AP 5040  Student Records, Directory Information, and Privacy

References:
Education Code Sections 71091 and 76200 et seq.;
Title 5 Sections 54600 et seq.;
U.S. Patriot Act;
Civil Code Section 1798.85

1. **Records.** A cumulative record of enrollment, scholarship, and educational progress shall be kept for each student.

2. **Definitions**
   a. Access - means a personal inspection and review of a record or an accurate copy of a record, or an oral description or communication of a record or an accurate copy of a record, and a request to release a copy of any record.
   b. Attendance – means attendance in person or by paper correspondence, videoconference, satellite, Internet, or other electronic information and telecommunications technologies for students who are not physically present in the classroom; and the period during which a person is working under a work-study program.
   c. Authorized Representative - means any entity or individual designated by a State or local educational authority or an agency headed by an official listed in Section 99.31(a)(3) of the Family Educational Rights and Privacy Act of 1974 to conduct—with respect to Federal- or State-supported education programs—any audit or evaluation, or any compliance or enforcement activity in connection with Federal legal requirements that relate to these programs.
   d. Custodian of Records – Under the supervision of the Vice President of Student Services and College Centers, the Director of Admissions and Records is the designated Custodian of Records and shall be responsible for the custody, processing, maintenance and disposition of District student records. In the absence of the Director of Admissions and Records, the Vice President of Student Services and College Centers shall designate an alternate Student Services manager as the Custodian of Records.

   For financial aid records, the designated custodian of records shall be the Dean of Student Services under the supervision of the Vice President of Student Services and College Centers.

   e. Dates of Attendance - means the period of time during which a student attends or attended the District. Examples of dates of attendance include an academic year or a spring semester. The term does not include specific daily records of a student's attendance at the college.
Disciplinary Action - means the investigation, adjudication, or imposition of sanctions by the District with respect to an infraction or violation of the internal rules of conduct applicable to students of the District.

Disclosure - means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record.

Educational agency or institution - means any public or private agency or institution to which this part applies under § 99.1(a).

Education Program - means any program that is principally engaged in the provision of education, including, but not limited to, early childhood education, elementary and secondary education, postsecondary education, special education, job training, career and technical education, and adult education, and any program that is administered by the District.

Education Records
1) Education Records include:
   a) specific records directly related to a student; and
   b) maintained by the District or by a third party acting for the District.

2) Education Records do not include:
   a) confidential letters and statements of recommendations maintained by the District on or before January 1, 1975; and if these letters or statements are not used for purposes other than those for which they were specifically intended.
   b) information provided by a student’s parents relating to applications for financial aid or scholarships.
   c) information related to a student compiled by a community college officer or employee that remains in the sole possession of the maker and is not accessible or revealed to any other person except a substitute. For purposes of this paragraph, "substitute" means a person who performs, on a temporary basis, the duties of the individual who made the notes and does not refer to a person who permanently succeeds the maker of the notes in his or her position.
   d) information maintained by the District law enforcement unit, if the personnel of the unit do not have access to student records pursuant to Section 76243, the information maintained by the unit is kept apart from information maintained pursuant to subdivision (a), the information is maintained solely for law enforcement purposes, and the information is not made available to persons other than law enforcement officials of the same jurisdiction. "Student record" does not include information maintained in the normal course of business pertaining to persons who
are employed by a community college, if the information relates exclusively to the person in that person’s capacity as an employee and is not available for use for any other purpose.

e) information related to a student created or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional or paraprofessional capacity, or assisting in that capacity, and that is created, maintained, or used only in connection with the provision of treatment to the student and is not available to anyone other than persons providing that treatment. However, that record may be personally reviewed by a physician or other appropriate professional of the student’s choice.

f) Records created or received by the District after an individual is no longer a student in attendance and that are not directly related to the individual's attendance as a student.

g) Grades on peer-graded papers before they are collected and recorded by a teacher.

k. Parent - means a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or a guardian.

l. Party - means an individual, agency, institution, or organization.

m. Record - means any item of information directly related to an identifiable student, other than directory information, which is maintained by the District or required to be maintained by any employee in the performance of his or her duties, whether recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche or other means. Directory information is defined in Board Policy 5040 Student Records, Directory Information, and Privacy.

n. Student – means any individual who is or has been in attendance at the District and regarding whom the District maintains education records.

3. Release of Student Records

a. No instructor, official, employee, or Governing Board member shall authorize access to student records to any person except under the following circumstances:

1) Student records shall be released pursuant to a student's written consent. The District permits access to student records to any person for whom the student has executed written consent with signature authorization specifying the records to be released and identifying the party or class of parties to whom the records may be released. The recipient will be notified that the transmission of the information to others without the written consent of the student is prohibited. The consent notice shall be permanently kept with the student's record.
2) “Directory information” may be released in accordance with the definitions in Board Policy 5040. The District may limit or deny the release of specific categories of directory information based upon a determination of the best interests of students.

3) Student records shall be released pursuant to a judicial order or a lawfully issued subpoena submitted to the Admissions & Records Office, which includes an administrative fee of $15.00 per student. The District shall send a written notification to the student’s current address on record in advance of compliance with a lawfully issued subpoena and, if no response is received by the student, shall furnish a copy of record, accompanied by an affidavit certifying that the copy is a true copy of the original record on file in the District office, ten (10) working days after receipt of subpoena. The copy of the record shall be in the form of a photostat, microfilm, microcard, or miniature photograph or other photographic copy or reproduction, or an enlargement thereof.

4) Student records shall be released pursuant to a federal judicial order that has been issued regarding an investigation or prosecution of an offense concerning an investigation or prosecution of terrorism.

5) Student records may be released to officials and employees of the District only when they have a legitimate educational interest to inspect the record as determined by the Custodian of Records. The District ensures physical security by locked cabinets; technological access by secured login to web portal ensures control over access to education records. The Custodian of Records authorizes web access to education records to employees, faculty and outside parties. A contractor, consultant, volunteer, or other party may be considered a school official under this paragraph provided that the outside party:

6) Performs an institutional service or function for which the agency or institution would otherwise use employees;

7) Is under the direct control of the agency or institution with respect to the use and maintenance of education records; and

8) Is subject to the requirements governing the use and re-disclosure of personally identifiable information from education records.

9) Student records may be released to authorized representatives of the Comptroller General of the United States, the Secretary of Education, an administrative head of an education agency, state education officials, or their respective designees or the United States Office of Civil Rights, where that information is necessary to audit or evaluate a state or federally supported educational program or pursuant to federal or state law. Exceptions are that when the collection of personally identifiable information is specifically authorized by federal law, any data collected by those officials shall be protected in a manner that will not permit the personal identification of
students or their parents by other than those officials, and any personally identifiable data shall be destroyed when no longer needed for that audit, evaluation, and enforcement of federal legal requirements. The Custodian of Records is responsible for providing such information and defining procedures.

10) Student records may be released to officials of other public or private schools or school systems, including local, county or state correctional facilities where education programs are provided, where the student seeks or intends to enroll or is directed to enroll. The release is subject to the conditions in Education Code Section 76225. The Custodian of Records is responsible for providing such information and defining procedures.

11) Student records may be released to agencies or organizations in connection with a student's application for, or receipt of, financial aid, provided that information permitting the personal identification of those students may be disclosed only as may be necessary for those purposes as to financial aid, to determine the amount of the financial aid, or conditions that will be imposed regarding financial aid, or to enforce the terms or conditions of financial aid. The Custodian of Records is responsible for providing such information and defining procedures.

12) Student records may be released to organizations conducting studies for, or on behalf of, accrediting organizations, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering financial aid programs, and improving instruction, if those studies are conducted in such a manner as will not permit the personal identification of students or their parents by persons other than representatives of those organizations and the information will be destroyed when no longer needed for the purpose for which it is conducted. The Custodian of Records is responsible for providing such information and defining procedures.

13) Student records may be released to appropriate persons in connection with an emergency if the knowledge of that information is necessary to protect the health or safety of a student or other persons, subject to applicable federal or state law. The Custodian of Records responsible for providing such information and defining procedures.

14) To a victim of an alleged perpetrator of a crime of violence or a non-forcible sex offense, subject to the requirements of Section 99.39 of the Family Educational Rights and Privacy Act of 1974. The disclosure may only include the final results of the disciplinary proceeding with respect to that alleged crime or offense, regardless of the finding.

15) To the general public, the final results of a disciplinary proceeding, subject to the requirements of Section 99.39 of the Family Educational Rights and Privacy Act of 1974, if the school determines the student is an alleged perpetrator of a crime of violence or non-forcible sex offense and the student
has committed a violation of the school’s rules or policies with respect to the allegation made against him or her.

16) To parents of a student regarding the student’s violation of any Federal, State, or local law, or of any rule or policy of the school, governing the use or possession of alcohol or a controlled substance if the school determines the student committed a disciplinary violation and the student is under the age of 21.

17) The following information shall be released to the federal military for the purposes of federal military recruitment: student names, addresses, telephone listings, dates and places of birth, levels of education, degrees received, prior military experience, and/or the most recent previous educational institutions enrolled in by the students.

4. Charge for Transcripts or Verifications of Student Records
   a. A student/former student shall be entitled to two free copies of the transcript of his/her record or to two free verifications of various student records by written request. Additional copies shall be made available to the student, or to an addressee designated by him/her, at the rate of $3.00 for written requests per copy and $6.00 for online orders per copy. Students may request special processing of a transcript.
   b. The District electronically receives and sends transcripts using transmission systems and protocols that are secure and protect student privacy in a manner that complies with federal and state privacy laws, to satisfy the requirements of Education Code Section 76225. Students may order electronic transcripts using an automated online ordering service through the myCuesta web portal for authentication or the Cuesta web site and fax a signature authorization.

5. Use of Social Security Numbers: The District shall not do any of the following:
   a. Publicly post or publicly display an individual’s social security number;
   b. Print an individual’s social security number on a card required to access products or services;
   c. Require an individual to transmit his/her social security number over the internet using a connection that is not secured or encrypted;
   d. Require an individual to use his/her social security number to access an Internet Web site without also requiring a password or unique personal identification number or other authentication devise; or
   e. Print, in whole or in part, an individual’s social security number that is visible on any materials that are mailed to the individual, unless State or Federal law requires the social security number to be on the document to be mailed or if materials used for:
      1) Application or enrollment purposes;
      2) To establish, amend, or terminate an account, contract, or policy; or
3) To confirm the accuracy of the social security number.

4) If the District has, prior to January 1, 2004, used an individual’s social security number in a manner inconsistent with the above restrictions, it may continue using that individual’s social security number in that same manner only if:

a) The use of the social security number is continuous;

b) The individual is provided an annual disclosure that informs the individual that he/she has the right to stop the use of his/her social security number in a manner otherwise prohibited;

c) The District agrees to stop the use of an individual’s social security number in a manner otherwise prohibited upon a written request by that individual;

d) No fee shall be charged for implementing this request; and the District shall not deny services to an individual for making such a request.

6. The Superintendent/President has the full responsibility and authority to implement and administer Board polices and administrative procedures.

Approved: July 2014