

STUDENT RECORDS

The Albemarle County School Board shall maintain accurate and complete individual, permanent, and cumulative records for every student enrolled in the public schools. These records shall include cumulative and confidential information and shall be the student's official school record. Such records, identified as education records in Title 20, Section 1232(g) of the United States Code and in Chapter 14 of Title 22.1 of the Code of Virginia, 1950, as amended, shall be maintained in compliance with all federal and state law.

The Superintendent and/or his/her Designee(s) shall be responsible for the collection of data, record maintenance and security, access to and use of records, confidentiality of personally identifiable information, dissemination of information from records, and destruction of records, including the destruction of personally identifiable information regarding a student with a disability at the request of the parents. The Superintendent shall also provide for notification of all school division personnel of policy and procedures for management of education records and notification of parents and students of their rights regarding student records, including the right to obtain, upon request, a copy of the Albemarle County Public Schools written policy and procedure on the management of the education records and their location.

The Superintendent or his/her Designee(s) shall provide for the periodic evaluation of records by the professional personnel and the removal of data no longer educationally useful. Parent(s) of students and eligible students shall be informed prior to destruction of records and provided a copy if desired.

The Albemarle County Public Schools will provide a copy of this policy on request to a parent or eligible student.

For the purposes of this policy, the Albemarle County Public Schools has used the following definitions of terms:

- A. Authorized representative – any entity or individual designated by a state or local educational authority or an agency headed by an official listed in 34 CFR § 99.31(a)(3) 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.
- B. Directory information – information contained in a student's education record that would not generally be considered harmful or an invasion of privacy if disclosed. Directory information may include information such as the student's name, address, telephone listing, electronic mail address, photograph, date and place of birth, major field of study, grade level, enrollment status, dates of attendance, participation in officially recognized activities and sports, weight and height of members of athletic teams, degrees, honors, and awards received, and the most recent educational institution attended. Directory information may not include the student's social security number. Directory information may include a student identification number or other unique personal identifier used by a student for accessing or communicating in electronic systems if the identifier cannot be used

to gain access to education records except when used in conjunction with one or more factors that authenticate the user's identity, such as a personal identification number, password, or other factor known or possessed only by the authorized user or a student ID number or other unique personal identifier that is displayed on a student ID badge, if the identifier cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user's identity such as a PIN or password or other factor known or possessed only by the authorized user.

- C. Early childhood education program – a Head Start program or an Early Head Start program, a state licensed or regulated child care program, or a program that serves children from birth through age six that addresses the children's cognitive, social, emotional, and physical development and is a state prekindergarten program, a program under section 619 or Part C of the Individuals with Disabilities Education Act, or a program operated by a local educational agency.
- D. Education program – 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 an educational agency or institution,
- E. Education records – any information recorded in any way including handwriting, print, computer media, video or audiotape, film, microfilm, and microfiche maintained by the Albemarle County School Board or an agent of the school division which contains information directly related to a student, except
 - records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to another person except a temporary substitute for the maker of the record;
 - records created and maintained for law enforcement purposes by the Albemarle County School Board's law enforcement unit, if any. A law enforcement unit is any individual, office, department, or division of the school division that is authorized to enforce any local, state, or federal law, refer enforcement matters to appropriate authorities or maintain the physical security and safety of the school division;
 - in the case of persons who are employed by the Albemarle County School Board but who are not in attendance at a school in the division, records made and maintained in the normal course of business which relate exclusively to the person in his capacity as an employee records created or received after an individual is no longer in attendance and that are not directly related to the individual's attendance as a student;
 - grades on peer-graded papers before they are collected and recorded by the teacher; and
 - any electronic information, such as email, even if it contains personally identifiable information regarding a student, unless a printed copy of the electronic information is placed in the student's file or is stored electronically under an individual student's name on a permanent and secure basis for the purpose of being maintained as an educational record. For purposes of this policy, electronic information that exists on a back-

up server, a temporary archiving system, or on a temporary basis on a computer is not an education record and is not considered as being maintained.

- F. Eligible student: a student who has reached age 18.
- G. Parent: a parent of a student, including a natural parent, a guardian, an individual acting as a parent in the absence of a parent or guardian, or other person in the Commonwealth having control or charge of any child of school age as defined in the Code of Virginia, 1950, as amended.
- H. Student – any person who is or has been in attendance at Albemarle County Public Schools regarding whom the division maintains education records or personally identifiable information.

Dissemination of Information About Court Proceedings

Adjudications

The Superintendent shall disseminate the notice or information about an adjudication of delinquency or conviction for an offense listed in Va. Code § 16.1-260.G. contained in a notice received pursuant to Va. Code § 16.1-305.1 to school personnel responsible for the management of student records and to other relevant personnel, including, but not limited to, the principal of the school in which the student is enrolled. The principal shall further disseminate such information to licensed instructional personnel and other school personnel who (1) provide direct educational and support services to the student and (2) have a legitimate educational interest in such information.

A parent, guardian, or other person having control or charge of a student, and, with consent of a parent or in compliance with a court order, the court in which the disposition was rendered, shall be notified in writing of any disciplinary action taken with regard to any incident upon which the adjudication of delinquency or conviction for an offense listed in subsection G of Va. Code § 16.1-260 was based and the reasons therefor. The parent or guardian shall also be notified of his or her right to review, and to request an amendment of, the student's scholastic record.

Every notice of adjudication of delinquency or conviction for an offense listed in subsection G of Va. Code § 16.1-260 received by the superintendent, and information contained in the notice, which is not a disciplinary record as defined in Board of Education regulations, shall be maintained by him/her and by others whom he/she disseminates it, separately from all other records concerning the student. However, if the school administrators or the School Board takes disciplinary action against a student based upon an incident which formed the basis for the adjudication of delinquency or conviction for an offense listed in subsection G of Va. Code § 16.1-260, the notice shall become a part of student's disciplinary record.

Any notice of disposition received pursuant to Va. Code § 16.1-305.1 shall not be

retained after the student has been awarded a diploma or a certificate as provided in Va. Code § 22.1-253.13:4.

Petitions and Reports

The Superintendent shall not disclose information contained in or derived from a notice of petition received pursuant to Va. Code § 16.1-260 or report received pursuant to Va. Code § 66-25.2:1 except as follows:

- A. If the juvenile is not enrolled as a student in a public school in the division to which the notice or report was given, the superintendent shall promptly so notify the intake officer of the juvenile court in which the petition was filed or the Director of the Department which sent the report and may forward the notice of petition or report to the superintendent of the division in which the juvenile is enrolled, if known.
- B. Prior to receipt of the notice of disposition in accordance with Va. Code § 16.1-305.1, the superintendent may disclose the fact of the filing of the petition and the nature of the offense to the principal of the school in which the student is enrolled if the superintendent believes that disclosure to school personnel is necessary to ensure the physical safety of the student, other students, or school personnel within the division. The principal may further disseminate the information regarding the petition, after the student has been taken into custody, whether or not the child has been released, only to those students and school personnel having direct contact with the student and need of the information to ensure physical safety or the appropriate educational placement or other educational services.
- C. If the superintendent believes that disclosure of information regarding a report received pursuant to Va. Code § 66-25.2:1 to school personnel is necessary to ensure the physical safety of the student, other students, or school personnel, he/she may disclose the information to the principal of the school in which the student is enrolled. The principal may further disseminate the information regarding such report only to school personnel as necessary to protect the student, the subject or subjects of danger, other students, or school personnel.

Annual Notification

The school division shall annually notify parents and eligible students of their rights under the Family Educational Rights and Privacy Act (FERPA) including

- A. the right to inspect and review the student's education records and the procedures for exercising this right;
- B. the right to request amendment of the student's educational records that the parent believes to be inaccurate, misleading or in violation of the student's privacy rights and the procedure for exercising this right;
- C. 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;
- D. the type of information designated as directory information and the right to opt out of release of directory information;
- E. that the school division releases records to other institutions that have requested the records and in which the student seeks or intends to enroll or is already enrolled so long as the disclosure is for purposes related to the student's enrollment or transfer;
- F. the right to opt out of the release of the student's name, address, and phone number to military recruiters or institutions of higher education that request such information;
- G. a specification of the criteria for determining who constitutes a school official and what constitutes a legitimate educational interest; and
- H. the right to file complaints with the Family Policy Compliance Office in the United States Department of Education concerning the school division's an alleged failure to comply with FERPA.

Procedure To Inspect Education Records

Parents of students or eligible students may inspect and review the student's education records within a reasonable period of time, which shall not exceed 45 days, and before any meeting regarding an IEP or hearing involving a student with a disability. Further, parents shall have the right to a response from the school division to reasonable requests for explanations and interpretations of the education record.

Parents or eligible students should submit to the student's school principal a written request which identifies as precisely as possible the record or records he/she wishes to inspect.

The principal (or appropriate school official) will make the needed arrangements for access as promptly as possible and notify the parent or eligible student of the time and place where the records may be inspected.

When a record contains information about students other than a parent's child or the eligible student, the parent or eligible student may not inspect and review the portion of the record which pertains to other students.

Copies of Education Records

The Albemarle County Public Schools will not provide a parent or eligible student a copy of the student's education record unless failure to do so would effectively prevent the parent or eligible student the right to inspect and review the records.

Fees For Copies Of Records

The Albemarle County Public Schools shall not charge for a copy of student records nor for search and retrieval of the records. The Albemarle County Public Schools shall not charge a fee for copying an Individualized Education Plan (IEP) or for a copy of the verbatim record of a hearing conducted in accordance with the State Board of Education's Regulations Governing Special Education Programs for Children with Disabilities in Virginia.

Types, Locations, and Custodians of Education Records

The Albemarle County Public Schools shall provide parents on request a list of the types and locations of education records collected, maintained, or used by the school division.

The following is a list of the types of records that the Albemarle County Public Schools maintain, their locations, and their custodians.

Types	Location	Custodian	Information
School Records	School	Principal	Student Records
Special Education Records	Albemarle County Office Building	Director of Special Education	Special Education Records

Disclosure of Education Records

The Albemarle County Public Schools shall disclose education records or personally identifiable information only with the written consent of the parent or eligible student subject to the following exceptions. The school division may disclose education record information to the following parties without consent:

A. School officials who have a legitimate educational interest in the records.

A school official is:

1. A person employed by the School Board
2. A person appointed or elected to the School Board.
3. A person employed by or under contract to the School Board to perform a special task, such as an attorney, auditor, medical consultant, or therapist.
4. A person who is a teacher or school official, including teachers and school officials in other schools, who have legitimate educational interests in the student.

A school official has a legitimate educational interest if the official is:

- Performing a task that is specified in his/her position description or by a contract agreement.
 - Performing a task related to a student's education.
 - Performing a task related to the discipline of a student.
 - Providing a service or benefit relating to the student or student's family, such as health care, counseling, job placement, or financial aid.
- B. 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. The Albemarle County Public Schools shall provide written notice of the transfer including the identity of the requester to the parent, guardian or other person having control or charge of the student or to a student who is 18 years of age or older within five days of the date on which the record was transferred. The student's parents may challenge the content of the record. This notice requirement applies on the transfer of records to education programs in jails and detention centers.
- C. Certain officials of the U.S. Department of Education, the United States Attorney General, the Comptroller General, and state and local educational authorities, in connection with certain state and federally supported education programs and in accordance with applicable federal regulations.
- D. In connection with a student's request for or receipt of financial aid as necessary to determine the eligibility, amount, or conditions of the financial aid, or to enforce the terms and conditions of the aid.
- E. For the purpose of furthering the ability of the juvenile justice system to effectively serve the pupil prior to adjudication. The principal or his/her designee may disclose identifying information from a pupil's scholastic record to state or local law-enforcement or correctional personnel, including a law-enforcement officer, probation officer, parole officer or administrator, or a member of a parole board, seeking information in the course of his/her duties; an officer or employee of a county or city agency responsible for protective services to children, as to a pupil referred to that agency as a minor requiring investigation or supervision by that agency; attorneys for the Commonwealth, court services units, juvenile detention centers or group homes, mental and medical health agencies, state and local children and family service agencies, and the Department of Juvenile Justice and to the staff of such agencies. Prior to disclosure of any such scholastic records, the persons to whom the records are to be disclosed shall certify in writing to the principal or his designee that the information will not be disclosed to any other party, except as provided under state law, without the prior written consent of the parent of the pupil or by such pupil if the pupil is eighteen years of age or older.

- F. Organizations conducting studies for, or on behalf of, educational agencies or institutions to develop, validate or administer predictive tests; to administer student aid programs; or to improve instruction. The studies must be conducted in a manner that does not permit personal identification of parents and students by individuals other than representatives of the organization that have legitimate interests in the information. The information must be destroyed when it is no longer needed for the purposes for which the study conducted. The School Board must enter into a written agreement with the organization conducting the study which specifies the purpose, scope, and duration of the study or studies and the information to be disclosed;
- requires the organization to use personally identifiable information from education records only to meet the purpose or purposes of the study stated in the written agreement;
 - requires the organization to conduct the study in a manner that does not permit personal identification of parents and students by anyone other than representatives of the organization with legitimate interests; and
 - requires the organization to destroy all personally identifiable information when the information is no longer needed for the purposes for which the study was conducted and specifies the time period in which the information must be destroyed.
- G. Accrediting organizations to carry out their accrediting functions.
- H. Parents of an eligible student who claim the student as a dependent for income tax purposes.
- I. The entities or persons designated in judicial orders or lawfully issued subpoenas as specified in FERPA.
- J. Appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health and safety of the student or other individual. Albemarle County Public Schools will record the significant health or safety threat to the student or other individual. The parties to whom the division disclosed the information will also be recorded.
- K. Directory information so designated by the school division.
- L. When the disclosure concerns sex offenders and other individuals required to register under section 170101 of the Violent Crime Control and Law Enforcement Act of 1994 42 U.S.C. § 14071 and applicable federal guidelines.

The school division will use reasonable methods to identify and authenticate the identity of parents, students, school officials, and any other parties to whom it discloses personally identifiable information from education records.

Release of Student Discipline Records to Post-Secondary Schools

Records of student disciplinary infractions are maintained by each school. Release of these records, as requested by the student or the student's parents, to post-secondary schools requesting access will be limited to the following:

- Any out-of-school suspensions of ten days or longer. The school will release the number of occurrences, the categorization of the suspension (i.e. assault, alcohol violation, etc.) and the number of days a student was suspended for each occurrence.
- Disciplinary infractions of any type or consequence that resulted in the finding of a credible threat to harm others when the ACPS threat assessment protocol was implemented. The school will release the number of times this occurred.

Unauthorized Disclosure of Electronic Records

In cases in which electronic records containing personally identifiable information are reasonably believed to have been disclosed in violation of federal or state law applicable to such information, the school division shall notify, as soon as practicable, the parent of any student affected by such disclosure, except as otherwise provided in Va. Code §§ 32.1-127.1:05 or 18.2-186.6. Such notification shall include (i) date, estimated date, or date range of the disclosure; (ii) type of information that was or is reasonably believed to have been disclosed; and (iii) remedial measures taken or planned in response to the disclosure.

Disclosure to Federal Agencies

Notwithstanding any other provision of law or policy, no member or employee of the Albemarle County School Board will transmit personally identifiable information, as that term is defined in FERPA and related regulations, from a student's record to a federal government agency or an authorized representative of such agency except as required by federal law and regulation.

Disclosure of Information Relating to Home Instructed Students

Neither the superintendent nor the School Board shall disclose to the Department of Education or any other person or entity outside of the local school division information that is provided by a parent or student to satisfy the requirements of Policy IGBI Home Instruction or subdivision B 1 of Va. Code § 22.1-254. However, the superintendent or School Board may disclose, with the written consent of a student's parent, such information to the extent provided by the parent's consent. Nothing in this policy prohibits the superintendent from notifying the Superintendent of Public Instruction of the number of students in the school division receiving home instruction.

Audit or Evaluation of Education Programs

Authorized representatives of the Comptroller General of the United States, the Attorney General of the United States, the federal Secretary of Education, and state and local educational authorities may have access to education records in connection with an audit or evaluation of

federal- or state- supported education programs, or for the enforcement of or compliance with federal legal requirements that relate to those programs.

Any authorized representative other than an employee must be designated by a written agreement which

- Designates the individual or entity as an authorized representative;
- Specifies the personally identifiable information to be disclosed, specifies that the purposes for which the personally identifiable information is disclosed to the authorized representative is to carry out an audit or evaluation of federal- or state-supported education programs, or to enforce or comply with federal legal requirements that relate to those programs; and specifies a description of the activity with sufficient specificity to make clear that the work falls within the exception of 34 CFR § 99.31(a)(3) including a description of how the personally identifiable information will be used;
- Requires the authorized representative to destroy personally identifiable information when the information is no longer needed for the purpose specified;
- Specifies the time period in which the information must be destroyed; and
- Establishes policies and procedures, consistent with FERPA and other federal and state confidentiality and privacy provisions, to protect personally identifiable information from further disclosure and unauthorized use, including limiting use of personally identifiable information to only authorized representatives with legitimate interests in the audit or evaluation of a federal- or state- supported education program or for compliance or enforcement of federal legal requirements related to such programs.

Military Recruiters and Institutions of Higher Learning

The Albemarle County Public Schools will provide, on request made by military recruiters or an institution of higher education, access to secondary school students' names, addresses, and telephone listings.

A secondary school student or the parent of the student may request that the student's name, address, and telephone listing not be released without prior written parental consent. The school division will notify parents of the option to make a request and will comply with any request.

The school division will provide military recruiters the same access to secondary school students as is provided generally to post-secondary educational institutions or to prospective employers of those students.

Records Disclosure

The Albemarle County Public Schools shall maintain a record kept with the education records of each student, indicating all individuals [except school officials who have a legitimate educational interest in the records], agencies, or organizations which request or obtain access to

a student's education records. The record will indicate the legitimate interest the party had in or obtaining the information. The record of access will be available only to parents, to the school official and his/her assistants who are responsible for the custody of such records, and to persons or organizations which audit the operation of the system.

The requirements related to records of requests for disclosure stated above do not apply to requests made pursuant to an ex parte order issued by a court at the request of the United States Attorney General (or any Federal officer or employee, in a position not lower than an Assistant Attorney General, designated by the Attorney General) seeking to collect education records relevant to an authorized investigation or prosecution of international terrorism as defined in 18 U.S.C. Section 2331 or other acts listed in 18 U.S.C. Section 2332b(g)(5)(B).

Personal information will only be transferred to a third party on the condition that such party will not permit any other party to have access to such information without the written consent of the parents of the student. If a third party permits access to information, or fails to destroy information, the division will not permit access to information from education records to that third party for a period of at least five years.

Directory Information

The Albemarle County School Board shall notify parents and eligible students at the beginning of each school year what information, if any, it has designated as directory information, the right to refuse to let the division designate any or all of such information as directory information, and the period of time to notify the division, in writing, that he or she does not want any or all of those types of information designated as directory information. The notice may specify that disclosure of directory information will be limited to specific parties, for specific purposes, or both. If the School Board specifies that disclosure of directory information will be so limited, the disclosures of directory information will be limited to those specified in the public notice.

Parents and eligible students may not use the right to opt out of directory information disclosures to 1) prevent disclosure of the student's name, identifier, or institutional email address in a class in which the student is enrolled; or 2) prevent an educational agency or institution from requiring the student to wear, to display publicly, or to disclose a student ID card or badge that exhibits information designated as directory information and that has been properly designated as directory information.

Correction of Education Records

Parents or eligible students shall be notified of their right to challenge the content and to ask to have corrected (or expunged) those records that they believe are inaccurate, misleading, or in violation of their privacy rights. Following are the procedures for the correction of records:

- A. Parents or the eligible student must request in writing that the Albemarle County Public Schools amend a record. In so doing, they should identify the part of the

record they want changed and specify why they believe it is inaccurate, misleading or in violation of the student's privacy or other rights.

- B. Albemarle County Public Schools shall decide whether to amend to record in accordance with the request within a reasonable period of time. If it decides not to comply, the school division shall notify the parents or eligible student of the decision and advise them of their right to a hearing to challenge the information believed to be inaccurate, misleading, or in violation of the student's rights.
- C. Upon request, Albemarle County Public Schools shall arrange a hearing, and notify the parents or eligible student, reasonably in advance, of the date, place, and time of the hearing. The hearing shall be held within a reasonable period of time after the request.
- D. The parent may be represented by one or more individuals of the parent's choice, including an attorney.
- E. The hearing shall be conducted by a hearing officer who is a disinterested party and one who does not have a direct interest in the outcome of the hearing; however, the hearing officer may be an official of the school division. The parents or eligible student shall be afforded a full and fair opportunity to present evidence relevant to the issues raised in the original request to amend the student's education records in accordance with FERPA.
- F. The Albemarle County Public Schools shall make its decision in writing within a reasonable period of time after the hearing, and such decision will include a summary of the evidence presented and the reasons for the decision. The decision shall be based solely on the evidence presented at the hearing.
- G. If Albemarle County Public Schools decides that the challenged information is not inaccurate, misleading, or in violation of the student's right of privacy, it will notify the parents or eligible student that they have a right to place in the record a statement commenting on the challenged information and/or a statement setting forth reasons for disagreeing with the decision. The statement will be maintained as part of the student's education records as long as the contested portion is maintained.
- H. If Albemarle County Public Schools decides that the information is misleading, inaccurate or in violation of the students right to privacy, it shall amend the record and notify the parent or eligible student, in writing, that the record has been amended or expunged.

The Albemarle County Public Schools shall notify the parent and eligible student of their right to file with the FERPA Office a complaint concerning an alleged failure by the school division to comply with federal law.

High School Credit-Bearing Courses Taken in Middle School

For any high school credit-bearing course taken in middle school, parents may request that grades be omitted from the student's transcript and the student not earn high school credit of the course. The School Board specifies, by regulation, the deadline and procedure for making such a request. Notice of this provision is provided to parents.

Confidentiality of HIV and Drug and Alcohol Treatment Records

The Albemarle County Public Schools shall comply with the confidentiality requirements of Section 32.1-36.1 of the Code of Virginia, 1950, as amended, providing for the confidentiality of records related to any test for Human Immunodeficiency Virus (HIV). In addition, the school division shall maintain confidentiality of drug and alcohol treatment records as required by federal and state law.

Approved: July 1, 1993

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Legal Refs.:

18 U.S.C. §§ 2331, 2332b

20 U.S.C. §§ 1232(g), 7908

42 U.S.C. § 290dd-2

34 C.F.R. 99.3, 99.7, 99.10, 99.20, 99.21, 99.22, 99.31, 99.32, 99.33, 99.34, 99.35, 99.36, 99.37

Code of Virginia, 1950, as amended, §§ 2.2-3704, 2.2-3804, 16.1-260, 16.1-305.1, 16.1-305.2, 22.1-254.1, 22.1-287, 22.1-287.01, 22.1-287.02, 22.1-287.1, 22.1-288, 22.1-288.1, 22.1-288.2, 22.1-289, ~~23-2.1-323.1-405~~, 32.1-36.1

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STUDENT RECORDS REGULATIONS

Definitions

The following definitions apply to these Regulations and to Policy JO:

- A. Days are specified as either “calendar days” or “administrative working days.”
 - 1. “Administrative Working Days” are administrative working days exclusive of Saturdays, Sundays, and officially designated holidays of the system.
 - 2. “Calendar Days” are consecutive days inclusive of Saturdays, Sundays, and officially designated holidays.
- B. **Destruction** means physical destruction or the removal of personal identifiers from information so that information is no longer personally identifiable.
- C. **Disclosure/Access** means permitting access to, release, transfer, or other communication of scholastic records of the student or the personally identifiable information contained therein, orally or in writing, by electronic means, or by any other means of any party.
- D. **Eligible Student** means a student who has attained 18 years of age or is an emancipated minor or is attending an institution of post-secondary education. The permission or consent required of and all rights accorded to parents relative to scholastic records shall be accorded to these students. However, disclosure may be made to parents of a dependent student as defined in Section 152 of the Internal Revenue Code of 1954.
- E. **FERPA** means the Federal Educational Rights and Privacy Act. The Family Educational Rights and Privacy Office is located in the Department of Health, Education and Welfare, 330 Independence Avenue, S.W., Washington, DC 20201.
- F. **Parent** means a parent, a guardian, or a person acting as a parent of a child. The term “parent” means either parent, unless the Albemarle County School Division has been provided with evidence that there is a legally binding instrument or a state law or court order governing such matters as divorce, separation, or custody which mother or father, the adoptive mother or father, or the legally appointed guardian or committee has custody of the child. The definition also includes persons acting in the place of a parent, such as a grandmother or stepparent with

whom the child lives, as well as the persons who are legally responsible for a child's welfare. A child 18 years or older or an emancipated minor may assert any rights under these regulations in his own name.

Content

"Scholastic records," identified in federal regulations as "educational records," are those records that are (1) directly related to a student and (2) maintained by an educational agency or institution or by a party acting for the agency or institution.

Certain records exist for every student and include at a minimum the following information: record data disclosure form; name and address of student; birth date and serial number on birth certificate; name and address of parent; program of studies plan; scholastic work completed; level of achievement, including grade and grade point average; type of diploma (or certificate); attendance; test data, including Standards of Learning results and results of normative tests, such as achievement batteries and inventories; notification of Literacy Passport Testing Program requirements; Literacy Development Plan, if needed; official results of Literacy Passport Testing Program; cumulative health record, including pre-school physical examination report and school entrance examination report; certificate of immunization; social security number (unless waiver is granted); notice of school status; student conduct statement; and all other information required by Virginia Board Regulations Governing Secondary School Transcripts.

Certain specialized information may be collected and maintained for students requiring differentiated programs and/or special services such as gifted, disabled, and students with special needs. Information includes but is not necessarily limited to the following: records for referral; reports of assessment, including educational, physiological (medical, speech, hearing, vision), psychological, sociological; permission for initial testing; permission for initial placement; summary of eligibility minutes; and individualized education programs (IEPs). Other specialized information may include but is not limited to the following: legal reports; records of sensitive physical problems; reports from institutions and agencies; and school records related to disciplinary action, including action taken against a student for violating School Board policies or school rules on school property or at school-sponsored events.

Certain records are not considered scholastic records and should not be maintained in the student's file: (1) records of instruction, supervisory, administrative, and ancillary educational personnel which are in the sole possession of the maker and are not accessible or revealed to any other person except a temporary substitute for the maker of the record or (2) the notice of court disposition if no disciplinary action is taken or the adjudication or conviction is related to an incident which did not occur on school property or during a school-sponsored activity.

The following information will be kept permanently in the scholastic records: record data disclosure form; name and address of student; birth date and serial number on birth certificate; name and address of parents; program of studies plan; scholastic work completed; level of achievement (grades, grade point average and class rank); type of diploma or certificate earned; attendance; test data; certificate of immunization; social security number (unless waiver

is granted); and citizenship status if other than United States.

Other personally identifiable information in the student's scholastic record will be retained until no longer educationally useful or five (5) years after the student graduates from a secondary school, completes a Board of Education adopted program, or leaves school.

Maintenance

The Superintendent of the school division has designated the building administrator(s) and the director of special education/student services to be responsible for the protection of confidentiality of personally identifiable information in the collection, maintenance, security/storage, use, disclosure, amendment, and destruction of the scholastic records. Records of each student enrolled in Albemarle County Public Schools are located at the school which the student attends. A copy of special education information is also kept at the central office. All files are developed, maintained, and stored in a confidential manner. These records are accessible to all professional personnel within the school division who have legitimate educational interests in the students.

Location

All scholastic records shall be housed in a school building or in some other location designated by the Superintendent.

- A. To the extent reasonably possible, all records shall be filed in a central location within each school building.
- B. When all files are not located centrally in the school building, the principal and/or designee shall be responsible for information concerning all other file locations and shall ensure that all files are accessed and released in accordance with any authorized request that is made.

Access

Albemarle County Public Schools will permit parents, guardians, or eligible students access to scholastic records in accordance with applicable law. The school division will comply with requests for parental or eligible student access to records within a reasonable period of time not to exceed 45 days from receipt of the request. Parents or eligible students may present themselves in person during regular business hours or request scholastic records in writing.

For students receiving services pursuant to the Individuals with Disabilities Act (IDEA), parents or eligible students have the right to inspect and review education records before any meeting regarding an Individualized Education Program (IEP) or hearing related to the identification, evaluation, or educational placement of the student or the provision of a free appropriate public education.

If any scholastic records include information on more than one student, the parent of a

student will have the right to inspect and review only the information relating to their child or to be informed of that specific information.

The term "eligible student" means a student who has attained 18 years of age or is attending an institution of post-secondary education. The permission or consent required of and the rights accorded to parents relative to education records will be accorded to these students.

The term "parent" means a biological or adoptive parent or a guardian of a child. This term also includes a surrogate parent who has been appointed pursuant to Virginia Special Education Regulations. The term also includes persons who have provided sufficient evidence that they are authorized to act in the place of a parent, such as a grandparent or stepparent with whom the child lives, in the absence of a parent or a guardian. Albemarle County Public Schools may presume that both parents have the authority to inspect and review records relating to the student unless the system has been provided with sufficient evidence that either parent does not have the authority under applicable state law, court order, or a legally binding instrument governing such matters as guardianship, separation, and divorce.

The right to inspect and review scholastic records includes the right to a response from the school division to reasonable requests for explanations and interpretations of the scholastic records and the right to request the school division to provide copies of the scholastic records containing information, if failure to provide copies would effectively prevent the parent from exercising the right to inspect and review the scholastic record. For students under the Individuals with Disabilities Act (IDEA), this includes the right to have a representative of the parent or eligible student inspect and review the scholastic record.

A record will be maintained of all parties obtaining access to or requesting disclosure of personally identifiable information from a student's education record, including (1) the name of the party who has requested or received personally identifiable information; (2) the agency or institution represented, if any; (3) the legitimate interest/purpose of the party requesting or obtaining the information; and (4) the date of disclosure. School officials may but are not required to maintain such record if the request was from or the disclosure to (1) the parent or eligible student, (2) a school official with legitimate educational interest, (3) a party with written consent of parent or eligible student, or (4) a party seeking directory information.

The schools will maintain for public inspection a current listing of names and positions of employees within the school division who have access to personally identifiable information/data in scholastic records.

All Albemarle County Public Schools personnel collecting or using personally identifiable information will be trained regarding applicable policies and procedures.

As the Superintendent's Designee, the principal or designee will be present for scholastic record interpretation and explanation of the files. For central office records, interpretations and explanations will be done by the Director of Special Education/Student Services or designee. This relates to all parties having access to these files with the exception of clerical personnel who need access for maintenance purposes.

Disclosure and Fees

Whenever a pupil transfers from one school division to another, the scholastic record (or copy), including disciplinary records maintained on a pupil, will be transferred to the school division to which the pupil transfers upon request from such school division. Permission of the parent, guardian, or other person having control or charge of the student will not be required for transfer of such scholastic record to another school or school division within or outside of Virginia. However, when transferring records to another school division, written notice of the transfer will be sent to the parent, guardian, or other person having control or charge of the student within five days of the date on which the record was transferred.

No fee is charged for a copy of student records. In addition, no fees are charged for search, retrieval, interpretation, or reproduction of scholastic records including the Individualized Education Program (IEP).

Albemarle County Public Schools, with written consent from parents or eligible students, may disclose information from the student's record, other than directory information. Such written consent must specify records to be released, the reason for such release, and to whom the records are to be released. A copy of the records to be released will be provided to parents or eligible students if desired.

Albemarle County Public Schools may, without the consent of either the eligible student or his parents, disclose information kept in the student's records to the following individuals under the specified conditions:

- A. Other school officials, including teachers, within the school division whom the school division has determined to have legitimate education interests. This includes adult clerical personnel employed by the school division.
- B. Officials of another school or school division, both within and outside the state, or institution or post secondary education, in which the student seeks or intends to enroll.
- C. Officials of learning centers of the Department of Youth and Family Services, a local jail or detention center, in which the student who last attended a school within a school division is now a student, upon notice by the Department of Correctional Education under Virginia Law.
- D. Certain officials of the U.S. Department of Education, the Comptroller General, and state and local educational authorities, in connection with certain state or federally supported education programs. This includes the Superintendent of Public Instruction or member of his staff.
- E. The disclosure is in connection with the request of financial aid. The information must be necessary for such purposes as the determination of eligibility, amount

and conditions of the aid and for the enforcement of the terms and conditions of the aid.

- F. Organizations and agencies conducting studies for or on behalf of educational institutions to develop, validate or administer predictive tests, administer student aid programs or improve instruction. The study must be conducted in a manner that does not permit personal identification of parents and students by individuals other than representatives of the organization and the information is destroyed when no longer needed for the purposes for which the study was conducted.
- G. Accrediting organizations to carry out their accrediting functions.
- H. Parents of a dependent student as defined by the Internal Revenue Code for income tax purposes.
- I. To comply with a judicial order or a lawfully issued subpoena. In order to release information under this provision, the school division must make a reasonable effort to notify the parent or eligible student of the order or subpoena in advance of compliance. School officials should indicate to the parent or eligible student that unless the designated school officials are informed otherwise in writing by a specified date, the parent or eligible student will be deemed to have consented to the disclosure. In the case of a Federal grand jury subpoena, the court will order, for good cause shown, the school division not disclose to any person the existence or contents of the subpoena or any information furnished to the grand jury in response to the subpoena. In case of any other subpoena issued for a law enforcement purpose, the court or other issuing agency may order, for good cause shown, the school division not to disclose to any person the existence of contents of the subpoena or any information furnished in response to the subpoena.
- J. In connection with a health or safety emergency. Knowledge of the information must be necessary to protect the health or safety of the student or other individuals.
- K. The disclosure is information that has been designated as directory information, unless a request for non-disclosure has been received.
- L. State and local officials or authorities to whom information is specifically required to be reported or disclosed pursuant to state statute adopted prior to November 19, 1974.

- M. A state or local law enforcement officer, including a probation officer, parole officer or administrator, or a member of a parole board seeking information in the course of his duties.
- N. Employees or officials of a protective services agency regarding a pupil referred to that agency as a minor requiring investigation or supervision by that agency.
- O. At the discretion of the Superintendent, to the staff of a college, university or educational research and development organization or laboratory if such information is necessary to a research project or study conducted, sponsored, or approved by the college, university, or educational research and development organization or laboratory and if no pupil will be identified by name in the information provided for research.
- P. Data about a student who is a veteran of U.S. military service, or an orphan or dependent of such veteran, or an alien may be disclosed to an officer or employee of the United States government seeking the information in the course of his duties. The school division may only furnish the following information about the student; name and address; daily attendance record; grades received in school subjects; parent's name; date and place of birth; and names and addresses of other schools attended.
- Q. A student's pre-school physical examination report, immunization record and school entrance health examination form may be released to employees or officials of a state or local health department.
- R. A student's daily attendance record may be released to an employee of a local social services department for the purposes of determining eligibility for public assistance.
- S. Names and addresses of present and former students may be disclosed for the purposes of informing students and former students of available educational and career opportunities to any officer or employee of a public or private school, college or university; an official of a private business schools or professional school or college; and any military recruiter.

When a school official discloses information from the student's records, other than directory information, to anyone other than the parents of the student, the student himself, or other school officials, except as allowed under specified conditions in the paragraphs above and documented on the Record Data Disclosure Form, he will inform the person who receives the information that it may not be transferred to any other party without the consent of the parents or eligible student. If the person receiving information transfers it to any other party without parent or eligible student consent, the School Board may not allow access to scholastic record information to that person for at least five years.

The school will keep permanently with the student's file(s) a Record Disclosure Form which will be available to parents or eligible students, to school officials responsible for record maintenance, and to authorized parties.

Procedures to Amend Information

Any parent or eligible student who believes that information in the scholastic record of the student is inaccurate or misleading or violates the rights of the student may request that the school division amend the record. The school division will decide, within a reasonable time, whether to amend the record as requested. If the school division decides not to amend the record, it will notify the parent or student of the decision and of the right to a hearing to challenge the content of the record.

If, as a result of the hearing, the school division determines that the information should be amended, the school division will amend the record accordingly and inform the parent and/or student of the amendment in writing. If the school division determines that the information should not be amended, it will inform the parent or eligible student of the right to place a statement in the record commenting on the information or explaining why they disagree. If a statement is placed in the record, the school division will maintain the statement with the record for as long as the record is retained and disclose the statement whenever the contested information is disclosed.

If the record is amended by either a statement or purging of information, the school division will furnish past recipients of the information notification that an item has been purged or corrected.

The school division may utilize informal attempts to reconcile differences; however, the parent or eligible student may exercise the right to a hearing without benefit of the decision from any informal proceeding.

Hearing Procedures

A hearing will be conducted according to the procedures prescribed by the Federal Educational Rights and Privacy Act (FERPA) as follows:

- A. The hearing will be held within a reasonable time after the request is received.
- B. The school division will provide the parent or eligible student with notice of the date, time, and place within a reasonable time in advance of the hearing.
- C. The hearing may be conducted by any party, including an official of the school division who does not have a direct interest in the outcome of the hearing.

- D. The parent or the eligible student will be afforded a full and fair opportunity to present evidence relevant to the issue. The parent or eligible student may, at their own expense, be assisted by another, including an attorney.
- E. The school division will make its decision in writing within a reasonable period of time after the hearing.
- F. The decision of the school division will be based solely upon the evidence presented at the hearing and will include a summary of the evidence and the reasons for the decision.

Destruction of Information

The school division will inform parents or eligible students when personally identifiable information collected, maintained, or used is no longer needed to provide educational services to the student. This information will be destroyed at the request of the parent. However, a permanent record of the following will be maintained: record data disclosure form; name and address of student; birth date and serial number on birth certificate; name and address of parents; program of studies plan; scholastic work completed; level of achievement (grades, grade point average, and class rank); type of diploma or certificate earned; attendance; test data; certificate of immunization; social security number (unless waiver is granted); and citizenship status if other than United States. If the parents or eligible students do not request destruction of other personally identifiable information, it too may be retained permanently. Prior to destruction of data, a reasonable effort will be made to notify parents or eligible students that they have a right to be provided with a copy of the information that will be destroyed. The schools may not destroy any education records if there is an outstanding request to inspect and review the records.

A review of an enrolled student's records will be conducted in grades five, eight, and twelve. Only those records which must be maintained permanently and those determined to be educationally useful will be kept. Among the records which will be retained as educationally useful will be disciplinary records for an offense in violation of School Board policies relating to weapons, alcohol or drugs, or for the willful infliction of injury to another person or for destruction of school property or privately owned property while located on school property.

Destruction of scholastic records is the best protection against improper and unauthorized disclosure; however, the scholastic records may be needed for other purposes. When informing parents or eligible student about their rights under this section, the school officials should remind them that the scholastic records may be needed by the student or the parents for social security benefits or other purposes. If the parents or eligible student request that the information be destroyed, then the school division will retain only the information required under state law and regulations.

Directory Information

Albemarle County Public Schools may make public the following as “Directory Information” unless the principal of the school the student attends is notified in writing by parent or eligible student within 15 administrative days of annual publication of this information that the parent or eligible student objects to the following being designated as “Directory Information”:

- Name of student in attendance or no longer in attendance;
- Address;
- Telephone listing;
- Electronic mail address;
- Dates of attendance;
- Grade level;
- The most recent educational agency or institution attended;
- Date and place of birth;
- Participation in officially recognized activities and sports;
- Height and weight; if member of athletic team;
- Awards and honors received; and
- Information generally found in school yearbook.

Release of Student Discipline Records to Post-Secondary Schools

Sample language for requests for the release of student discipline records is listed below.

No disciplinary infractions resulting in out-of-school suspension of ten days or longer/no findings of credible threat to harm:

- *Albemarle County Public Schools releases student disciplinary records if a student has had any out-of-school suspension that resulted in a suspension of ten or more days or if a finding of a credible threat to harm self or others when using the ACPS threat assessment protocol. This student has no disciplinary infractions that meet these criteria.*

One or more disciplinary infraction(s) resulting in out-of-school suspension of ten days or longer/one or more finding(s) of credible threat to harm:

- *Albemarle County Public Schools releases student disciplinary records if a student has had any out-of-school suspension that resulted in a suspension of ten or more days or if a finding of a credible threat to harm self or others when using the ACPS threat assessment protocol. This student has had ____ suspensions of ten days or more. The reason(s) for these suspensions were _____. The total number of days the student was suspended for each of these offenses was _____. This student has had ____ finding(s) of a credible threat to harm self or others.*

Notification of Rights

All parents and eligible students are to be notified annually of their rights in regard to scholastic records as follows by publication in a school division publication and the student handbook:

- A. To inspect and review the student's education record;
- B. To request the amendment of the student's education record to ensure that it is not misleading, inaccurate, or in violation of the student's privacy or other rights;
- C. To consent to disclosure of personally identifiable information except to the extent that FERPA permits disclosure without consent;
- D. To file a complaint with the United States Department of Education, Family Policy and Regulation office, concerning alleged failures of the school division to comply with FERPA;
- E. To obtain a copy of the school division policy regarding management of student records. The notice must also inform parents and eligible students where copies of the school division policy are located.

A sample notice for parent/student handbook is as follows:

**PARENTS' AND ELIGIBLE STUDENTS' RIGHTS
RELEVANT TO STUDENT RECORDS**

It is the desire of the Albemarle County School System that you, as the student's parent, have a clear understanding of the content of your child's record, how the record is being handled, and your rights with regard to the record.

The content of the student record is limited to data needed by the school to assist the student in his personal, social, educational, and vocational development and in his post-high school placement. The following information will be maintained as a part of the record at the school your child attends in the Albemarle County School System:

- A. Name and address of student and parent or guardian;
- B. Date of birth;
- C. Scholastic work completed and level of achievement (grades, grade point average, standardized achievement test scores);
- D. Attendance data;
- E. Special aptitudes and interests including scores on standardized group ability, aptitude, and interest instruments;
- F. School and community activities and work experience (employment evaluations) for students in cooperative vocational programs;
- G. Record of employment counseling and placement;
- H. Health and physical fitness data, including immunization record, preschool physical examination report, and school physical examination report;
- I. Program of Studies plan;
- J. Type of diploma;
- K. Results of Literacy Testing Program; and
- L. Social Security number (unless waiver is granted).

In addition, potentially useful data classified as confidential is gathered for some students. This data when collected is part of the student record. Both cumulative and confidential information are housed in the school in which your child is enrolled. The confidential data could consist of the following:

- A. Social history;
- B. Legal, psychological, and medical reports;
- C. Records of sensitive mental or physical problems;
- D. Verified reports of serious or recurrent behavior patterns;
- E. Required reports of evaluation for special education placement to include educational, physiological, psychological, and sociological assessments;
- F. Reports from juvenile court, social welfare, and other agencies;
- G. Case studies;
- H. Vocational assessment data;

- I. Individualized Education Program and report of annual review of placement;
- J. Permission form for testing, placement, and release of information;
- K. Confidential interviews and/or recommendations;
- L. Record of referral;
- M. Summary of minutes of eligibility findings for special education students;
- N. Report of appeals; and
- O. Disciplinary records.

The principal of the school your child attends and/or those professional personnel he designates are responsible for the following: the collection of information; the recording, maintenance, and security of data; and access and control of dissemination of information from the records based upon Albemarle County School Board policy. There is a periodic evaluation of the records by professional personnel, and data no longer pertinent is removed.

The Albemarle County Public Schools will comply with a request for access to records within a reasonable period of time, but no more than 45 days after it has received the request.

Information from the student's record, including both the cumulative and confidential data, may be disclosed to the following individuals:

- A. Professional personnel within the school, local educational agency, and the State Department of Education who have a professionally justified reason for such access and legitimate educational interests in the student;
- B. The student who is the subject of the record who is under the age of 18, provided written consent of the parent or legal guardian has been obtained;
- C. Upon request to an official of a school or post-secondary institution in which the student intends to enroll;
- D. The parents or legal guardian of the student, until the student becomes 18 years of age, is an emancipated minor, or is attending an institution of post-secondary education;
- E. Adult clerical personnel charged with the responsibility of record maintenance;
- F. Appropriate persons in connection with a student's application for financial aid (cumulative record data only);
- G. An employee or official of the state or local health department shall have access to the preschool physical examination reports, the immunization record, and the school entrance health examination form;

- H. An authorized representative of the Comptroller General of the United States; the Secretary of the Department of Education; the local division superintendent; and state educational authorities needing information in connection with the audit and evaluation of state and federally supported programs of the enforcement of federal legal requirements related to such programs;
- I. Other persons or agencies will be allowed access and/or release of data only as prescribed by federal or state law or by parental permission, and in all cases, a record of such access will be maintained as part of the student's file showing the signature of each person who has had access to the record, the date of access, his specific legitimate interest in seeking such access, and the signature of the principal or his designee. This form will be available to the parents, the student, and school officials responsible for record maintenance.

No fee is charged for a copy of student records. In addition, no fees are charged for search, retrieval, interpretation, or reproduction of scholastic records including the Individualized Education Program (IEP).

Parents or their appointed representative(s) have the right to an explanation and/or interpretation of their student's scholastic record by an appropriate representative of the school division. Parents or their appointed representative(s) have the right to inspect, review and/or copy or be provided copies of the contents of their child's record in an expeditious manner. They have the right to ensure that the records are not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child. In addition, the parent or eligible student has the right to a hearing to provide an opportunity for the correction or deletion of information found to be inaccurate, misleading, or inappropriate and to file with the United States Department of Education a complaint concerning an alleged failure by the school board to comply with Title 20, United States Code, 1232g.

The Albemarle County School Board has elected to release, as a matter of conducting the routine business of the school, certain information classified as Directory Information. The following items are classified as Directory Information:

- Name of student in attendance or no longer in attendance;
- Address;
- Telephone listing;
- Electronic mail address;
- Dates of attendance;
- Grade level;
- The most recent educational agency or institution attended;
- Date and place of birth;
- Participation in officially recognized activities and sports;
- Height and weight; if member of athletic team;
- Awards and honors received; and
- Information generally found in school yearbook.

Please notify the school in writing within fifteen days if you do not wish to have any part of or all information classified as Directory Information concerning your child or you (if 18 years of age or older) released without your prior consent.

A copy of the Albemarle County School Board's policy on the management of student records may be obtained upon request at the County Office Building.

The data in the individual student's official school record and the legal and ethical maintenance and use of such data are matters of concern to your School Board. The Albemarle County Public School System has a responsibility to protect the rights and privacy of the student and his parents and will adhere strictly to legal statutes designed to safeguard information in your child's record.

If you have questions, please contact the office of your school principal.

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