

FAMILY EDUCATION RIGHTS AND PRIVACY ACT (FERPA)

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 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."

The Brownsburg Community School Corporation maintains records on all students who have attended and are presently attending schools of the Corporation, said records are directly related to the students. FERPA has established parental and student rights with respect to "education records." The statutory definition of this term is as follows:

- (i) Contains 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.

Records, which are not to be considered "education records", include:

- (1) Records in the sole possession of the maker of the record accessed and revealed only to a substitute and not shared with others;
 - (2) Records of a law enforcement unit that was created by that law enforcement unit specifically for law enforcement purposes;
 - (3) records made and maintained in the normal course of business which relate exclusively to a person who is employed by an educational agency in that person's capacity as an employee and are not available for use for any other purpose; and
 - (4) records of a person who is eighteen (18) years of age or older which are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional capacity which are made, maintained, or used only in connection with the provision of treatment to the student.
- Parents 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 or eligible students to review the records. Schools may charge a fee for copies.

Schools are required by FERPA to:

- provide a parent with an opportunity to inspect and review his/her child's education records within 45 days of the receipt of a request
 - provide a parent with copies of education records or otherwise make the records available to the parent if the parent, for instance, lives outside of commuting distance of the school
 - redact the names and other personally identifiable information about other students that may be included in the child's education records.
- Parents 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/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 following 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, schools must tell parents and eligible students about directory information and allow parents and eligible students a reasonable amount of time to request that the school not disclose directory information about them. Schools must notify parents and eligible students annually of their rights under FERPA. The actual means of notification (special letter, inclusion in a PTA bulletin, student handbook, or newspaper article) is left to the discretion of each school.

Brownsburg Community School Corporation has designated the following information as directory information:

- Student's name
- Participation in officially recognized activities and sports
- Address
- Telephone listing
- Weight and height of members of athletic teams
- Electronic mail address
- Photograph (*parents of elementary students will be contacted to secure permission to put names with photographs*)
- Degrees, honors, and awards received
- Date and place of birth
- Major field of study
- Dates of attendance
- Grade level
- The most recent educational agency or institution attended

The right to consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that FERPA authorizes disclosure without consent. One exception, which permits disclosure without consent, is disclosure to school officials with legitimate educational interests. A school official is a person employed by the School as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel); a person serving on the School Board; a person or company with whom the School has contracted to perform a special task (such as an attorney, auditor, medical consultant, or therapist); or 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. A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his/her professional responsibility. [Optional] Upon request, the School discloses education

records without consent to officials of another school district in which a student seeks or intends to enroll.

[NOTE: FERPA requires a school district to make a reasonable attempt to notify the parent or eligible student of the records re-quest unless it states in its annual notification that it intends to forward records on request.]

Policies of the Corporation for reviewing and expunging these records:

- A. The Act concerns the student record of both elementary and secondary schools.
- B. The parents' rights under the Act extend until the student is 18 years of age or is enrolled in a post high school institution; thereafter, only the student himself may exercise the rights.
- C. Parents, students, and legal guardians have a right to examine the student records at reasonable times during the school years.
- D. A record is kept with each student record showing who examined it, the date on which it was examined, and the purpose of the examination.
- E. Certain persons may examine student records without a parent's consent; these include school officials, including teachers who have "legitimate educational interest", officials of other schools or school systems where a transfer is made, and certain representatives of the state and federal government.

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| Superintendent of Schools | Associate Superintendent |
| Assistant Superintendent | Director of Pupil Services |
| Curriculum | Director of Food Services |
| Director of Technological Services | Director of Harris Academy |
| Director of Transportation | Principals |
| Assistant Principals | Community Outreach Liaison |
| Administrative Deans | Assistant Athletic Directors |
| Athletic Directors | Student Teachers |
| All Certified Teachers | School Counselors |
| School Psychologists | Social Workers |
| Student Assistance Coordinator | Interns |
| Occupational/Physical Therapists | Interpreters |
| Data Analyst & Managers | Nurses |
| Administrative Assistants | Bus Drivers |
| Instructional Assistants | Safety Officers |

Any employee of the Corporation not named on this list must receive permission from the Superintendent prior to accessing any information.

- F. Any person may receive the records, if the parents execute a written consent specifying the records to be released, the reason for such release, and the person to whom they are to be released. A copy will be sent to the parents in such case if requested; the parents may also request and receive a copy of any student record forwarded to another school or school system with a transfer.
- G. A copy may be furnished pursuant to a court order of subpoena but only if the parents are given advance notice.
- H. Schools in the Brownsburg Community School Corporation will forward education records including suspension and expulsion disciplinary records to other schools (private or public) in which any elementary or secondary student seeks or intends to enroll on a full or part-time basis.

The Procedure established for reviewing the school records:

- A. Requests to review school records shall be made by a written request to the principal of the appropriate school. Printed request forms are available at the school, but written requests may be made other than on the provided form.
- B. The written request must be completed prior to the review of the school record. (This form becomes a part of the student's record thereafter.)
- C. The principal shall have the records available for review and inspection within ten (10) days after the request has been made and, in any event, no later than forty- five (45) days.
- D. The principal shall make provision for assistance in the interpretation of the records.

Cost for student record review:

- A. There shall be no fee or costs for reviewing the student records at the school.
- B. Copies of the student record shall be furnished to the parent or eligible student upon request, and said copies shall be reproduced at cost to the parent or eligible student.

Release of records to other school districts:

Schools in Brownsburg Community School Corporation disclose education records without consent to officials of another school district in which a student seeks, or intends to enroll. This includes those students' disciplinary records that concern student misconduct relating to the health or safety of the student, other students at the school and members of the school community. The discipline records apply only to those that resulted in suspension or expulsion or for the violation of a misconduct rule that relates to a safety or health concern of the school.

Release of education records to law enforcement agencies:

USA Patriot Act permits school to disclose without consent or knowledge of the parent or student "personally identifiable information from the student's educational records to the Attorney General of the United States or his/her designee in response to an *ex parte* order in connection with the investigation or prosecution of terrorism crimes specified in sections 2332(g)(5)(B) and 2331 of the title 18, U.S. Code.

Federal Grand Jury Subpoena: Schools may disclose educational records to the designee in a Federal grand jury subpoena without parental or student notification or recordation if so ordered by the court.

Law Enforcement Subpoena: The same rules apply as to Federal Grand Jury Subpoenas except that in the case of an agency subpoena, schools have the option of requesting a copy of the good cause determination.

All other Subpoenas: For all other subpoenas, including federal grand jury or law enforcement subpoenas in which the court does not specifically order nondisclosure, prior to disclosing personally identifiable information from a student's education record, schools 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."

Release of Directory Information to Military Recruiters:

Schools are required to provide students' names, addresses, and telephone listings to military recruiters when requested. This requirement is subject to parental "opt out" rights.

PROTECTION OF PUPIL RIGHTS AMENDMENT (PPRA)

The Protection of Pupil Rights Amendment (PPRA) (20 U.S.C. § 1232h; 34 CFR Part 98) applies to programs that receive funding from the U.S. Department of Education (ED). PPRA is intended to protect the rights of parents and students in two ways:

It seeks to ensure that schools and contractors make instructional materials available for inspection by parents if those materials will be used in connection with an ED-funded survey, analysis, or evaluation in which their children participate; and
It seeks to ensure that schools and contractors obtain written parental consent before minor students are required to participate in any ED-funded survey, analysis, or evaluation that reveals information concerning:

1. Political affiliations;
2. Mental and psychological problems potentially embarrassing to the student and his/her family;
3. Sex behavior and attitudes;
4. Illegal, anti-social, self-incriminating and demeaning behavior;
5. Critical appraisals of other individuals with whom respondents have close family relationships;
6. Legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers; or
7. Income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program).

Parents or students who believe their rights under PPRA may have been violated may file a complaint with ED by writing the Family Policy Compliance Office. Complaints must contain specific allegations of fact giving reasonable cause to believe that a violation of PPRA occurred.

The Family Policy Compliance Office in the U.S. Department of Education administers both FERPA and PPRA. Parents and/or eligible students who believe their rights have been violated may file a complaint with

Family Policy Compliance Office
US Department of Education
400 Maryland Avenue, SW 20202-4605
Washington, DC
<http://familypolicy.ed.gov/>