



# KENAI PENINSULA BOROUGH SCHOOL DISTRICT

## Assistant Superintendent

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May 15, 2009

TO: Board of Education  
FROM: Dave Jones, Assistant Superintendent  
SUBJECT: Proposed Administrative Regulation Revisions

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The following administrative regulations were reviewed by the Board Policy Committee on May 4, 2009. They are also scheduled to be reviewed at the Board Worksession on June 1, 2009.

The Board may give approval of administrative regulations with only one read per *Board Bylaw 9313 Administrative Regulations and Exhibits*. The following recommended changes to administrative regulations are presented for action by the Board.

*AR 5125 Student Records* – FERPA has been revised with significant impacts to the Student Records policy. This AR is proposed to mirror the AASB AR which has been revised by legal counsel. Normally the BP and AR would be presented as a unit; however, FERPA recommended provisions are important to be listed in the Parent Student Handbook which is going to press in mid-June. To meet this press deadline, we are asking to have AR5125 approved independently in its first reading.

(Note: as requested, this AR has been put in your packet to enable an easier read, first as a final amended copy and second as an edited version.)

**Students**

AR 5125(a)

**STUDENT RECORDS**

**Definitions**

1. Education Records

"Education records" consists of all official records, files and data directly related to a student that are maintained by the District or by a party acting for the District. A student's education record encompasses all the material incorporated in the student's cumulative record folder and includes, but is not necessarily limited to, identifying data, academic work completed, level of achievement (grades, standardized achievement test scores), daily attendance data, scores on standardized intelligence, aptitude and psychological tests, interest inventory results, health data, family background information, teacher or counselor ratings and written observations, and written observations, and discipline data, including suspensions or expulsions. Student records shall be the property of the District, with access by others as set forth in this regulation.

2. Exclusions From the Term "Education Records"

The following documents are not "education records":

- a. Aggregated data that does not contain "personally identifiable information about a specific student.
- b. Personal files notes, or records maintained by staff members or professional consultants, that are kept in their possession, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute. Such files or personal notes regarding students shall constitute the personal property of the person compiling the file.
- c. Records of the District's law enforcement unit.
- d. An employment record made and maintained in the normal course of business that relates exclusively to an individual in his or her capacity as an employee. However, records relating to a student who is employed as a result of his or her student's status are education records.

**Students**

AR 5125(b)

**STUDENT RECORDS** (continued)

- e. Records of a student age 18 or older that are made or maintained by a physician or mental health professional that are utilized for treatment of the student and are disclosed only to individuals providing treatment. "Treatment" for this provision does not include remedial educational activities that are part of the District's instructional program.
- f. Personal knowledge or observation of a school official. A school official is not prohibited from disclosing information about a student if the information is obtained through the school official's personal knowledge or observation and not from the student's education records.

3. Personally Identifiable Information

"Personally identifiable information" includes, but is not limited to: the name of a student, the student's parent, or other family member; the address of the student or student's family; a personal identifier, such as the student's social security number, student number, or biometric record; indirect identifiers such as a student's date of birth, place of birth, and mother's maiden name; other information that, alone or in combination, is linked or linkable to a specific student and that would allow a reasonable person in the school community who does not have personal knowledge of the relevant circumstances to identify the student with reasonable certainty; or information requested by a person who the District reasonably believes to know the identity of the student to whom the record relates.

"Biometric record" as used above means a record of one or more measurable biological or behavioral characteristics that can be used for automated recognition of an individual. These include fingerprints, eye patterns, voiceprints, DNA, facial characteristics, and handwriting.

**Students**

AR 5125(c)

**STUDENT RECORDS** (continued)

4. Directory Information

"Directory information" means information contained in an education record that would not generally be considered harmful or an invasion of privacy if disclosed. It includes, but is not limited to, student's name, address, telephone listing, electronic mail address, photograph, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, grade level, enrollment status, degrees and awards or honors received, scholarship eligibility and the most recent school attended by the student.

Directory information does not include a student's social security number or student identification number if the student identifier can be used to gain access to education records. A student identifier can be listed as directory information if the identifier must be used in conjunction with one or more factors that authenticate the student's identity, such as a PIN or password.

5. Parents

"Parents" means a natural parent, an adoptive parent, foster parent, legal guardian, or an individual acting as a parent in the absence of a parent or guardian, or in the case of a student receiving special education or related, a person acting as the parent of a child or a surrogate parent appointed in accordance with state regulations. Either or both parents have access to a student's records, even if a separation or divorce has occurred, unless the parental rights of a parent have been legally terminated through adoption or other legal process; or unless a decree of divorce, separation, or other court order specifically prohibits parental access to school information or records.

6. Eligible Student

"Eligible student" means a student who has attained eighteen years of age, is an emancipated minor, or is attending an institution of post-secondary education.

**Students**

AR 5125(d)

**STUDENT RECORDS** (continued)

7. School Official

A “school official” is a person employed by the District as an administrator, supervisor, instructor, or support staff member (including health or medical staff); a person serving on the School Board; law enforcement unit personnel as defined in this regulation; a person or company with whom the District has contracted to perform a special task (such as attorney, auditor, medical consultant, or therapist); a contractor, consultant or other outside party to whom the District has outsourced services or functions that it would otherwise use employees to perform, provided that the outside party is under the direct control of the District with respect to use and maintenance of education records and subject to the same conditions governing use and disclosure of those records, or a parent or student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks.

**Annual Notice**

The Superintendent shall notify parents and eligible students of the rights accorded them under this policy. Annually, the Superintendent shall provide to parents and eligible students a notice which informs them of their rights: to inspect and review their student’s education records, and the procedures for doing so; to seek amendment of student records which are believed to be inaccurate, misleading, or in violation of the student’s privacy rights, and the procedures for doing so; to consent to disclosure of personally identifiable information except where law authorizes disclosure without consent; and to file a complaint in accordance with 34 CFR Section 99.63 and 99.64.

**Students**

AR 5125(e)

**STUDENT RECORDS** (continued)

The annual notice shall explain the policy of disclosing student records without consent to school officials with a legitimate educational interest, shall identify those school officials, and describe what constitutes a legitimate educational interest. The annual notice will also explain that the District forwards records to other school districts or institutions that have requested the records and where the student attends or is seeking to enroll. The annual notice will include information concerning the University of Alaska scholarship programs and the District's obligations under state law to provide the names of students who are eligible for these programs. The annual notice will provide the name and address of the official responsible for the records and the current fee for requested copies of records.

In addition, the District will maintain for public inspection a list of the names and positions of those employees who routinely have access to student records specifically collected or maintained in conjunction with the provision of services to children with disabilities. Upon request, the District shall provide a parent of a student receiving special education or related services a list of the type and location of records collected, maintained and used by the District in conjunction with the provision of such services.

**Custody and Protection of Student Records**

1. Place Records are Kept

Student records will generally be maintained in the cumulative record folders in the administrative offices of the District. With the consent of the Superintendent, a portion of student records may be kept in other places for reasons of effective school administration, such as data collected and maintained in physical education, vocational, health or special education locations.

2. Custodian of Records

Student records in each place where they are maintained shall be under the control of a custodian appointed by the Superintendent. The custodian shall be responsible for carrying out this regulation with respect to the records under his/her control. The custodian shall use reasonable physical, technological, or procedural controls to ensure that school officials obtain access to only those education records in which they have legitimate educational interests.

**Students**

AR 5125(f)

**STUDENT RECORDS** (continued)

3. Record of Access to Student Records

Each individual student cumulative record folder, and each student record maintained separately from the folder, shall contain as a part thereof a written form indicating of each request for, and each disclosure of, personally identifiable information. The record of access shall include

- a. The identity of the person reviewing the record and the person's official capacity;
- b. The specific record examined or requested;
- c. the legitimate interest that the person had in requesting or obtaining the information;
- d. The date of examination or request;
- e. if the District discloses personally identifiable information from a student record with the understanding that the information will be redisclosed on behalf of the District, then the names of the additional parties to which the receiving party may disclose the information and the legitimate interest which each additional party has in requesting or obtaining the information;
- f. if the District discloses personally identifiable information from education records to state or federal authorities for purposes of audit or evaluation, then the identity of the party and the fact that redisclosures may be made. The state or federal educational authorities must record any further disclosures made, in lieu of the District recording those disclosures. The District will obtain the records of redisclosure from the state or federal authority upon request of a parent or eligible student; and
- g. if disclosure is pursuant to a health or safety emergency, then the identity of individual requesting or receiving the information and a description of the articulable and significant threat to the safety of the student or others.

A record of access does not have to be kept for requests by, or disclosure to, the following individuals:

- a. parents of the student or an eligible student; or

**Students**

AR 5125(g)

**STUDENT RECORDS** (continued)

- b. school officials and employees with a legitimate educational interest; or
- c. those authorized to obtain disclosure by written consent of a parent or eligible student, unless the disclosure pertains to records of a student receiving special education or related services;
- d. those who request directory information, unless the disclosure pertains to records of a student receiving special education or related services; or
- e. the Attorney General of the United States, or designee, when disclosure is pursuant to an ex parte order in connection with the investigation or prosecution of terrorism crimes.

**Destruction of Records**

1. The District is not precluded from destroying any records, if not otherwise precluded by law, except that access shall be granted prior to the destruction of the education records where the parent or eligible student has requested such access.
2. In the case of records pertaining to students receiving special education or related services that are no longer needed by the District to comply with state or federal law or regulations, the District shall make reasonable efforts to notify the parent and offer the parent a copy of the record. Such records shall be destroyed upon request of the parent.
3. Records pertaining to the name, address, telephone number, grades, attendance, classes attended, grade level completed, and year completed of a student who has received special education or related services must be maintained indefinitely.

**Access by Parents or Eligible Students**

A parent of a student who is under the age of eighteen (18) years and who has attended or is currently enrolled in the District, has a right to inspect and review his or her student's records or any part thereof. This right of access does not apply to the child's address if the Superintendent determines that release of the address poses a threat to the health or safety of the child.

**Students**

AR 5125(h)

**STUDENT RECORDS** (continued)

An eligible student has a right to inspect and review his or her student record or any part thereof. Parents' rights under this policy transfer to the eligible student, the District may disclose records of the student to the parent without the student's consent in the following instances:

1. If the student is a dependent of either parent for federal income tax purposes; or
2. In connection with a health or safety emergency.

The right of access specified in this section shall include:

1. The right to inspect and review the content of student records;
2. The right to obtain copies of those records, which shall be at the expense of the parent or the eligible student (but not to exceed the actual cost to the District of producing such copies);
3. The right to a response from the District to reasonable requests for explanations and interpretations of those records; and
4. The right to an opportunity for a hearing to challenge the content
5. of those records.

Parents or eligible students desiring to review student records shall present a written request to the office of the Superintendent. The request shall specify the specific records which the person wishes to inspect. In the event the District cannot determine the exact records to which access is sought, the District shall immediately contact the requesting person by letter or otherwise to determine the desired scope of records to be inspected.

Such inspection shall be made during reasonable business hours determined by mutual agreement between the District and the requesting person, but in no event shall access be withheld more than forty-five (45) days after the written request has been made. However, the District must respond to requests by a parent of a student receiving special education or related services within ten (10) days of the request and, in any case, before any meeting or hearing in which the parent may participate relating to the identification, placement, or program of the student.

Where the records requested include information concerning more than one student, the parent or eligible student shall be permitted to review only that part of the record pertaining to his child or his record, or where this cannot reasonably be done, the parent or eligible student shall be informed of the contents of that part of the record pertaining to his child.

**Students**

AR 5125(i)

**STUDENT RECORDS** (continued)

**Access Without Parental Consent**

The District shall not permit access to or the release of student records or the personally identifiable information contained therein without the consent of a parent or eligible student, except that access without consent to student records, other than records containing personally identifiable information specifically collected or maintained in conjunction with the provision of special education or related services to, shall be permitted to those persons or under those circumstances listed below:

1. School officials within the District who have a legitimate educational interest in having access to the records. A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.
2. Officials of other districts, schools, state operated correspondence programs or post-secondary institutions in which the student seeks to enroll, or is already enrolled, so long as the disclosure is for purposes related to the student's enrollment or transfer. It is the policy of the District to forward student records to the entities or programs listed in this subsection without notifying the parent or eligible student. The District shall forward these records within 10 days after receiving a request. Notification of this practice will be provided to parents and students in the annual notification.

Missing Children: As required by state law, the District shall flag the school records of a child who is missing. Upon receipt of a request from another school or district for a record that has been flagged, the District shall immediately notify the Department of Public Safety. Unless directed to do so by the Department, the District may not forward a copy of flagged records.

3. Upon their request, military recruiters and institutions of higher learning shall have access to secondary students' names, addresses, and telephone listings, unless an objection is made by the student's parent or guardian. Parents/guardians shall be notified of their right to make this objection.

**Students**

AR 5125(j)

**STUDENT RECORDS** (continued)

4. Authorized representatives of the Comptroller General of the United States, the Attorney General of the United States, the Secretary of the Department of Health, Education and Welfare, or the Department of Education of the State of Alaska; if the information is protected in a manner that does not permit personal identification of individuals by anyone except the authorized representatives just identified.
5. In compliance with a judicial order or pursuant to any lawfully issued subpoena. However, the District shall make a reasonable effort to give the parent or eligible student notice of all such orders or subpoenas as soon as reasonably possible after they are received, and in advance of production of the records, so that the parents or eligible student may seek protective action. Prior notice will not be given in cases of a federal grand jury subpoena or order where the court has ordered that the existence or contents of the subpoena not be disclosed. In addition, prior notice will not be given if a court or other issuing agency issues a subpoena for a law enforcement purpose and orders the school not to disclose the existence or contents of the subpoena.
6. Where the disclosure is in connection with financial aid conditioned on the student's attendance at an educational institution. Such disclosure will be made provided that the student has actually applied for or received the aid and the information disclosed is necessary to (a) determine eligibility for the aid, (b) determine the amount of the aid, (c) determine the conditions for the aid or (d) enforce the terms and conditions of the aid.
7. The disclosure is to organizations conducting studies for or on behalf of educational agencies or institutions for the purpose of (a) developing, validating or administering predictive tests, (b) administering student aid programs, or (c) improving instruction. Information may not be disclosed under this subsection unless the District has entered into a written agreement with the organization: 1) specifying the purpose, scope, and duration of the study and the information to be disclosed; 2) restricting the use of personally identifiable information only to purposes of the study as defined in the agreement; 3) assuring that the study will 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; and (4) providing that the information will be destroyed or returned to the District when no longer for the study, and specifying the time period for destruction or return. Nothing in this section requires the District to initiate a study, or agree with or endorse the conclusions or results of the study.

**Students**

AR 5125(k)

**STUDENT RECORDS** (continued)

8. The disclosure is to accrediting organizations carrying out their accrediting functions.
9. Information may be disclosed in connection with a health and safety emergency subject to the conditions described below.
10. Directory information may be released subject to the conditions described in BP 5125.1.

*(cf. 5125.1 - Release of Directory Information)*

**Transfer of Information to Third Parties**

1. The District shall not release personal information concerning a student except on the condition that the party to which the information is being transferred will not permit any other party to have access to such information without the prior written consent of the parent or eligible student. The District shall include with any information released to a party a written statement which informs the party of this requirement.
2. The District may disclose personally identifiable information with the understanding that the party receiving the information may make further disclosures on behalf of the district without the consent of the parent or eligible student if (a) these further disclosures meet the requirements for access without consent; and (b) the District maintains a record of third parties granted access and the legitimate interest of such parties.

**Cooperation with Juvenile Justice System**

The School District will cooperate with the juvenile justice system in sharing information contained in permanent student records regarding students who have become involved with the juvenile justice system. The School District will enter into an interagency agreement with the juvenile justice agency (“agencies”) involved.

The purpose of the agreement is to allow for the sharing of information prior to a student’s adjudication in order to promote and collaborate between the District and the agencies to improve school safety, reduce alcohol and illegal drug use, reduce truancy, and reduce in-school and out-of-school suspensions. This cooperation will enhance alternatives such as structured and well supervised educational programs, supplemented by coordinated and appropriate services, designed to correct behaviors that lead to truancy, suspension, and expulsions and to support students in successfully completing their education.

**Students**

AR 5125(l)

**STUDENT RECORDS** (continued)

The School District may share any information with the agencies contained in a student's permanent record, which is directly related to the juvenile justice system's ability to effectively serve the student. Prior to adjudication, information contained in the permanent record may be disclosed by the School District to parties without parental consent or court order. Information shared pursuant to the agreement is used solely for determining the programs and services appropriate to the needs to the student or student's family or coordinating the delivery of programs and services to the student or student's family.

Information shared under the agreement is not admissible in any court proceedings which take place prior to a disposition hearing, unless written consent is obtained from a student's parent, guardian, or custodian.

Confidential information shared between the School District and the agencies will remain confidential and will not be shared with any other person, unless otherwise provided by law.

**Records Pertaining to Children with Disabilities**

Personally identifiable information in those student records specifically collected or maintained in conjunction with the provision of special education or related services may not be released without the written consent of a parent unless the disclosure is to:

1. A school official as defined above.
2. An official of a school or school system in which the student intends to enroll, provided, however, that a parent must be notified of any such disclosure, offered a copy of the record, and notified of his or her right to request amendment of the record.
3. A representative of the Federal Comptroller General, U.S. Department of Education, or Alaska Department of Education and Early Development.

**Students**

AR 5125(m)

**STUDENT RECORDS** (continued)

**Access with Consent**

The contents of a student's record may be furnished to any person with the written consent of one of the student's parents. The written consent should specify the records to be released, the reasons for the release, and to whom the records will be released. Where the consent of a parent is required for the release of student records, a copy of the records to be released shall be provided on request to the student's parents or the eligible student, and to the student who is not an eligible student if so requested by the student's parents.

If a parent refuses to consent to release of a student record specifically collected or maintained in conjunction with the provision of special education or related services, the District may initiate a hearing pursuant to the provisions of 4 AAC Section 52.550.

**Release of Information for Health and Safety Emergencies**

The District may release information from records to appropriate persons, including parents of an eligible student, in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other persons. The District will take into account the totality of the circumstances, based on the information available at the time, to determine if there is an articulable and significant threat to the health or safety of a student or others.

The District may include in a student's records information concerning disciplinary action taken against the student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community. Under the "health and safety emergency" exception, the District may disclose this information to teachers and school officials of the district, or to teachers and school officials of other districts, if those individuals have a legitimate educational interest in the behavior of the student.

AASB proposed changes to AR 5125 due to recent updates to FERPA

**Students**

AR 5125(n)

**STUDENT RECORDS** (continued)

**Complaint Procedure**

A parent or eligible student may file a written complaint with the national Family Policy Compliance Office regarding an alleged violation of federal laws governing the administration of student records. These laws include the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, and its regulations found at 34 CFR Part 99. A complaint must be filed within 180 days of the date of the alleged violation, or of the date the parent or eligible student knew or reasonably should have known of the alleged violation. Complaints should be filed with:

Family Policy Compliance Office  
U.S. Department of Education  
Washington, D.C. 20202-5920  
(202) 260-3887

**KENAI PENINSULA BOROUGH SCHOOL DISTRICT**  
**Adoption Date: \_\_\_\_\_**

**STUDENT RECORDS****Definitions**1. Student Education Records

A "student Education records" consists of all official records, files and data directly related to a student ~~and that are~~ maintained by the ~~school, intended for school use or to be available to parties outside the District~~ District or by a party acting for the District. ~~Such~~ A student's education record encompasses all the material incorporated in the student's cumulative record folder and includes, but is not necessarily limited to, identifying data, academic work completed, level of achievement (grades, standardized achievement test scores), daily attendance data, scores on standardized intelligence, aptitude and psychological tests, interest inventory results, health data, family background information, teacher or counselor ratings and written observations, and ~~verified reports of serious or recurrent behavior patterns~~ written observations, and discipline data, including suspensions or expulsions. ~~Such~~ Student records shall be the property of the District, with access to and correction and disposition of which is governed by others as set forth in this regulation.

2. Exclusions From Student the Term "Education Records"

The ~~student's record shall not include the~~ following documents are not "education records":

- a. ~~Data~~ Aggregated data which relates to a student but by which he cannot be identified, that does not contain "personally identifiable information about a specific student.
- b. Personal files notes, or records maintained by ~~persons who are certified school employees~~ staff members or professional consultants, ~~engaged directly in educating, testing or counseling any student and who maintain such files for use in connection with educating, testing or counseling and not for general school use~~ that are kept in their possession, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute. Such files or personal files ~~notes regarding students include personal notes on student work or notes relating to interviews or clinical diagnosis as well as other memory aids. All such personal files~~ shall constitute the personal property of the person compiling the file, ~~provided, however, that the privilege of compiling and keeping such file shall be conditioned upon its not being shown or turned over to or used by any other person; provided, however, that subject matter of the records may be discussed, if necessary or desirable, with~~

**STUDENT RECORDS** (continued)

- ~~\_\_\_\_\_ other school professional employees, or consultants in connection with education, testing or counseling of students.~~
- c. Records of the District’s law enforcement unit.
- d. An employment record made and maintained in the normal course of business that relates exclusively to an individual in his or her capacity as an employee. However, records relating to a student who is employed as a result of his or her student’s status are education records.
- e. Records of a student age 18 or older that are made or maintained by a physician or mental health professional that are utilized for treatment of the student and are disclosed only to individuals providing treatment. “Treatment” for this provision does not include remedial educational activities that are part of the District’s instructional program.
- e.f. Personal knowledge or observation of a school official. A school official is not prohibited from disclosing information about a student if the information is obtained through the school official’s personal knowledge or observation and not from the student’s education records.

3. Personally Identifiable Information

"Personally identifiable information" ~~means that the data or information~~ includes, but is not limited to: the name of a student, the student's parent, or other family member; ~~;~~ the address of the student or student’s family; a personal identifier, such as the student’s social security number, student number; ~~;~~ ~~a list of personal characteristics which would make it possible to identify the student with reasonable certainty, or other information which would make it possible to identify the student with reasonable certainty~~ or biometric record; indirect identifiers such as a student’s date of birth, place of birth, and mother’s maiden name; other information that, alone or in combination, is linked or linkable to a specific student and that would allow a reasonable person in the school community who does not have personal knowledge of the relevant circumstances to identify the student with reasonable certainty; or information requested by a person who the District reasonably believes to know the identity of the student to whom the record relates.

**STUDENT RECORDS** (continued)

“Biometric record” as used above means a record of one or more measurable biological or behavioral characteristics that can be used for automated recognition of an individual. These include fingerprints, eye patterns, voiceprints, DNA, facial characteristics, and handwriting.

4. Directory Information

"Directory information" means ~~a~~ information contained in an education record that would not generally be considered harmful or an invasion of privacy if disclosed. It includes, but is not limited to, student's name, address, telephone listing, electronic mail address, photograph, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, ~~years~~ dates of attendance, grade level, enrollment status, degrees and awards or honors received, scholarship eligibility and the most recent ~~previous educational agency or institution~~ school attended by the student.

Directory information does not include a student’s social security number or student identification number if the student identifier can be used to gain access to education records. A student identifier can be listed as directory information if the identifier must be used in conjunction with one or more factors that authenticate the student’s identity, such as a PIN or password.

5. Parents

"Parents" means a natural parent, an adoptive parent, foster parent, ~~or the~~ legal guardian, or an individual acting as a parent in the absence of a parent or guardian, or ~~of a student or,~~ in the case of a student receiving special education or related ~~services provided to exceptional children,~~ a person acting as the parent of a child or a surrogate parent appointed in accordance with state regulations. Either or both parents have access to a student’s records, even if a separation or divorce has occurred, unless the parental rights of a parent have been legally terminated through adoption or other legal process; or unless a decree of divorce, separation, or other court order specifically prohibits parental access to school information or records.

6. Eligible Student

"Eligible student" means a student who has attained eighteen years of age, is an emancipated minor, or is attending an institution of post-secondary education.

**STUDENT RECORDS** (continued)7. ~~Exceptional Children~~ School Official

~~"Exceptional children" means children who differ markedly from their peers to the degree that special facilities, equipment, or methods are required to make their educational program effective.~~ A "school official" is a person employed by the District as an administrator, supervisor, instructor, or support staff member (including health or medical staff); a person serving on the School Board; law enforcement unit personnel as defined in this regulation; a person or company with whom the District has contracted to perform a special task (such as attorney, auditor, medical consultant, or therapist); a contractor, consultant or other outside party to whom the District has outsourced services or functions that it would otherwise use employees to perform, provided that the outside party is under the direct control of the District with respect to use and maintenance of education records and subject to the same conditions governing use and disclosure of those records, or a parent or student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks.

**Annual Notice**

The Superintendent shall notify parents and eligible students of the rights accorded them under this policy. ~~In meeting the requirement set forth in this section~~ Annually, the Superintendent shall provide to parents and eligible students ~~a copy of this regulation annually. Accompanying the copy of the regulation shall be a letter which shall inform them of their rights~~ a notice which informs them of their rights: to inspect and review their student's education records, and the procedures for doing so; to seek amendment of student records which are believed to be inaccurate, misleading, or in violation of the student's privacy rights, and the procedures for doing so; to consent to disclosure of personally identifiable information except where law authorizes disclosure without consent; and to file a complaint in accordance with 34 CFR Section 99.63 and 99.64. ~~and provide notice of the name and address of the official responsible for the records and the current fee for requested copies of records. In addition, the District will maintain for public inspection a list of the names and positions of those employees who routinely have access to student records specifically collected or maintained in conjunction with the provision of services to exceptional children. Upon request, the District shall provide a parent of a student receiving services as an exceptional child a list of the type and location of records collected, maintained and used by the District in conjunction with the provision of such services.~~ The annual notice shall explain the policy of disclosing student records without consent to school officials with a legitimate educational interest, shall identify those school officials, and describe what constitutes a legitimate educational interest. The annual notice will also explain that the District forwards records to other school districts or institutions

**STUDENT RECORDS** (continued)

that have requested the records and where the student attends or is seeking to enroll. The annual notice will include information concerning the University of Alaska scholarship programs and the District's obligations under state law to provide the names of students who are eligible for these programs. The annual notice will provide the name and address of the official responsible for the records and the current fee for requested copies of records.

In addition, the District will maintain for public inspection a list of the names and positions of those employees who routinely have access to student records specifically collected or maintained in conjunction with the provision of services to children with disabilities. Upon request, the District shall provide a parent of a student receiving special education or related services a list of the type and location of records collected, maintained and used by the District in conjunction with the provision of such services.

**Custody and Protection of Student Records**

1. Place Records are Kept

Student records will generally be maintained in the cumulative record folders in the administrative offices of the District. With the consent of the Superintendent, a portion of student records may be kept in other places for reasons of effective school administration, such as data collected and maintained in physical education, vocational, health or special education locations.

2. Custodian of Records

Student records in each place where they are maintained shall be under the control of a custodian appointed by the Superintendent. The custodian shall be responsible for carrying out this regulation with respect to the records under his/her control. The custodian shall use reasonable physical, technological, or procedural controls to ensure that school officials obtain access to only those education records in which they have legitimate educational interests.

*Legal Reference:*

UNITED STATES CODE:  
34 C.F.R. Section 99.63 and 99.64

**STUDENT RECORDS** (continued)3. Record of Access to Student Records

Each individual student cumulative record folder, and each student record maintained separately from the folder, shall contain as a part thereof a written form indicating ~~for~~ of each request for, and each disclosure ~~of~~, personally identifiable information. The record of access shall include:

- a. The identity of the person reviewing the record and ~~his~~ the person's official capacity~~;~~;
- b. The specific record examined or requested~~;~~;
- c. ~~Purposes~~ the legitimate of the examination and the interest that the person ~~has~~ had in ~~seeking~~ requesting or obtaining the information~~;~~;
- d. The date of examination or request~~;~~;
- e. if the District discloses personally identifiable information from a student record with the understanding that the information will be redisclosed on behalf of the District, then ~~The~~ the names of the additional parties to which the receiving party may disclose the information and the legitimate interest which each additional party has in requesting or obtaining the information~~;~~ if the District discloses personally identifiable information from a student record with the understanding that the information will be redisclosed on behalf of the District.
- f. if the District discloses personally identifiable information from education records to state or federal authorities for purposes of audit or evaluation, then the identity of the party and the fact that redisclosures may be made. The state or federal educational authorities must record any further disclosures made, in lieu of the District recording those disclosures. The District will obtain the records of redisclosure from the state or federal authority upon request of a parent or eligible student; and
- d.g. if disclosure is pursuant to a health or safety emergency, then the identity of individual requesting or receiving the information and a description of the articulable and significant threat to the safety of the student or others.

~~Such records~~ A record of access ~~do~~ does not have to be kept for requests by, or disclosure to, the following individuals:

**STUDENT RECORDS** (continued)

- a. parents of the student or an eligible student; or
- b. school officials and employees with a legitimate educational interest; or
- c. those authorized to obtain disclosure by written consent of a parent or eligible student, unless the disclosure pertains to records of a student receiving special education or related services ~~provided to exceptional children; or;~~
- d. those who request directory information, unless the disclosure pertains to records of a student receiving special education or related services; ~~or provided to exceptional children.~~
- e. the Attorney General of the United States, or designee, when disclosure is pursuant to an ex parte order in connection with the investigation or prosecution of terrorism crimes.

~~Such record of access shall be available only to the parent or eligible student, to the custodian appointed by the Superintendent and his or her assistants and to persons or organizations authorized in this regulation.~~

**~~Access Rights~~**

- ~~1. A parent of a student who (1) is under the age of eighteen (18) years, and (2) who is either currently enrolled in the District or records of whom are otherwise maintained by the District has a right to inspect and review such student's record or any part thereof. An eligible student has a right to inspect and review his or her student record or any part thereof. This right of access does not apply to:
  - ~~a. the record of a child who is an emancipated minor;~~
  - ~~b. the child's address if the Superintendent determines that release of the address poses a threat to the health or safety of the child.~~~~
- ~~2. The right of access specified in this section shall include:
  - ~~a. The right to be provided a list of the types of education records which are maintained by the District and are directly related to students;~~
  - ~~b. The right to inspect and review the content of those records;~~~~

**STUDENT RECORDS** (continued)

- ~~c. The right to obtain copies of those records, which shall be at the expense of the parent or the eligible student (but not to exceed the actual cost to the District of reproducing such copies);~~
- ~~d. The right to a response from the District to reasonable requests for explanations and interpretations of those records;~~
- ~~e. The right to an opportunity for a hearing to challenge the content of those records.~~
- ~~3. The District shall not make available to any student, including an eligible student, the following materials:
  - ~~a. Financial records of the parents of the student or any information contained therein;~~
  - ~~b. Confidential letters and statements of recommendation, which were placed in the education records prior to January 1, 1975, if such letters or statements are not used for purposes other than those for which they were specifically intended.~~~~
- ~~4. Access rights shall be exercised by presenting a written request to the office of the Superintendent. The request shall specify the specific records which the requesting person wishes to inspect or examine. In the event the District cannot determine the exact records to which access is sought, the District shall immediately contact the requesting person by letter or otherwise to determine the desired scope of records to be inspected.~~
- ~~5. Such inspection shall be made during reasonable business hours determined by mutual agreement between the District and the requesting person, but in no event shall access be withheld more than forty-five (45) days after the written request has been made, provided, however, that the District must respond to request by a parent of a student receiving services for exceptional children within ten (10) days of the request and, in any case, before any meeting or hearing in which the parent may participate relating to the identification, placement, or program of the student.~~
- ~~6. Where the records requested include information concerning more than one student, the parent or eligible student shall receive for examination that part of the record pertaining to his child or his record, or where this cannot reasonably be done, the parent or eligible student shall be informed of the contents of that part of the record pertaining to his child or himself.~~

**STUDENT RECORDS** (continued)

**Destruction of Records**

1. The District is not precluded from destroying any records, if not otherwise precluded by law, except that access shall be granted prior to the destruction of the education records where the parent or eligible student has requested such access.
2. In the case of records pertaining to students receiving special education or related services ~~provided to exceptional children which~~ that are no longer needed by the District to comply with state or federal law or regulations, the District shall make reasonable efforts to notify the parent and offer the parent a copy of the record. Such records shall be destroyed upon request of the parent.
3. Records pertaining to the name, address, telephone number, grades, attendance, classes attended, grade level completed, and year completed of a student who has received special education or related services ~~provided to exceptional children~~ must be maintained indefinitely.

**Access by Parents or Eligible Students**

A parent of a student who is under the age of eighteen (18) years and who has attended or is currently enrolled in the District, has a right to inspect and review his or her student's records or any part thereof. This right of access does not apply to the child's address if the Superintendent determines that release of the address poses a threat to the health or safety of the child.

An eligible student has a right to inspect and review his or her student record or any part thereof. Parents' rights under this policy transfer to the eligible student, the District may disclose records of the student to the parent without the student's consent in the following instances:

1. If the student is a dependent of either parent for federal income tax purposes; or
- ~~1.2.~~ In connection with a health or safety emergency.

The right of access specified in this section shall include:

1. The right to inspect and review the content of student records;
- ~~1.2.~~ The right to obtain copies of those records, which shall be at the expense of the parent or the eligible student (but not to exceed the actual cost to the District of producing such copies);

**STUDENT RECORDS** (continued)

3. The right to a response from the District to reasonable requests for explanations and interpretations of those records; and
4. The right to an opportunity for a hearing to challenge the content
5. of those records.

Parents or eligible students desiring to review student records shall present a written request to the office of the Superintendent. The request shall specify the specific records which the person wishes to inspect. In the event the District cannot determine the exact records to which access is sought, the District shall immediately contact the requesting person by letter or otherwise to determine the desired scope of records to be inspected.

Such inspection shall be made during reasonable business hours determined by mutual agreement between the District and the requesting person, but in no event shall access be withheld more than forty-five (45) days after the written request has been made. However, the District must respond to requests by a parent of a student receiving special education or related services within ten (10) days of the request and, in any case, before any meeting or hearing in which the parent may participate relating to the identification, placement, or program of the student.

Where the records requested include information concerning more than one student, the parent or eligible student shall be permitted to review only that part of the record pertaining to his child or his record, or where this cannot reasonably be done, the parent or eligible student shall be informed of the contents of that part of the record pertaining to his child.

**Access Without Parental Consent**

The District shall not permit access to or the release of student records or the personally identifiable information contained therein without the consent of a parent or eligible student, ~~in the case of an eligible student, the student's own consent~~ except that access without consent to student records, other than ~~those records~~ records containing personally identifiable information specifically collected or maintained in conjunction with the provision of special education or related services to ~~exceptional children~~, shall be permitted to those persons or under ~~these~~ those circumstances listed below:

**STUDENT RECORDS** (continued)

1. School officials ~~and employees~~ within the District who have a legitimate educational interest in having access to the records. ~~Such persons shall include the Superintendent, the Principal of the school in which the student is currently enrolled, the school counselors and teachers to whom the student is assigned, and such other professional school employees or consultants whom the Superintendent determines have a legitimate educational interest by virtue of their involvement with the education, social development, or physical or psychological well being of the individual student to whom the records pertain. In addition, School Board members shall be deemed to have a legitimate educational interest in having access to a student's records when the Board is engaged in proceedings pertaining to a student which require Board members to be familiar with the content of that student's record.~~ A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.

2. Officials of other districts, schools, state operated correspondence programs or post-secondary institutions, ~~or state operated correspondence programs~~ 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. It is the policy of the District to forward student records to the entities or programs listed in this subsection without notifying the parent or eligible student. The District shall forward these records within 10 days after receiving a request. Notification of this practice will be provided to parents and students in the annual notification.

Missing Children: As required by state law, the District shall flag the school records of a child who is missing. Upon receipt of a request from another school or district for a record that has been flagged, the District shall immediately notify the Department of Public Safety. Unless directed to do so by the Department, the District may not forward a copy of flagged records.

~~2.3.~~ Upon their request, military recruiters and institutions of higher learning shall have access to secondary students' names, addresses, and telephone listings, unless an objection is made by the student's parent or guardian. Parents/guardians shall be notified of their right to make this objection.

**STUDENT RECORDS** (continued)

- ~~3.4.~~ 4. Authorized representatives of the Comptroller General of the United States, the Attorney General of the United States, ~~or~~ the Secretary of the Department of Health, Education and Welfare ~~or other Federal education agency, and, or~~ the Department of Education of the State of Alaska; ~~provided, however, that except where collection of personally identifiable data is specifically authorized by Federal law, any data or copies collected by such officials with respect to individual students shall not include information which would permit the personal identification of any students or their parents~~ if the information is protected in a manner that does not permit personal identification of individuals by anyone except the authorized representatives just identified.
- ~~45.~~ 45. ~~Where such information is furnished in-~~ In compliance with a judicial order or pursuant to any lawfully issued subpoena, ~~provided, however~~ However, ~~that~~ the District shall make a reasonable effort to give the parent or eligible student notice of all such orders or subpoenas as soon as reasonably possible after they are received, and in advance ~~of its compliance therewith~~ of production of the records, so that the parents or eligible student may seek protective action. Prior notice will not be given in cases of a federal grand jury subpoena or order where the court has ordered that the existence or contents of the subpoena not be disclosed. In addition, prior notice will not be given if a court or other issuing agency issues a subpoena for a law enforcement purpose and orders the school not to disclose the existence or contents of the subpoena.
- ~~56.~~ 56. Where the disclosure is in connection with financial aid, ~~in cash or in kind,~~ conditioned on the student's attendance at an educational institution, ~~provided that~~ Such disclosure will be made provided that the student has actually applied for or received the aid and the information disclosed is necessary to (a) determine eligibility for the aid, (b) determine the amount of the aid, (c) determine the conditions for the aid or (d) enforce the terms and conditions of the aid.
- ~~67.~~ 67. The disclosure is to organizations conducting studies for or on behalf of educational agencies or institutions for the purpose of (a) developing, validating or administering predictive tests, (b) administering student aid programs, or (c) improving instruction. Information may ~~only not~~ be disclosed under this subsection ~~if-unless~~ the District has entered into a written agreement with the organization: 1) specifying the purpose, scope, and duration of the study and the information to be disclosed; 2) restricting the use of personally identifiable information only to purposes of the study as defined in the agreement; 3) assuring ~~receives assurances from the entity receiving the information that (t)that~~ the study will be conducted in a

**STUDENT RECORDS** (continued)

manner that does not permit personal identification of parents and students by individuals other than representatives of the organization ~~carrying out the study~~ that have legitimate interests in the information; and (24) providing that the information will be destroyed or returned to the District when no longer ~~needed for the purpose~~ for which the study, and specifying the time period for destruction or return. Nothing in this section requires the District to initiate a study, or agree with or endorse the conclusions or results of the study. ~~was conducted.~~

7. The disclosure is to accrediting organizations carrying out their accrediting functions.
8. Information may be disclosed in connection with a health and safety emergency subject to the conditions described below.
9. Directory information may be released subject to the conditions described in BP 5125.1.

*(cf. 5125.1 - Release of Directory Information)*

**Transfer of Information to Third Parties**

1. The District shall not release personal information concerning a student except on the condition that the party to which the information is being transferred will not permit any other party to have access to such information without the prior written consent of the parent or eligible student. The District shall include with any information released to a party a written statement which informs the party of this requirement.
2. The District may disclose personally identifiable information with the understanding that the party receiving the information may make further disclosures on behalf of the district without the consent of the parent or eligible student if (a) these further disclosures meet the requirements for access without consent; and (b) the District maintains a record of third parties granted access and the legitimate interest of such parties.

**Cooperation with Juvenile Justice System**

The School District will cooperate with the juvenile justice system in sharing information contained in permanent student records regarding students who have become involved with the juvenile justice system. The School District will enter into an interagency agreement with the juvenile justice agency (“agencies”) involved.

**STUDENT RECORDS** (continued)

The purpose of the agreement is to allow for the sharing of information prior to a student's adjudication in order to promote and collaborate between the ~~School~~ District and the agencies to improve school safety, reduce alcohol and illegal drug use, reduce truancy, and reduce in-school and out-of-school suspensions. This cooperation will enhance alternatives such as structured and well supervised educational programs, supplemented by coordinated and appropriate services, designed to correct behaviors that lead to truancy, suspension, and expulsions and to support students in successfully completing their education.

The School District may share any information with the agencies contained in a student's permanent record, which is directly related to the juvenile justice system's ability to effectively serve the student. Prior to adjudication, information contained in the permanent record may be disclosed by the School District to parties without parental consent or court order. Information shared pursuant to the agreement is used solely for determining the programs and services appropriate to the needs to the student or student's family or coordinating the delivery of programs and services to the student or student's family.

Information shared under the agreement is not admissible in any court proceedings which take place prior to a disposition hearing, unless written consent is obtained from a student's parent, guardian, or custodian.

Confidential information shared between the School District and the agencies will remain confidential and will not be shared with any other person, unless otherwise provided by law.

**~~Access Without Consent:—Records Pertaining to Exceptional Children~~ with Disabilities**

Personally identifiable information in those student records specifically collected or maintained in conjunction with the provision of special education or related services ~~to exceptional children~~ may not be released without the written consent of a parent unless the disclosure is to:

1. A school official ~~with a legitimate educational interest~~ as defined above.
2. An official of a school or school system in which the student intends to enroll, provided, however, that a parent must be notified of any such disclosure, offered a copy of the record, and notified of his or her right to request amendment of the record.
3. A representative of the Federal Comptroller General, U.S. Department of Education, or Alaska Department of Education and Early Development.

**STUDENT RECORDS** (continued)

**Access with Consent**

1. ~~1.~~ The contents of a student's record may be furnished to any person with the written consent of one of the student's parents, ~~said.~~ The written consent should specify ~~ing~~ the records to be released, the reasons ~~the records are to be released~~ for the release, and to whom ~~such~~ the records will be released. Where the consent of a parent is required for the release of student records, a copy of the records to be released shall be provided on request to the student's parents or the eligible student, and to the student who is not an eligible student if so requested by the student's parents.

2. ~~2.~~ If a parent refuses to consent to release of a student record specifically collected or maintained in conjunction with the provision of special education or related services, ~~to exceptional children~~ the District may initiate a hearing pursuant to the provisions of 4 AAC Section 52.550.

~~**Transfer of Information to Third Parties** (Parties other than the school, parent/guardian, or emancipated student.)~~

~~1. The District shall not release personal information concerning a student except on the condition that the party to which the information is being transferred will not permit any other party to have access to such information without the prior written consent of the parent or eligible student. The District shall include with any information released to a party a written statement which informs such party of this requirement.~~

~~2. The District may disclose personally identifiable information with the understanding that the party receiving the information may make further disclosures on behalf of the District without the consent of the parent or eligible student if (a) these further disclosures meet the requirements for access without consent, and (b) The District maintains a record of third parties granted access and the legitimate interest of such parties.~~

*Legal reference:*

~~ALASKA ADMINISTRATIVE CODE:~~

~~4 AAC 52.550: Due process hearing~~

**STUDENT RECORDS** (continued)

**Release of Information for Health and Safety Emergencies**

The District may release information from records to appropriate persons, including parents of an eligible student, in connection with an emergency if ~~the~~ knowledge of ~~such the~~ information is necessary to protect the health or safety of ~~a~~ the student or other persons. The District will take into account the totality of the circumstances, based on the information available at the time, to determine if there is an articulable and significant threat to the health or safety of a student or others. ~~The facts which should be taken into account in determining whether records may be released under this section include the following:~~

- ~~1. the seriousness of the threat to the health or safety of the student or other persons;~~
- ~~2. the need for such records to meet the emergency;~~
- ~~3. whether the persons to whom such records are released are in a position to deal with the emergency; and~~
- ~~4. the extent to which time is of the essence in dealing with the emergency.~~

~~The District, before making public directory information, shall give public notice of the information which it has designated as directory information and shall allow a reasonable period of time after such notice has been given for parents/guardians to inform the District that any or all of the information designated should be released. The District may disclose directory information about former students without meeting the requirements of this section.~~

The District may include in a student's records information concerning disciplinary action taken against the student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community. Under the "health and safety emergency" exception, the District may disclose this information to teachers and school officials of the district, or to teachers and school officials of other districts, if those individuals have a legitimate educational interest in the behavior of the student.

**STUDENT RECORDS** (continued)

**Complaint Procedure**

A parent or eligible student may file a written complaint with the national Family Policy Compliance Office regarding an alleged violation of federal laws governing the administration of student records. These laws include the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, and its regulations found at 34 CFR Part 99. A complaint must be filed within 180 days of the date of the alleged violation, or of the date the parent or eligible student knew or reasonably should have known of the alleged violation. Complaints should be filed with:

Family Policy Compliance Office  
U.S. Department of Education  
Washington, D.C. 20202-5920  
(202) 260-3887

**KENAI PENINSULA BOROUGH SCHOOL DISTRICT**

**Adoption Date: 10/18/2004**