

Notification of Rights under Family Education Rights and Privacy Act (FERPA) and the Protection of Pupil Rights Amendment (PPRA) 2022-2023 School Year

I. Family Education Rights and Privacy Act (“FERPA”)

The Family Educational Rights and Privacy Act (“FERPA”) affords custodial and noncustodial parents/legal guardians and students who are 18 years of age or older (“eligible students”) certain rights with respect to the student’s education records. These rights include:

- 1. The right to inspect and review the student’s education records within 45 days after the day the school receives a request for access.**

Parents/legal guardians or eligible students who wish to inspect student’s education records should submit a written request to the custodian of records that identifies the records they wish to inspect. The custodian of records will make arrangements for access and notify the parent or eligible student of the time and place where the records may be inspected.

- 2. The right to request an amendment of the student’s education records which the parent/legal guardian or eligible student believes are inaccurate, misleading, or otherwise in violation of the student’s privacy rights under FERPA.**

Parents/legal guardians or eligible students who wish to ask the school to amend the student’s education record(s) should write the Superintendent or designee, clearly identifying the part of the record they want changed, and specify why it should be changed. If the school decides not to amend the record as requested by the parent or eligible student, the school will notify the parent/legal guardian or eligible student of the decision and their right to a hearing regarding the requested amendment. Additional information regarding the hearing procedures will be provided to the parent/legal guardian or eligible student when notified of the right to a hearing.

- 3. The right to provide written consent before the school discloses personally identifiable information (“PII”) from the student’s education records, except to the extent that FERPA authorizes disclosure without consent.**

One exception, which permits disclosure without consent, is disclosure to school officials and employees with legitimate educational interests. School officials and employees are officials or employees whose duties and responsibilities to the district, whether routine or as a result of special circumstances, require that they have access to student records. A school official also may include a volunteer, contractor, or consultant who, while not employed by the school, performs an institutional service or function for which the school would otherwise use its own employees and who is under the direct control of the school with respect to the use and maintenance of PII from education records, such as an attorney, auditor, medical consultant, or therapist; a parent/legal guardian or student volunteering to serve on an official committee, such as a disciplinary or grievance committee; or a parent/legal guardian, student, or other volunteer assisting another school official in performing his or her tasks. A school official typically has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.

Upon request, the school discloses education records without consent to officials of another school or school district in which a student seeks or intends to enroll, or is already enrolled if the disclosure is for purposes of the student's enrollment or transfer.

Generally, FERPA permits the disclosure of PII from students' education records, *without consent of the parent/legal guardian or eligible student*, if the disclosure meets certain conditions found in § 99.31 of the FERPA regulations. First, Section 99.32 of FERPA requires the school to record any disclosures related to a judicial order or lawfully issued subpoena, disclosure of directory information, and disclosures to the parent/legal guardian or eligible student. FERPA does not require the school to record any disclosures to school officials. Parents/legal guardians and eligible students have a right to inspect and review the record of disclosures. A school may disclose PII from the education records of a student *without obtaining prior written consent* of the parents/legal guardians or the eligible student under the following circumstances:

- To other school officials, including teachers, within the educational agency or institution whom the school has determined to have legitimate educational interests. This includes contractors, consultants, volunteers, or other parties to whom the school has outsourced institutional services or functions, provided that the conditions listed in § 99.31(a)(1)(i)(B)(1) - (a)(1)(i)(B)(3) are met. (§ 99.31(a)(1)).
- To 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 if the disclosure is for purposes related to the student's enrollment or transfer, subject to the requirements of § 99.34. (§ 99.31(a)(2)).
- To authorized representatives of the U. S. Comptroller General, the U. S. Attorney General, the U.S. Secretary of Education, or State and local educational authorities, such as the State educational agency (SEA) in the parent/legal guardian or eligible student's State. Disclosures under this provision may be made, subject to the requirements of § 99.35, 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. These entities may make further disclosures of PII to outside entities that are designated by them as their authorized

representatives to conduct any audit, evaluation, or enforcement or compliance activity on their behalf, if applicable requirements are met. (§§ 99.31(a)(3) and 99.35).

- In connection with financial aid for which the student has applied or which the student has received, if the information is necessary for such purposes as to determine eligibility for the aid, determine the amount of the aid, determine the conditions of the aid, or enforce the terms and conditions of the aid. (§ 99.31(a)(4)).
- To State and local officials or authorities to whom information is specifically allowed to be reported or disclosed by a State statute that concerns the juvenile justice system and the system's ability to effectively serve, prior to adjudication, the student whose records were released, subject to § 99.38. (§ 99.31(a)(5)).
- To organizations conducting studies for, or on behalf of, the school, in order to: (a) develop, validate, or administer predictive tests; (b) administer student aid programs; or (c) improve instruction, if applicable requirements are met. (§ 99.31(a)(6)).
- To accrediting organizations to carry out their accrediting functions. (§ 99.31(a)(7)).
- To parents/legal guardians of an eligible student if the student is a dependent for IRS tax purposes. (§ 99.31(a)(8)).
- To comply with a judicial order or lawfully issued subpoena if applicable requirements are met. (§ 99.31(a)(9)).
- To appropriate officials in connection with a health or safety emergency, if knowledge of that information is necessary to protect the health or safety of a student or other individuals, subject to § 99.36. (§ 99.31(a)(10)).
 - **Note regarding COVID-19:** FERPA permits educational agencies and institutions to disclose, without prior written consent, PII from student education records to appropriate parties in connection with an emergency, if the educational agency or institution determines that there is an articulable and significant threat to the health or safety of the student or another individual, and if knowledge of that information is necessary to protect the health or safety of a student or other individuals. 20 U.S.C. § 1232g(b)(1)(I); 34 C.F.R. §§ 99.31(a)(10) and 99.36. If local public health authorities determine that a public health emergency, such as COVID-19, is a significant threat to students or other individuals in the community, an educational agency or institution in that community may also determine that an emergency exists as well.
- Information the school has designated as "directory information" if applicable requirements are met under § 99.37. (§ 99.31(a)(11)). DJUSD defines the following as directory information subject to disclosure: Name, Address, Telephone Number, Parent Email Address, Participation Record in Officially Recognized Activities and Sports, and Degrees and Awards Received. DJUSD will not disclose a student's citizenship status,

immigration status, place of birth, or any other information indicating national origin as part of its directory information.

- To an agency caseworker or other representative of a State or local child welfare agency or tribal organization who is authorized to access a student's case plan when such agency or organization is legally responsible, in accordance with State or tribal law, for the care and protection of the student in foster care placement. (20 U.S.C. § 1232g(b)(1)(L)).
- To the Secretary of Agriculture or authorized representatives of the Food and Nutrition Service for purposes of conducting program monitoring, evaluations, and performance measurements of programs authorized under the Richard B. Russell National School Lunch Act or the Child Nutrition Act of 1966, under certain conditions. (20 U.S.C. § 1232g(b)(1)(K)).

Parents/legal guardians who believe their rights under FERPA have been violated may file a complaint with:

Student Support Services
Davis Joint Unified School District
526 B Street
Davis, CA 95616

or

Student Privacy Policy Office
U.S. Department of Education
C400 Maryland Avenue, SW
Washington, DC 20202

II. PROTECTION OF PUPIL'S RIGHTS AMENDMENT ("PPRA")

The Protection of Pupil's Rights Amendment ("PPRA") affords parents/legal guardians of elementary and secondary students certain rights regarding the conduct of surveys, collection and use of information for marketing purposes, and certain physical exams. These rights transfer from the parents/legal guardians to a student who is 18 years old or an emancipated minor under State law. These rights include, but are not limited to the following:

1. **The right to consent before students are required to submit to a survey that concerns one or more of the following protected areas ("Protected Information Survey") if the survey is funded in whole or in part by a program of the U.S. Department of Education ("ED"):**
 - Political affiliations or beliefs of the student or student's parent;
 - Mental or psychological problems of the student or student's family;
 - Sex behavior or attitudes;
 - Illegal, anti-social, self-incriminating, or demeaning behavior;
 - Critical appraisals of others with whom respondents have close family relationships;
 - Legally recognized privileged relationships, such as with lawyers, doctors, or ministers;

- Religious practices, affiliations, or beliefs of the student or student’s parent; or
- Income, other than as required by law to determine program eligibility.

2. The right to receive notice and an opportunity to opt a student out of:

- Any other protected information survey, regardless of funding;
- Any non-emergency, invasive physical exam or screening required as a condition of attendance, administered by the school or its agent, and not necessary to protect the immediate health and safety of a student, except for hearing, vision, or scoliosis screenings, or any physical exam or screening permitted or required under State law; and
- Activities involving collection, disclosure, or use of personal information collected from students for marketing or to sell or otherwise distribute the information to others. (This does not apply to the collection, disclosure, or use of personal information collected from students for the exclusive purpose of developing, evaluating, or providing educational products or services for, or to, students or educational institutions.)

3. The right to inspect the following upon request and before administration or use:

- Protected information surveys of students and surveys created by a third party;
- Instruments used to collect personal information from students for any of the above marketing, sales, or other distribution purposes; and
- Instructional material used as part of the educational curriculum.

DJUSD has developed and adopted Board Policies and Administrative Regulations, in consultation with parents/legal guardians, regarding these rights, as well as arrangements to protect student privacy in the administration of protected information surveys.¹ DJUSD has also developed and implemented Board Policies and Administrative Regulations for the collection, disclosure, or use of personal information for marketing, sales, or other distribution purposes.² DJUSD will directly notify parents/legal guardians of these policies at least annually at the start of each school year and after any substantive changes. DJUSD will also directly notify, such as through U.S. Mail or email, parents of students who are scheduled to participate in the specific activities or surveys noted below and will provide an opportunity for the parent/legal guardian to opt his or her child out of participation of the specific activity or survey. DJUSD will make this notification to parents/legal guardians at the beginning of the school year if the District has identified the specific or approximate dates of the activities or surveys at that time. For surveys and activities scheduled after the

¹ Davis Joint Unified School District Board Policies/Administrative Regulations 5022

² Davis Joint Unified School District Board Policies/Administrative Regulations 5125, 5125.1 and 6162.8

school year starts, parents/legal guardians will be provided reasonable notification of the planned activities and surveys listed below so they have an opportunity to opt their child out of such activities and surveys. Parents/legal guardians will also be provided an opportunity to review any pertinent surveys. Following is a list of the specific activities and surveys covered under this direct notification requirement:

- Collection, disclosure, or use of personal information collected from students for marketing, sales, or other distribution.
- Administration of any protected information survey not funded in whole or in part by ED.
- Any non-emergency, invasive physical examination or screening as described above.

Parents/legal guardians who believe their rights under the PPRA have been violated may file a complaint with:

Student Support Services
Davis Joint Unified School District
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Davis, CA 95616

or

Student Privacy Policy Office
U.S. Department of Education
C400 Maryland Avenue, SW
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