

UTAH SCHOOLS FOR THE DEAF AND THE BLIND

CONFIDENTIALITY OF INFORMATION POLICY

1 PHILOSOPHY

Utah Schools for the Deaf and the Blind believes that parents have the right to privacy and also the right to know the contents and use of personally identifiable records about their child who is being served by this agency. USDB will provide assurance of confidentiality, provide reasonable access to records, and seek parental consent according to the following guidelines and procedures.

2 DIRECTORY INFORMATION

2.1 Information which includes a student's name, hometown, parent name(s), classes or class standing, participation in officially recognized activities and sports, height and weight of members of athletic teams, dates of attendance, degrees and awards received, previous educational agency or institutions attended by the student is considered directory information. This level of information may be retained indefinitely and is public information.

3 DEFINITIONS

3.1 **Destruction** means physical destruction or removal of personal identifiers from information so that information is no longer personally identifiable;

3.2 **Education Records** – Type of records covered under definition of **education records** in Part 99 of FERPA;

3.3 **Participating Agency** - Any public agency which collects, maintains, or uses personally identifiable information or from which information is obtained under Part B.

3.4 **Personally Identifiable** means that the information includes:

3.4.1 The name of the student, the student's parent, or other family member,

3.4.2 The address of the student,

3.4.3 A personal identifier, such as the student's social security number or student number.

3.4.4 A list of personal characteristics or other information that would make it possible to identify the student with reasonable certainty.

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4 PROCEDURES

- 4.1 **Notice:** On at least an annual basis, either during registration for services, or during the development of the IEP, a copy of the Parents' Rights Form (USDB 105.15, Rev. 9-89) will be distributed and explained to the parents. A copy of this form or a signature sheet will be signed and dated by the parent to indicate that they have been informed of their procedural safeguards including confidentiality, right to confidentiality, right to privacy, and right to access information. Notice to parents published before major identification, location, or evaluation activity; the explanation to parents will be provided in the primary language of the parents (including manual communication if necessary) and will describe the following rights:
- 4.1.1 The parent (or student of majority age) has the right to inspect and review the student's education records.
 - 4.1.2 The parent (or student of majority age) has 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.
 - 4.1.3 The parent (or student of majority age) has the right to give consent to disclosure of personally identifiable information contained in the student's education records, except to the extent that the Federal Education Right to Privacy Act (FERPA) and regulations in Part 99 authorize disclosure without consent.
 - 4.1.4 The parent (or student of majority age) has the right to obtain a copy of USDB's policy from the administrative offices of USDB or from the office of the program coordinator of any division of the agency.
- 4.2 The notice provided under paragraph 1 of this section must also indicate the places where copies of USDB's policy are located.
- 4.3 **Inspection and Review:** Staff of USDB will permit parents to inspect and review any education records relating to their child which are collected, maintained, or used by USDB under this part. USDB will comply with a request to inspect and review records without unnecessary delay and before any meeting regarding an IEP or hearing relating to the identification, evaluation or placement of the student, and in no case more

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than 45 calendar days after the request has been made. The parents' right to inspect and review educational records includes the following:

- 4.3.1 The parent (or student of majority age) has the right to receive, in response to a request, an explanation or interpretation of records.
 - 4.3.2 The parent (or student of majority age) has the right to request that USDB provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records. USDB may charge a fee not to exceed the cost of copying, except for the IEP, which shall be free.
 - 4.3.3 The parent (or student of majority age) has the right to have a representative inspect and review records. Written or documented evidence that the parent has authorized the person to inspect the records is required.
 - 4.3.4 Anyone accessing the record other than the parent (or child of majority age) must complete the Student File Review form.
- 4.4 **Access:** USDB presumes that a parent has authority to inspect and review records relating to his or her child unless the agency has been advised that the parent does not have the authority under applicable state law governing such matters as guardianship, separation, and divorce.
- 4.4.1 If any education record includes information on more than one student, the parents of those students shall have the right to inspect and review only the information relating to their child or to be informed of that specific information.
 - 4.4.2 USDB shall provide parents, after receiving request, a list of the types and location of educational records collected, maintained, or used by USDB on their child.
 - 4.4.3 USDB may charge a fee (not to exceed cost of copying) for copies of records which are made for the parents under this part, if the fee does not effectively prevent the parents from exercising their right to inspect and review those records.
 - 4.4.4 USDB will not charge a fee to search for or to retrieve information.

5 RIGHT TO AMEND

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- 5.1 A parent, who believes that information in educational records collected, maintained or used by USDB under this part is inaccurate or misleading or violates the privacy or other rights of the student, may request USDB to amend the information.
 - 5.1.1 USDB will determine whether to amend the information in accordance with the request within a reasonable period of time of receipt of the request.
 - 5.1.2 If USDB elects to refuse to amend the information in accordance with the parent's request, USDB shall inform the parent of the refusal and advise the parent of the right to a hearing under provisions of 34 CFR 300.568.
 - 5.1.3 If the parent requests, USDB will provide an opportunity for a hearing to challenge USDB's decision.
 - 5.1.4 If, as a result of a hearing, USDB determines that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, USDB shall amend the information accordingly and inform the parent in writing that the record has been amended.
 - 5.1.5 If, as a result of the hearing, USDB determines that the information is not inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, it shall inform the parent of the decision in writing. Further, USDB will inform the parent of the right to place in the records maintained on the student a statement commenting on the information or setting forth any reasons for disagreeing with the decision of USDB.
 - 5.1.6 Any explanation or statement provided by the parent and requested by the parent to be placed in the student file as an amendment to the file shall:
 - 5.1.6.1 Be maintained by USDB as part of the records of the student as long as the record or contested portion is maintained by USDB.
 - 5.1.6.2 Also be disclosed by USDB to any party if the student record or any part of the contested portion is disclosed by USDB.
 - 5.1.7 USDB shall conduct hearings on challenges to the education records in accordance with 34 CFR 99.22, Section 438, PL 90-

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247. The procedures followed by USDB in conducting such hearings shall include that:

- 5.1.7.1 The hearing shall be held within a reasonable time period (usually 45 days) after USDB receives the request, and the parent of the student or eligible student shall be given notice of the date, place and time in advance (usually 14 days) of the hearing.
- 5.1.7.2 The hearing shall be conducted by the USDB superintendent or his/her designated administrator who does not directly supervise instruction of the student.
- 5.1.7.3 The parent of the student shall be afforded a full and fair opportunity to present evidence relevant to the issues raised, and may be assisted or be represented by individuals of his or her choice at his or her own expense, including an attorney.
- 5.1.7.4 USDB shall make its decision in writing known to the parent within a reasonable time (usually 14 days) after the conclusion of the hearing.
- 5.1.7.5 The decision provided in writing to the parents by USDB shall be based solely upon the evidence presented at the hearing and shall include a summary of the evidence and the reasons for the decision.

6 DISCLOSURE OF RECORDS

- 6.1 Except for “directory information,” which may be made available at the discretion of USDB staff for non profit and public information services, staff shall obtain parental consent before personally identifiable information is:
 - 6.1.1 Disclosed to anyone other than officials of participating agencies collecting or using the information under the Rules IV.W. Confidentiality of Information, or
 - 6.1.2 Used for any purpose other than meeting requirements under Part 99.

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- 6.1.3 Released from educational records to participating agencies unless authorized to do so by 34 CFR 99.31 and 99.34 Section 438, PL 90-247.

Regulations 99.31 state that:

- 6.1.3.1.1 An educational agency or institution may disclose personally identifiable information from the educational records of a student without the written consent of the parent of the student or the eligible student if the disclosure is:

6.1.3.1.1.1 To other school officials, including teachers, within the educational institution or local educational agency personnel who have been determined by the agency or institution to have legitimate educational interests; and

6.1.3.1.1.2 To officials of another school system in which the student seeks or intends to enroll, subject to the requirements set forth in 99.34 below.

- 6.1.3.1.2 Regulation 99.34 states that an educational agency or institution transferring the educational records of a student pursuant to 99.31 above shall make a reasonable attempt to notify the parent of the student or the eligible student of the transfer of the records at the last known address of the parent or eligible student, except:

6.1.3.1.2.1 When the transfer of the records is initiated by the parent or eligible student at the sending agency or institution; or

6.1.3.1.2.2 When the agency or institution includes in its annual notice of parents' rights that it is the policy of the public agency to forward education records on request to a school in which a student seeks or intends to enroll, then the public

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agency does not have to provide any further notice of the transfer of records.

- 6.1.4 When receiving personally identifiable information from another educational agency or institution, USDB may make further disclosure of information on behalf of USDB without the prior written consent of the parent or the eligible student if the conditions of Regulation 99.31 and 99.34 noted above are met, and if USDB informs the party to whom disclosure is made of these requirements.
- 6.1.5 If the parents refuse consent for the release of personally identifiable information to a third party, USDB shall not disclose information to the party except when legal procedures to obtain such records are completed by the party.

7 PROTECTION OF CONFIDENTIALITY

- 7.1 USDB shall protect the confidentiality of personally identifiable information at collection, storage, disclosure and destruction sites.
 - 7.1.1 The superintendent shall assume responsibility for ensuring the confidentiality of any personally identifiable information.
 - 7.1.2 All USDB instructional staff and administrators who collect or use personally identifiable information shall receive training and instruction regarding the state's policies and procedures concerning personally identifiable information.
 - 7.1.3 USDB shall maintain, at each work station where personally identifiable records are stored, a list of the names and positions of those employees within the agency who may have access to the personally identifiable information. The list of those permitted access shall be affixed to the storage files. The list shall be updated as needed.
 - 7.1.4 Parents will be informed by USDB when personally identifiable information is no longer needed to provide educational services to the student. When USDB intends to destroy personally identifiable information the parent will be sent a Notice of Destruction of Records form (USDB 127.1) informing parents of the types of information which is being considered for destruction

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and give parents an opportunity to obtain such records of their child.

- 7.1.5 Information no longer needed must be destroyed at the request of the parents. However, a permanent record of the student's name, address, and phone number, his or her grades, attendance record, classes attended, and grade level completed may be maintained without time limit.
- 7.2 USDB shall extend all of the parental rights to the student regarding educational records when the student reaches the age of 18 unless the student has been declared incompetent by court order. USDB shall provide the required notice of this action to the student and parents consistent with the provisions under Rule IV.W.
- 7.3 Notice to Parents (under 34 CFR 30.561).
 - 7.3.1 The USOE/LEAs will provide for notice which is adequate to fully inform parents about the LEAs requirements related to the identification, location, and evaluation of students with disabilities and where appropriate the notice will be provided in the native language of the home.
- 7.4 Before any major identification, location or evaluation activity, the notice must be published or announced in newspapers or other media, or both, with circulation adequate to notify parents throughout the state/school district of the activity.
- 7.5 Collection of personally identifiable information maintained on students eligible for special education services. This included information relevant to a student's specific disability condition, diagnostic report which determines the existence of such a disability, and the individualized educational program designed to meet the student's needs. Personally identifiable information will be gathered from in-school screening, qualified diagnostic examinations and other appropriate sources as deemed necessary to complete a comprehensive assessment.
- 7.6 Disciplinary Information.
 - 7.6.1 USDB will include in the records of a student with a disability a statement of any current or previous disciplinary action that has been taken against the student, and transmit the statement to the same extent that the disciplinary information is included in,

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and transmitted with, the student records of non-disabled students.

7.6.2 The statement shall include a description of any behavior engaged in by the student that required disciplinary action, a description of the disciplinary action taken, any information that is relevant to the safety of the student and other individuals involved with the student.

7.6.3 If the student transfers from one school to another, the transmission of any of the student's records must include both the student current individualized education program and any statement of previous disciplinary action that has been taken against the student.

7.7 U.S. Department use of personally identifiable information:

7.7.1 If the U.S. Department of Education or its authorized representatives collect any personally identifiable information regarding students with disabilities that is not subject to FERPA, the Secretary applies the applicable federal statute, and the regulations implementing those provisions in 34 CFR Part 5b.

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