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Memo

To Board of Education

From Marion McWilliams, General Counsel

Board Meeting Date May 23, 2018

Subject Amendment – Board Policy – BP 5125 Student Records

Action Requested Approval of update to the Oakland Unified School District Board Policy BP 5125 Student Records

Background and Discussion Periodically modifications to board policies are recommended to align with changes in law or recommended best practices. The proposed modifications to the board policies reflect the District’s standards.

The Board Policy is updated to reflect State law which mandates districts entering into a contract with a third party for the digital storage, management, and retrieval of student records to adopt policy allowing such contracts.

Recommendation Approval of updates to the Oakland Unified School District Board Policy BP 5125 Student Records

Fiscal Impact No direct funding implications

Attachments BP 5125 Student Records

Oakland Unified School District

Board Policy

Students

BP 5125
Student Records

The Governing Board recognizes the importance of keeping accurate, comprehensive student records as required by law. The Superintendent or designee shall ensure that the district's administrative regulation and school site procedures for maintaining the confidentiality of student records are consistent with state and federal law.

The Governing Board believes all students should have an opportunity for higher education and recognizes that colleges and universities often request student discipline information from the District and that disclosure of such information on college applications is not required.

The Superintendent or designee shall establish and maintain administrative regulations governing the identification, retention, and security of student records. These regulations shall ensure the rights of authorized persons to have timely access to student records and shall protect students and their families from invasion of privacy. The administrative regulations relating to student records (AR 5125) and the expungement of disciplinary records (AR 5144.3) shall maximize student's rights to privacy in their discipline information in the context of higher education.

District employees shall not provide information about an individual student's disciplinary history to any unauthorized person or entity unless (1) required by law or (2) upon the written consent of the parent or guardian of a minor student or the student's written consent if the student is not a minor.

(cf. 3580 - District Records)
(cf. 4040 - Employee Use of Technology)
(cf. 5125.1 - Release of Directory Information)
(cf. 5125.3 - Challenging Student Records)

The Superintendent or designee shall designate a certificated employee to serve as custodian of records with responsibility for student records at the district level. At each school, the principal or a certificated employee shall be designated as custodian of records for students enrolled at that school. The custodian of records shall be responsible for implementing Board policy and administrative regulation regarding student records. (5 CCR 431)

Contract for Digital Storage, Management, and Retrieval of Student Records

The Superintendent or designee may enter into a contract with a third party for the digital storage, management, and retrieval of student records and/or to authorize a third party provider of digital software to access, store, and use student records, provided that the contract meets the requirements of Education Code 49073.1 and other applicable state and federal laws.

(cf. 3312 - Contracts)

Legal Reference:

EDUCATION CODE

17604 *Contracts*

48201 *Student records for transfer students who have been suspended/expelled*

48853.5 *Foster youth; placement, immunizations*

48902 *Notification of law enforcement of specified violations*

48904-48904.3 *Withholding grades, diplomas, or transcripts*

48918 *Rules governing expulsion procedures*

48980 *Parental notifications*

48985 *Notices in parent/guardian's primary language*

49060-49079 *Student records*

49091.14 *Parental review of curriculum*

51747 *Independent study*

56041.5 *Rights of students with disabilities*

56050 *Surrogate parents*

56055 *Foster parents*

69432.9 *Cal Grant program; notification of grade point average*

BUSINESS AND PROFESSIONS CODE

22580-22582 *Digital privacy*

22584-22585 *Student Online Personal Information Protection Act*

CODE OF CIVIL PROCEDURE

1985.3 *Subpoena duces tecum*

FAMILY CODE

3025 *Access to records by noncustodial parents*

6552 *Caregiver's authorization affidavit*

GOVERNMENT CODE

6252-6260 *Inspection of public records*

HEALTH AND SAFETY CODE

120440 *Immunizations; disclosure of information*

PENAL CODE

245 *Assault with deadly weapon*

WELFARE AND INSTITUTIONS CODE

681 *Truancy petitions*

701 *Juvenile court law*

16010 *Health and education records of a minor*

CODE OF REGULATIONS, TITLE 5

430-438 *Individual student records*

16020-16027 *Destruction of records of school districts*

UNITED STATES CODE, TITLE 20

1232g *Family Educational Rights and Privacy Act*

1232h *Protection of Pupil Rights Amendment*

UNITED STATES CODE, TITLE 26

152 *Definition of dependent child*

UNITED STATES CODE, TITLE 42

11434a *McKinney-Vento Homeless Assistance Act; definitions*

CODE OF FEDERAL REGULATIONS, TITLE 16

Part 312 *Children's Online Privacy Protection Rule*

CODE OF FEDERAL REGULATIONS, TITLE 34

99.1-99.67 *Family Educational Rights and Privacy*

300.501 *Opportunity to examine records for parents of student with disability*

Management Resources:

FEDERAL REGISTER

Final Rule and Analysis of Comments and Changes, Family Educational Rights and Privacy, December 9, 2008, Vol. 73, No. 237, pages 74806-74855

NATIONAL SCHOOL BOARDS ASSOCIATION PUBLICATIONS

Data in the Cloud: A Legal and Policy Guide for School Boards on Student Data Privacy in the Cloud Computing Era, April 2014

U.S. DEPARTMENT OF EDUCATION PUBLICATIONS

Joint Guidance on the Application of the Family Educational Rights and Privacy Act (FERPA) and the Health Insurance Portability and Accountability Act of 1996 (HIPAA) to Student Health Records, 2008

Balancing Student Privacy and School Safety: A Guide to the Family Educational Rights and Privacy Act for Elementary and Secondary Schools, October 2007

WEB SITES

California Department of Education: <http://www.cde.ca.gov>

National School Boards Association: <http://www.nsba.org>

U.S. Department of Education, Family Policy Compliance, <http://www.ed.gov/policy/gen/guid/fpco>

| 8/25/04; 8/12/15A; 9/9/15A; 5/23/18A (if adopted)

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