

Adopted: 4.20.16

Revised:

## **NORTH METRO FLEX ACADEMY POLICY No. 5.3.1 STUDENT EDUCATIONAL DATA**

### **I. PURPOSE**

The purpose of this policy is to define education data, to identify various protections afforded to such data, and to establish procedures required by state and federal law.

### **II. POLICY STATEMENT**

It is the policy of North Metro Flex Academy to fully comply with state and federal laws regarding the classification, maintenance and use of education data. Education data is governed by state law, Minn. Stat. §13.32. Education data is also governed by federal law, the Family Educational Rights and Privacy Act (FERPA) and its regulations in 34 CFR, Part 99.

### **III. DEFINITIONS AND GENERAL PROVISIONS**

- A. Education Data. “Education data” means data on students maintained by the school, or by a person acting for the school, which relates to a student.
- B. Private Education Data. Unless there is a specific exception providing otherwise, education data is generally classified as “private” under state and federal law. With certain exceptions, (e.g., directory information, health and safety emergencies), education data may only be accessed by parents, students, and school officials with a legitimate educational interest as determined by the educational agency.
- C. School Official. “School officials” who have access to student education records are those individuals at North Metro Flex Academy who need to know the contents of a student’s education record in order to provide education services to the student. School officials will be allowed access to private education data without the consent of the parent or student, if they have a legitimate “need to know”.
- D. Directory Information. “Directory Information” means education data that is available to anyone in the public. North Metro Flex Academy will notify parents each year which education data is designated as “directory information.” Parents have the right to opt out of including any of their students’ data as directory information.
- E. Parent. “Parent” means a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent of the student in the absence of a parent or guardian. North Metro Flex Academy school officials may presume the parent has the authority to exercise the rights provided herein, unless it has been provided with evidence that

there is a state law or court order governing such matters as marriage dissolution, separation or child custody, or a legally binding instrument which provides to the contrary.

#### **IV. STATEMENT OF RIGHTS**

A. Rights of Parents and Students. Parents and students have the following rights under this policy:

1. The right to inspect and review the student's education records;
2. The right to request the amendment of the student's education records to ensure that they are not inaccurate, misleading, or otherwise in violation of the student's privacy or other rights;
3. The right to consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that such consent is not required for disclosure pursuant to this policy, state or federal law, or the regulations promulgated thereunder;
4. The right to refuse release of names, addresses, and home telephone numbers of students in grades 11 and 12 to military recruiting officers and post-secondary educational institutions;
5. The right to file a complaint with the U.S. Department of Education concerning alleged failures by the school to comply with the federal law and the regulations promulgated thereunder;
6. The right to be informed about rights under the federal law; and
7. The right to obtain a copy of this policy.

B. Transfer or Rights to Students Over Eighteen (18). All rights and protections given parents under this policy transfer to the student when he or she reaches eighteen (18) years of age or enrolls in an institution of post-secondary education. However, the parents of a student who is also a "dependent student" for federal tax purposes are entitled to gain access to the education records of such student without first obtaining the consent of the student. In addition, parents of an eligible student may be given access to education records in connection with a health or safety emergency if the disclosure meets the conditions of applicable federal regulations.

#### **V. WHEN PRIOR INFORMED CONSENT TO RELEASE EDUCATION RECORDS IS NOT REQUIRED**

A. In certain circumstances, North Metro Flex Academy may release information from the education records of a student without the prior informed consent of the parent of the student if the disclosure is consistent with state and federal laws governing such release. These circumstances include:

1. Pursuant to a valid court order. However, North Metro Flex Academy must make a reasonable effort to notify the parent or eligible student of the order or subpoena in advance of compliance, so that the parent or eligible student may seek protective action, unless the disclosure is in compliance with:
  - a. Federal grand jury subpoena and the court has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed;
  - b. Any other subpoena issued for a law enforcement purpose and the court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed; or
  - c. An *ex parte* court order obtained by the United States Attorney General (or designee not lower than an Assistant Attorney General) concerning investigations or prosecutions of an offense listed in 18 U.S.C. 2332b(g)(5)(B) or an act of domestic or international terrorism as defined in 18 U.S.C. 2331.
2. Pursuant to a statute specifically authorizing access to the private data;
3. The disclosure is to other school officials, including teachers, within North Metro Flex Academy if the officials are determined to have legitimate educational interests.
4. The disclosure is to officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll, or where the student is already enrolled so long as the disclosure is for purposes related to the student's enrollment or transfer;
5. To appropriate health authorities to the extent necessary to administer immunization programs and for bona fide epidemiologic investigations which the commissioner of health determines are necessary to prevent disease or disability to individuals in the public educational agency or institution in which the investigation is being conducted;
6. To appropriate school officials to the extent necessary to indicate the extent and content of remedial instruction, including the results of assessment testing and academic performance at a postsecondary institution during the previous academic year by a student who graduated from a Minnesota school district within two years before receiving the remedial instruction;
7. To volunteers who are determined to have a legitimate educational interest in the data and who are conducting activities and events sponsored by or endorsed by the educational agency or institution for students or former students;
8. To the Commissioner of Education for purposes of an assessment or investigation of a report of alleged maltreatment of a student. Upon request by the Commissioner data that are relevant to a report of maltreatment and are from the

school's investigations of alleged maltreatment of a student must be disclosed to the commissioner, including, but not limited to, the following:

- a. Information regarding the student alleged to have been maltreated;
  - b. Information regarding student and employee witnesses;
  - c. Information regarding the alleged perpetrator; and
  - d. What corrective or protective action was taken, if any, by the school facility in response to a report of maltreatment by an employee or agent of the school or school district.
9. If North Metro Flex Academy initiates legal action against a parent or student, North Metro Flex Academy may disclose to the court, without a court order or subpoena, the education records of the student that are relevant in order to proceed with the legal action as plaintiff.
  10. If a parent or eligible student initiates legal action against North Metro Flex Academy, the school may disclose to the court, without a court order or subpoena, the student's education records that are relevant for the educational agency or institution to defend itself.
  11. The disclosure is information that North Metro Flex Academy has designated as "directory information".

## **VI. HEALTH AND SAFETY EMERGENCIES; DISCIPLINARY ACTIONS**

- A. North Metro Flex Academy may disclose personally identifiable information from an education record to appropriate parties, in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals. In making this determination, North Metro Flex Academy may take into account the totality of the circumstances pertaining to a threat to the health or safety of a student or other individuals. If North Metro Flex Academy determines that there is an articulable and significant threat to the health or safety of a student or other individuals, the school may disclose information from education records to any person whose knowledge of the information is necessary to protect the health or safety of the student or other individuals.
- B. North Metro Flex Academy may include in the education records of a student appropriate information 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; additionally, North Metro Flex Academy may provide the same information to teachers and school officials within the school who have a legitimate educational interests in the behavior of the student.
- C. North Metro Flex Academy may disclose information described above to teachers and school officials in other schools who have been determined to have legitimate educational interests in the behavior of the student.

## **VII. RECEIPT OF RECORDS REGARDING JUVENILE ADJUDICATIONS; SHARING INFORMATION**

- A. "Juvenile justice system" includes criminal justice agencies and the judiciary when involved in juvenile justice activities.
- B. Access by Juvenile Justice System.
1. Request. Authorities in the juvenile justice system may request data if such data concerns the juvenile justice system and the ability of the system to effectively serve, prior to adjudication, the student whose records are released. The authorities to whom the data are released must first submit a written request for the data that certifies that the data will not be disclosed to any other person except as authorized by law without the written consent of the parent of the student and the request and a record of the release are maintained in the student's file. All requests must also include an explanation of why access to the data is necessary to serve the student.
  2. After a request under B.1 has been made, North Metro Flex Academy must disclose the following education data to the juvenile justice system: a student's full name, home address, telephone number, date of birth; a student's school schedule, daily attendance record, and photographs, if any; and parents' names, home addresses, and telephone numbers.
  3. After a request under B.1 has been made, the school may also disclose the *existence* of the following data about a student:
    - a. Use of a controlled substance, alcohol, or tobacco;
    - b. Assaultive or threatening conduct that could result in dismissal from school;
    - c. Possession or use of weapons or look-alike weapons;
    - d. Theft; or
    - e. Vandalism or other damage to property.

However, the school may not disclose the *actual data* or other information contained in the student's education record and the school must notify the student's parent or guardian by certified mail of the request to disclose information before disclosing the information. If the student's parent or guardian notifies the school within ten days of receiving the certified notice that the parent or guardian objects to the disclosure, the school must not disclose the information. The school must inform the requesting member of the juvenile justice system of the objection. The school must respond to a data request within 14 days if no objection is received from the parent or guardian.

4. Notice to Parents. If North Metro Flex Academy receives a request to disclose information about a student to the juvenile justice system the school shall, to the extent permitted by federal law, notify the student's parent or guardian by certified

mail of the request to disclose information before disclosing the information. If the student's parent or guardian notifies the school within ten days of receiving the certified notice that the parent or guardian objects to the disclosure, the school must not disclose the information. The school must inform the requesting member of the juvenile justice system of the objection.

## **VIII. WHEN PARENTS MAY BE DENIED ACCESS TO EDUCATION RECORDS**

- A. Minor's Requests for Denial of Access. In order to deny parental access to education data regarding a minor student, that student must request that North Metro Flex Academy deny such access in writing, must set forth the reasons for denying access to the parent and must sign the request. Upon receipt of such request the school will determine if honoring the request to deny the parent access would be in the best interest of the minor student. In making this determination, the school will consider the following factors:
1. Whether the minor student is of sufficient age and maturity to be able to explain the reasons for and understand the consequences of the request to deny access;
  2. Whether the personal situation of the minor student is such that denying parental access may protect the student from physical or emotional harm;
  3. Whether there are grounds for believing that the minor student's reasons for precluding parental access are reasonably accurate;
  4. Whether the data in question is of such a nature that disclosure of it to the parent may lead to physical or emotional harm to the minor data subject; and
  5. Whether the data concerns medical, dental or other health services provided pursuant to Minn. Stat. §§144.341-144.347, in which case the data may be released only if the failure to inform the parent would seriously jeopardize the health of the minor.
- B. Reports under the Maltreatment of Minors Reporting Act. Pursuant to Minn. Stat. §626.556, reports pertaining to a neglected and/or physically and/or sexually abused child shall be accessible only to the appropriate welfare and law enforcement agencies. In respect to other parties, such data shall be confidential and will not be made available to the parent or the subject individual by the school.
- C. Conditions Related to the Release of Investigative Data. Data collected by the school as part of an active investigation undertaken for the purpose of the commencement or defense of pending civil legal action, or which are retained in anticipation of a pending civil legal action are classified as "confidential data" and shall not be provided to individuals not associated with the investigation. Parents or eligible students may have access to investigative data of which the student is the subject, but only to the extent the data is not inextricably intertwined with data about other school students, school employees, and/or attorney data as defined in Minn. Stat. §13.393.

1. A “pending civil legal action” for purposes of this subdivision is defined as including, but not limited to, judicial, administrative, or arbitration proceedings.
- D. Release of Information Related to Chemical Abuse. To the extent that the school maintains records of the identity, diagnosis, prognosis, or treatment of any student which are maintained in connection with the performance of any drug abuse prevention function conducted, regulated, or directly or indirectly assisted by any department or agency of the United States, such records are classified as confidential and shall be disclosed only for the purposes and under the circumstances expressly authorized by law.

## **IX. RESPONSIBLE AUTHORITY; RECORD SECURITY; AND RECORD KEEPING**

- A. Responsible Authority. The responsible authority shall be responsible for the maintenance and security of student records.
- B. Record Security. The Principal of North Metro Flex Academy shall be the records manager of the school, and shall have the duty of maintaining and securing the privacy and/or confidentiality of student records.
- C. Plan for Securing Student Records. The Principal shall submit to the responsible authority a written plan for securing students records annually each school year. The written plan shall contain the following information:
  1. A description of records maintained;
  2. Titles and addresses of person(s) responsible for the security of student records;
  3. Location of student records, by category, in the buildings;
  4. Means of securing student records; and
  5. Procedures for access and disclosure.
- D. Review of Written Plan for Securing Student Records. The responsible authority shall review the plans submitted pursuant to paragraph “C” above for compliance with the law, this policy and the various administrative policies of the school. The responsible authority shall then promulgate a chart incorporating the provisions of Paragraph C. which shall become a part of this policy.
- E. Record Keeping. The Responsibility Authority shall, for each request for and each disclosure of personally identifiable information from the education records of a student, maintain a record with the education records of the student which indicates:
  1. The parties who have requested or received personally identifiable information from the education records of the student;
  2. The legitimate interests these parties had in requesting or obtaining the information; and

3. The names of the state and local educational authorities and federal officials and agencies who may make further disclosures of personally identifiable information from the student's education records without consent.
- F. In the event that North Metro Flex Academy discloses personally identifiable information from an education record of a student pursuant to this policy, the record of disclosure required under this section shall also include:
1. The names of the additional parties to which the receiving party may disclose the information on behalf of the school district;
  2. The legitimate interests of this policy which each of the additional parties has in requesting or obtaining the information; and
  3. A copy of the record of further disclosures maintained by a state or local educational authority or federal official or agency listed in accordance with 34 C.F.R. §99.32 and to whom the school disclosed information from an education record.
- G. The school shall request a copy of the record of further disclosures from a state or local educational authority or federal official or agency to whom education records were disclosed upon a request from a parent or eligible student to review the record of requests for disclosure.

***Legal References:*** Minn. Stat. §13.02 (Definitions)  
Minn. Stat. §13.05 (Duties of Responsible Authority)  
Minn. Stat. §13.32 (Educational Data)  
20 U.S.C. 1232g(b)(1)(l) and (h) (Family Educational and Privacy Rights)  
34 C.F.R. Part 99 (Family Education Rights and Privacy Act)  
Minn. R. 1205.0500 (Access to Private Data on Minors)