adult student). The student's actual/confidential residential address shall be maintained in a separate confidential file that is not accessible to the public or any employees without a legitimate purpose.

The intentional disclosure of the student's actual/confidential residential address is prohibited. Any violations could result in disciplinary action.

Violation of this policy

As provided for by State law, an employee or agent of the Cooperative:

- A. (x) who knowingly or intentionally discloses information classified as confidential by State statute commits a Class A infraction;
- B. (x) who intentionally, knowingly, or recklessly discloses or fails to protect information classified as confidential by this policy may be disciplined or terminated.

Additionally, State law provides that a person who recklessly, knowingly, or intentionally destroys or damages any public record commits a Level 6 felony unless the destruction is pursuant to a record retention scheduled adopted by the County Public Records Commission.

I.C. 5-14-3-3(f)
 I.C. 5-14-3-4(a)(3) and (12) I.C. 5-14-3-4(c)
 I.C. 5-14-3-10
 I.C. 5-15-6-8
 I.C. 20-33-2-13
 I.C. 20-33-7-1 et seq.
 I.C. 31-39-2-13.8
 511 I.A.C. 7-38-1 et seq.
 26 U.S.C. 152
 Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g
 Individuals with Disabilities Education Act ~~of 2004~~, 20 U.S.C. 1400 et seq.
 20 U.S.C. 7165(b)
 20 U.S.C. 7908
 34 C.F.R. Part 99
 34 C.F.R. Part 300

Legal

I.C. 5-14-3-3(f)
I.C. 5-14-3-4(a)(3) and (12) I.C. 5-14-3-4(c)
I.C. 5-14-3-10
I.C. 5-15-6-8
I.C. 20-33-2-13
I.C. 20-33-7-1 et seq.
I.C. 31-39-2-13.8
511 I.A.C. 7-38-1 et seq.
26 U.S.C. 152
Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g
Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq.
20 U.S.C. 7165(b)
20 U.S.C. 7908
34 C.F.R. Part 99
34 C.F.R. Part 300