



STUDENTS

5125

Confidentiality and Access to Education Records

The Montville Board of Education ("Board") complies with the state and federal regulations regarding confidentiality, access to, and amendment of education records. The Board shall implement procedures that protect the privacy of parents and students while providing proper access to records. Availability of these procedures shall be made known annually to parents of students currently in attendance and eligible students currently in attendance.

For the purpose of this policy:

"Access" is defined as the right to inspect or review a student's education records or any part thereof. Access may include the right to receive copies of records under limited circumstances.

"Biometric record" as used in the definition of personally identifiable information, means a record of one or more measurable biological or behavioral characteristics that can be used for automated recognition of an individual, such as fingerprints, retina and iris patterns, voiceprints, DNA sequence; facial characteristics and handwriting.

"De-identified education records" means education records or information from education records from which all personally identifiable information has been removed, and for which the district has made a reasonable determination that a student's identity is not personally identifiable, whether through single or multiple releases, taking into account other reasonably available information.

"Directory Information" includes information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. It includes, but is not limited to, the parent's name, address and/or e-mail address, the student's name, address, telephone number, e-mail address, photographic, computer and/or video images, date and place of birth, major field(s) of study, grade level, enrollment status (full-time; part-time), participation in school-sponsored activities or athletics, weight and height (if the student is a member of an athletic team), dates of attendance, degrees, honors and awards received, and the most recent previous school(s) attended. Directory information does not include a student's social security number, student identification number or other unique personal identifier used by the student for purposes of accessing or communicating in electronic systems unless 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.

"Disciplinary action or proceeding" means the investigation, adjudication or imposition of sanctions by an educational agency or institution with respect to an infraction or violation of internal rules of conduct applicable to students.

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

"Education records" means any information directly related to a student that is recorded in any manner (e.g., handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche) and that is maintained by the school system or persons acting for the school system. Education records does not include:

private, personal, or working notes in the sole possession of the maker thereof, and which are not accessible or revealed to any other individual except a "substitute";

records maintained by a law enforcement unit of the school district that were created by that unit for the purpose of law enforcement;

employment records used only in relation to the student's employment by the school district that are 1) made and maintained in the normal course of business, 2) relate exclusively the student's capacity as an employee, and 3) are not made available for any other purpose;

records on an eligible student (i.e. over 18 or attending a postsecondary educational institution) that are considered "treatment records" as they meet the following criteria: 1) the records are maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional capacity or assisting in a paraprofessional capacity, 2) the records are made in connection with the treatment of the student and 3) the records are disclosed only to individuals providing such treatment (treatment does not include remedial educational activities or activities that are part of the program or instruction of the school district); however, the school district must, upon request, permit an eligible student to have a physician or other appropriate professional of the student's choice review his/her treatment records;

records created or received by the school district after an individual is no longer a student in attendance and that are not directly related to the individual's attendance as a student; and

grades on peer-graded papers before they are collected and recorded by a teacher.

"Eligible Student" is a student or former student who has reached 18 years of age or is attending an institution of post-secondary education or is an emancipated minor.

"Legitimate Educational Interest" means the need for a school official to review an education record in order to fulfill his or her professional responsibilities.

"Parent" is defined as a parent or parents of a student, including a natural parent, a guardian, or surrogate parent, or an individual acting as a parent in the absence of a parent or guardian. The rights of a parent shall transfer to an eligible student; however, a parent of a student who claims that student as a dependent under Section 152 of the Internal Revenue Code of 1954 is entitled to access to the student's education records without the eligible student's consent.

"Personally Identifiable Information" includes, but is not limited to, the student's name; the name of the student's parent or other family members; the address of the student or his/her family; a personal identifier, such as the student's social security number, student number or biometric record; other indirect identifiers, such as the 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 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 school district reasonably believes knows the identity of the student to whom the education record relates.

"School Official" is a person employed by the District as an administrator, supervisor, instructor or support staff member (including health or medical staff and law enforcement unit personnel); a person serving on the Board of Education; a person or company with whom the District has contracted to perform a special task (such as an attorney, auditor, consultant, or therapist); 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.

"Signed and Dated Written Consent" to disclose personally identifiable student information from a student's education records must specify the records to be disclosed, the purpose of disclosure and the party to whom such records should be provided. Consent may include a record and signature in electronic form provided that the consent identifies and authenticates a particular person as the source of electronic consent.

I. ANNUAL NOTIFICATION OF RIGHTS / RELEASE OF DIRECTORY INFORMATION

- a. On an annual basis, the school district will notify parents and/or eligible students currently in attendance of their rights regarding a student's education records. This notice will be published in all student handbooks in the District and will also be published in the school district's guide to Pupil Personnel Services and will be published in any other manner "reasonably likely" to inform such parents and eligible students of their rights. The school district will take steps to ensure that parents or eligible students whose primary or home language is not English or who are disabled will also be notified of their rights regarding a student's education records.
- b. On an annual basis, the school district will also notify parents and/or eligible students currently in attendance of any categories of information designated as directory information. This notice will provide such individuals with an opportunity to object to such disclosure. An objection to the disclosure of directory information shall be good for only one school year.
- c. In the annual notification, the school districts will also provide notice to parents and/or eligible students that the district is legally obligated to provide military recruiters or institutions of higher education, upon request, with the names, addresses and telephone numbers of secondary school students, unless the secondary student or the parent of the student objects to such disclosure in writing. Such objection must be in writing and shall be effective for one school year.

II. CONFIDENTIALITY OF EDUCATION RECORDS

- a. All school staff are directed to maintain the confidentiality of personally identifiable information contained in a student's education records. Each person who has access to education records is responsible for ensuring personally identifiable information is protected from disclosure at collection, storage, disclosure, and destruction stages. Disclosure of information is permitted only in accordance with Board policy and consistent with state and federal law.
- b. Education records are not public records and any disclosure other than to persons authorized to receive the records without prior consent of a parent or an eligible student violates the law and Board policy, except as provided in federal and state statutes.
- c. The school district shall use reasonable methods, including administrative policies and procedures, as well as physical and technological access controls, to ensure that school officials obtain access to only those education records in which they have a legitimate educational interest.
- d. The district shall use reasonable methods to identify and authenticate the identity of parents, students, school officials and other parties to whom the district discloses personally identifiable information from education records.

III. ACCESS TO EDUCATION RECORDS

- a. Parents and/or an eligible student have the right to inspect and review all education records of the student unless such rights have been waived under Section XI, below. Parents' rights of inspection and review are restricted to information dealing with their own child. In the case of an eligible student, the right to inspect and review is restricted to information concerning the student. All requests for access to education records must be in writing.
- b. When submitting a written request to inspect or review education records, the request must identify the record or records being sought. The school district will notify the parent or eligible student of the date, time, and location where the records may be inspected and reviewed.
- c. The parents or eligible students may designate in writing a representative to inspect and review the records. Consent for disclosure of student records to a designated representative must be signed and dated by the parent or eligible student.
- d. A school professional shall be present at all such inspections and reviews and shall respond to reasonable requests for explanations and interpretations of the records.
- e. For the records of regular education students, the Board will make education records available for inspection and review by parents or eligible students within a reasonable period of time, but in any event, no more than forty-five (45) calendar days from the receipt of a written request.
- f. For students requiring special education, the Board will comply with a request to inspect and review a student's education records within ten (10) days of the request;

or within three (3) days of the request if the request is in order to prepare for a meeting regarding an IEP meeting (planning and placement team meeting) or any due process proceeding.

- g. Parents of students eligible to receive special education and related services (or the eligible student) have the right to receive one free copy of their child's (his/her) education records. The request for the free copy must be in writing and the Board shall comply with the written request within five (5) school days of the request. Notwithstanding the fact that a test instrument or portion of a test instrument may meet the criteria of an "education record" under the Family Educational Rights and Privacy Act, 20 USC 1232g, any test instrument or portion of a test instrument for which the test manufacturer asserts a proprietary or copyright interest in the instrument shall not be copied. The parent or eligible student retains the right to review and inspect such information and the board of education shall respond to reasonable requests from the parent or eligible student for explanations and interpretations of the student's education record, which may include reviewing copyrighted testing instruments.
- h. Aside from a parent or eligible student, staff members, school employees and other school officials may access a student's educational records **only if** they have been determined by the school system to have a legitimate educational interest in accessing the information contained in such records. Disclosures to any other parties may only be made in accordance with the exemptions and provisions set forth in Section VII, below.
- i. Pursuant to the procedures set forth in Section VI, below, the district maintains a record of all parties that have requested access to education records, including access to education records found in computer memory banks.

j. Non-custodial Parents:

A parent does not lose his or her right to access to education records upon divorce. Non-custodial parents retain their rights to review their child's education records unless the school district has been provided with evidence that there is a court order, state statute, or legally binding document relating to such matters as divorce, separation, or custody that specifically revokes the non-custodial parent's rights. School notices shall be mailed to the non-custodial parent/guardian requesting the notices at the same time that they are provided to the custodial parent/guardian. Any requests by the non-custodial parent/guardian to receive school notices shall be effective for as long as the child remains in the school the student is attending at the time of the request.

k. Copies of Education Records/Fees:

- 1. The school district cannot charge a fee to search for or to retrieve the education records of a student. As noted above, if a student has been identified as requiring special education and related services, the parents' (or eligible student's) right to inspect and review the child's records shall include the right to receive one free copy of those records. The request for the free copy shall be made in writing. The board of education shall comply with such

request as stated above. A charge will be levied for additional copies; in no case will the charge exceed [50¢] per page.

2. In addition to the provision above regarding special education students, if circumstances effectively prevent the parent or eligible student from exercising the right to inspect and review the student's education records, the district shall:
 - a. provide the parent or eligible student with a copy of the records requested, or
 - b. make other arrangements for the parent or eligible student to inspect and review the requested records.
 - c. The Board reserves the right to charge for copies of a student's education records. Such charge will not exceed 50¢ per page.

IV. RECORD KEEPING REQUIREMENTS/DOCUMENTATION OF ACCESS TO EDUCATION RECORDS

- a. The school district will appoint an individual to be responsible for the care and upkeep of all education records. Education records are kept by categories, each of which encompasses a specific type of data collected during a student's educational career. These categories also determine how long the school district must maintain the records. The school district will provide to parents, on request, a list of the categories and locations of education records collected, maintained, or used by the school district.
- b. Except as provided below, a record (log) will be kept documenting each request for, and disclosure of, personally identifiable information from the education records of each student, including information found in computer memory banks. The record log shall contain:
 1. the name of any individual, agency, or organization that requested or obtained access to the student's records;
 2. the date of the request for access;
 3. whether access was given;
 4. the purpose for which the party was granted access to the records;
 5. the names of additional parties to whom the receiving party may disclose the information on behalf of the school district; and
 6. the legitimate educational interest in obtaining the information.
- c. The record (log) requirement does not apply to requests from, or disclosure to:
 1. a parent or eligible student;
 2. a party seeking directory information;
 3. a party who has a signed and dated written consent from the parent and/or eligible student;
 4. school officials from the school district in which the student is currently enrolled who have a legitimate educational interest in the information contained in the student's record; or

5. persons seeking or receiving the information as directed by a Federal grand jury, other law enforcement subpoena, or ex parte order of the Attorney General of the United States (provided that the information requested is not to be re-disclosed).
- d. The record (log) is a permanent part of the student's education records and must be available to the parent or eligible student upon request.
- e. If the district makes a release of education records without consent in a health and safety emergency, the district must record:
 1. the articulable and significant threat to the health and safety of a student or other individuals that formed the basis for disclosure; and
 2. the parties to whom the district disclosed the information.

V. THE RELEASE OF RECORDS OR PERSONALLY IDENTIFIABLE INFORMATION

- a. The school system or its designated agent(s) may not permit release of education records or any information from such records which contains personally identifiable student information to any outside individual, agency, or organization without the signed and dated written consent of the parents or eligible student, except as indicated in Section VII.C below. Personally identifiable information contained in the education record, other than directory information, will not be furnished in any form (i.e., written, taped, person-to-person, statement over the telephone, on computer disk, e-mailed, etc.) to any person other than those listed below, unless prior written consent has been obtained.
- b. To be effective, the written consent must be signed and dated and must specify the records that may be disclosed, state the purpose of the disclosure, and identify the party or class of parties to whom the disclosure may be made.
- c. Personally identifiable information may be released without consent of the parents, or the eligible student, only if the disclosure meets one of the criteria set forth below:
 1. The disclosure is to other school officials within the district, including teachers, who have been determined by the school district to have legitimate educational interests in the education records.
 2. The disclosure is to a contractor, consultant, volunteer, or other party to whom an agency or institution has outsourced institutional services or functions, provided that the outside party (a) performs an institutional service or function for which the district would otherwise use employees, (b) is under the direct control of the district with respect to the use and maintenance of education records, and is subject to the requirements of FERPA with respect to the use and re-disclosure of personally identifiable information from education records.
 3. The disclosure is to officials of another school, including other public schools, charter schools, and post-secondary institutions, in which 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. Disclosure of personally identifiable information will be made only upon condition that the student's parents be notified of the transfer, receive a copy of the record

if desired, and have an opportunity for a hearing to challenge the content of the record pursuant to Section X.

4. The disclosure is to authorized representatives of the Comptroller General of the United States; the Attorney General of the United States; the Secretary of Education; or State and local educational authorities, under the following conditions: the school shall provide such authorized representatives access to student or other records that may be necessary in connection with the audit, evaluation, or enforcement of state and federally supported education programs, but shall not permit such representatives to collect personally identifiable information unless specifically authorized to do so by state and federal law or if the parent or eligible student has given written consent for the disclosure.
5. The disclosure is made in connection with a student's application for, or receipt of, financial aid, if such information is necessary to determine eligibility for, the amount of, or the conditions for financial aid, or to enforce the terms and conditions of financial aid.
6. The disclosure is to state and local officials or authorities within the juvenile justice system as long as the officials and authorities to whom the records are disclosed certify in writing to the school district that (a) the information is required by the court, (b) will not be disclosed to any other party without the prior, written consent of the parent of the student, except as provided under State law. Disclosure shall be permitted for information relating to the student's school attendance, adjustment and behavior, as well as the student's individualized education program (IEP) and related documents if the student receives special education services. If a student is placed on probation by the juvenile court, school officials may issue their own recommendation concerning the conditions of the student's probation.
7. The disclosure is to organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, or improving instruction, so long as (a) the study does not permit personal identification of parents or students by individuals other than representatives of the organization, (b) the information is destroyed after it is no longer needed for the purposes for which the study was conducted, and (c) the district enters into a written agreement with the organization conducting the study that ensures that the study protects the confidentiality of personally identifiable student information consistent with FERPA requirements.
8. The disclosure is to accrediting organizations in order to carry out their accrediting functions.
9. The disclosure is to parents of an eligible student who claim that student as a dependent student as defined in Section 152 of the Internal Revenue Code of 1986.
10. The disclosure is to comply with a judicial order or lawfully issued subpoena, provided that the educational agency makes a reasonable effort to notify the parent or the eligible student in advance of compliance, unless such disclosure is

in compliance with (a) a federal grand jury subpoena and the court has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed; or (b) any other subpoena issued for a law enforcement purpose and the court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed; or (c) an ex parte order obtained by the United States Attorney General (or designee not lower than an Assistant Attorney General) concerning the investigation or prosecution of terrorism crimes specified in sections 2332b(g)(5)(B) and 2331 of title 18, U.S. Code.

11. If the school district initiates legal action against a parent or student, the school district may disclose to the court, without a court order or subpoena, the education records of the student that are relevant for the school district to proceed with the legal action as plaintiff.
12. If a parent or eligible student initiates legal action against the school district, the school district may disclose to the court, without a court order or subpoena, the student's educational records that are relevant for the school district to defend itself.
13. The disclosure is to appropriate parties, including parents of an eligible student, in connection with a health and safety emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals. In making a determination regarding the disclosure of education records without consent in a health and safety emergency, the district may take into account the totality of the circumstances pertaining to the threat to the health or safety of a student or other individuals. If the district reasonably determines that there is an articulable and significant threat to the health or safety of a student or other individuals, it may disclose information from education records to any person whose knowledge of the information is necessary to protect the health or safety of the student or other individuals, provided, however, that the district record such disclosure in accordance with Section VI. D above.
14. The disclosure is to the parent of a student who is under 18 years of age or to the student.
15. 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 the information was provided to the district under 42 U.S.C. 14071 and applicable federal guidelines.

d. Directory Information

1. The school district will notify parents (of students currently enrolled within the district) or eligible students (currently enrolled in the district) annually of any categories of information designated as directory information. This notice will provide such individuals with an opportunity to object to such disclosure. An objection to the disclosure of directory information shall be good for only one school year.

2. School districts are legally obligated to provide military recruiters or institutions of higher education, upon request, with the names, addresses and telephone numbers of secondary school students, unless the secondary student or the parent of the student objects to such disclosure in writing. Such objection must be in writing and shall be effective for one school year.
3. In all other circumstances, information designated as directory information will not be released when requested by a third party unless the release of such information is determined by the administration to be in the educational interest of the school district and is consistent with the district's obligations under both state and federal law.
4. The school district may disclose directory information about students after they are no longer in enrollment in the school district. Notwithstanding the foregoing, the district will continue to honor any valid objection to the disclosure of directory information made while a student was in attendance unless the student rescinds the objection.
5. An objection to the disclosure of directory information shall not prevent the school district from disclosing or requiring a student to disclose the student's name, identified or institutional email address in a class in which the student is enrolled.
6. The school district will not use the student's social security number or other non-directory information alone or combined with other elements to identify or help identify the student or the student's records.

e. De-identified Records and Information

1. The school district may release education records or information from education records without the consent of a parent or eligible student after the removal of all personally identifiable information, provided that the district has made a reasonable determination that a student's identity is not personally identifiable, whether through single or multiple releases, taking into account other reasonably available information.
2. The school district may release de-identified education records including student level data from education records for the purpose of education research by attaching a code to each record that may allow the recipient to match information received from the same source, provided that:
 - (a) the district does not disclose any information about how it generates and assigns a record code, or that would allow a recipient of the information to identify a student based on the record code;
 - (b) the record code is used for no purpose other than identifying a de-identified record for the purposes of education research and cannot be used to ascertain personally identifiable information about a student; and
 - (c) the record code is not based on a student's social security number or other personal information.

f. Disciplinary Records:

Nothing in this policy shall prevent the school district from:

1. Including in the education records of a student, appropriate 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.
 2. Disclosing appropriate information concerning disciplinary action taken against a 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, to teachers and school officials who have been determined to have legitimate educational interests in the behavior of the student.
- g. In accordance with state and federal law, the district will facilitate the transfer of records of suspension and expulsion of a student to officials of any private elementary or secondary school in which the student is subsequently enrolled or seeks, intends or is instructed to enroll.

h. Records of the Department of Children and Families (“DCF”)

1. Documents related to any Department of Children and Families (“DCF”) child abuse and/or neglect investigations that are maintained by the Board are considered educational records under the Family Educational Rights and Privacy Act (“FERPA”). As such, they are subject to the confidentiality and disclosure requirements set forth in this policy and in corresponding provisions of state and federal law. Such records should be kept in a confidential location, with restricted access and shall be disclosed only as authorized by law. In addition to meeting the requirements under FERPA, should the Board receive a request to disclose confidential DCF records to an outside third party, the Board shall redact the name or other personally identifiable information concerning the individual suspected of being responsible for the alleged abuse and/or neglect unless the requested records are being released to the individual named in the DCF records.
2. In addition, the district shall redact the name or any personally identifiable information related to the identity of any individual responsible for making a report of alleged child abuse and/or neglect before releasing or transferring any DCF records containing such reports.

VI. REDISCLOSURE OF EDUCATION RECORDS

- a. The school district may disclose personally identifiable information from an education record only on the conditions that:
1. the party to whom the information is disclosed will not subsequently re-disclose the information to any other party without the proper consent of the parent or eligible student, and
 2. the officers, employees, and agents of a party that receives such information may only use the information for the purposes for which disclosure was made.

- b. Notwithstanding the provisions of Section A. above, the school district may disclose personally identifiable information from an education record with the understanding that the information may be re-disclosed by the recipient of the information as long as prior written consent for disclosure is not required, for one of the reasons listed in Article VII, Section C. above, and at least one of the following conditions is met.
 - 1. The record of the original disclosure includes the names of the parties to whom re-disclosure is being made and the legitimate interests each such party has in requesting or obtaining the information.
 - 2. In the case of disclosures made pursuant to a court order or lawfully issued subpoena, the district has made a reasonable effort to notify the parent or eligible student in advance of compliance with the subpoena (except if such subpoena meets the criteria set forth above in Article VII, Section C. (10)).
 - 3. Disclosure is made to a parent, and eligible student, or the parent of an eligible student.
 - 4. The information is considered directory information.
- c. In the event that the Family Policy Compliance Office determines that a third party outside of the school district has improperly re-disclosed personally identifiable information from education records in violation of FERPA, the school district may not allow that third party access to personally identifiable information from education records for at least five (5) years.

VII. AMENDMENT OF EDUCATION RECORDS

- a. If a parent or an eligible student believes that information in the student's education records is inaccurate, misleading or in violation of the student's right to privacy, he/she is entitled to:
 - 1. Request in writing that the school district amend the records;
 - 2. Receive within a reasonable period of time a decision from the school district with respect to its decision on the amendment(s) requested by the parent or eligible student.
- b. If the school district decides to amend the records, the school district shall promptly take such steps as may be necessary to put the decision into effect with respect to the requested amendments, and shall inform the parent or eligible student of the amendment.
- b. If the school district decides that an amendment of the records in accordance with the request is not warranted, it shall so inform the parent or eligible student and advise him/her of the right to a hearing pursuant to this policy.

VIII. HEARING RIGHTS AND PROCEDURES

a. Rights

1. Upon written request of a parent or eligible student to the Superintendent, an opportunity for a hearing shall be provided to challenge the content of a student's education records on the grounds that the information contained in the education records is inaccurate, misleading, or otherwise in violation of the privacy rights of the student.
2. If, as a result of the hearing, the school district decides that information contained in the education records of a student is inaccurate, misleading, or otherwise in violation of the privacy rights of the student, the records shall be amended, and the parent or eligible student shall be informed in writing.
3. If, as a result of the hearing, the school district decides that information contained in the education records of a student is not inaccurate, misleading, or otherwise in violation of the privacy rights of the student, the parent or eligible student shall be informed of the right to place in the student's education records a statement commenting on the contested information or stating why he or she disagrees with the district's decision, or both.
 - a. Any statement placed in the records of the student shall be maintained by the school system as part of the records of the student as long as the record or contested portion is maintained by the school system.
 - b. If the contested portion of the education record is disclosed by the school system, the statement of disagreement by the parents and/or eligible student shall also be disclosed.

b. Procedures

1. The hearing shall be held within a reasonable time after the school system has received the request, unless the parent or eligible student requests a delay.
2. The parent or eligible student shall be given notice of the date, place, and time of the hearing, within a reasonable time in advance of the hearing.
3. The hearing will be conducted by a person or persons appointed by the Superintendent of Schools. This person(s) shall be knowledgeable of the policies relating to confidentiality and shall not have a direct interest in the outcome of the hearing.
4. The parent or eligible student and the school system shall have the right to be represented by person(s) of their choosing at their own expense, to cross-examine witnesses, to present evidence, and to receive a written decision of the hearing.
5. The decision reached through the hearing shall be made in writing within a reasonable period of time after the hearing. The decision will be based solely

upon the evidence presented at the hearing and shall include a summary of the evidence and the reasons for the decision.

IX. WAIVER OF RIGHTS

- a. A student who is an applicant for admission to an institution of post-secondary education or is in attendance at an institution of post-secondary education may waive his or her right to inspect and review confidential letters and confidential statements of recommendations with the following limitations:
 1. The student is notified, upon request, of the names of all individuals providing the letters or statements.
 2. The letters or statements are used only for the purpose for which they were originally intended.
 3. The waiver is not required by the agency as a condition of admission to or receipt of any other service or benefit from the agency.
 4. The waiver is in writing and executed by the student, regardless of age, rather than by the parent.
- b. A waiver may be revoked with respect to any actions occurring after the revocation.
- c. Revocation of a waiver must be in writing.

X. SPECIAL CONFIDENTIALITY PROCEDURES FOR HIV-RELATED INFORMATION

- a. The following definitions shall apply to Section XII of this policy:
 1. Confidential HIV-Related Information

"Confidential HIV-related information" means any information pertaining to the protected individual or obtained pursuant to a release of confidential HIV-related information, concerning whether a person has been counseled regarding HIV infection, has been the subject of an HIV-related test, or has HIV infection, HIV-related illness or AIDS, or information which identifies or reasonably could identify a person as having one or more of such conditions, including information pertaining to such individual's partners.
 2. Health Care Provider

"Health Care Provider" means any physician, dentist, nurse, provider of services for the mentally ill or persons with mental retardation, or other person involved in providing medical, nursing, counseling, or other health care, substance abuse or mental health service, including such services associated with, or under contract to, a health maintenance organization or medical services plan.

3. Protected Individual

"Protected individual" means a person who has been counseled regarding HIV infection, is the subject of an HIV-related test or who has been diagnosed as having HIV infection, AIDS or HIV-related illness.

4. Release of confidential HIV-related information

"Release of confidential HIV-related information" means a written authorization for disclosure of confidential HIV-related information which is signed by the protected individual, if an eligible student, or a person authorized to consent to health care for the individual and which is dated and specifies to whom disclosure is authorized, the purpose for such disclosure and the time period during which the release is to be effective. A general authorization for the release of medical or other information is not a release of confidential HIV-related information, unless such authorization specifically indicates its dual purpose as a general authorization and an authorization for the release of confidential HIV-related information.

5. School Medical Personnel

"School medical personnel" means an employee of the Board who is a school nurse or the school district medical adviser.

b. Confidentiality of HIV-related Information

1. All school staff must understand that no person who obtains confidential HIV-related information regarding a protected individual may disclose or be compelled to disclose such information. Each person who has access to confidential HIV-related information is responsible for ensuring that confidential HIV-related information is protected from disclosure and/or re-disclosure.
2. Confidential HIV-related information is not public information and any disclosure, other than to persons pursuant to a legally sufficient release or to persons authorized by law to receive such information without a legally sufficient release, violates the law and Board policy.

c. Accessibility of Confidential HIV-related Information

1. No school staff member who obtains confidential HIV-related information may disclose or be compelled to disclose such information, except to the following:
 - (a) the protected individual, his/her legal guardian or a person authorized to consent to health care for such individual;
 - (b) any person who secures a release of confidential HIV-related information;
 - (c) a federal, state or local health law officer when such disclosure is mandated or authorized by federal or state law;

- (d) a health care provider or health facility when knowledge of the HIV-related information is necessary to provide appropriate care or treatment to the protected individual or when confidential HIV-related information is already recorded in a medical chart or record and a health care provider has access to such record for the purpose of providing medical care to the protected individual;
- (e). a medical examiner to assist in determining cause of death; or
- (f) any person allowed access to such information by a court order.

d. Procedures

1. If a school staff member, other than school medical personnel, is given confidential HIV-related information regarding a protected individual who is also a student from the student's legal guardian or the student, the school staff member shall attempt to secure a release of confidential HIV-related information for the sole purpose of disclosing such information to school medical personnel.
2. If a school medical personnel member is given confidential HIV-related information regarding a protected individual, who is also a student, by a student's legal guardian, or by the student, and the legal guardian or the student requests accommodations to the student's program for reasons related thereto, the school medical personnel member shall inform the legal guardian or the student, if an eligible student, that a release of confidential HIV-related information is necessary before such information may be disclosed to other educational personnel capable of assessing the need for and implementing appropriate accommodations to the student's program.
3. Any school staff member who obtains confidential HIV-related information from a source other than the protected individual or his/her legal guardian shall keep such information confidential and shall not disclose such information.
4. No school staff member may disclose confidential HIV-related information to other school staff members without first obtaining a release of confidential HIV-related information.
5. Any record containing confidential HIV-related information shall be maintained in a separate file, and shall not be subject to the provisions of this policy regarding accessibility of general student records.
6. If school medical personnel determine that the health and safety of the student and/or others would be threatened if a release of confidential HIV-related information is not obtained, the school medical personnel may seek a court order authorizing disclosure. In such cases, such confidential HIV-related information may be disclosed as set forth in and subject to any limitation of such court order.

e. Disclosures Pursuant to a Release

1. Any disclosure pursuant to a release shall be accompanied by a notice in writing stating, "This information has been disclosed to you from records whose

confidentiality is protected by state law. State law prohibits you from making any further disclosure of it without the specific written consent of the person to whom it pertains, or as otherwise permitted by said law. A general authorization for the release of medical or other information is NOT sufficient for this purpose."

2. Oral disclosures must be accompanied or followed by the above notice within ten (10) days.
3. Except for disclosures made to a federal, state or local health officer when such disclosure is mandated or authorized by federal or state law, a notation of all disclosures shall be placed in the medical record or with any HIV-related test result of a protected individual, who shall be informed of such disclosures on request.

XI. CHILD ABUSE REPORTING

Nothing in this policy shall limit a mandated reporter's responsibility to report suspected child abuse or neglect under the Board's child abuse and neglect reporting policy – 5141.4.

XII. RIGHT TO FILE A COMPLAINT

FERPA affords parents and eligible students the right to file a complaint with the U.S. Department of Education concerning alleged failures by the District to comply with the requirements of FERPA. The name and address of the agency that administers FERPA is:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, DC 20202-4605

Legal References:

State Law:

Conn. Gen. Stat. § 1-210 et seq.
Conn. Gen. Stat. § 10-15b
Conn. Gen. Stat. § 17a-28
Conn. Gen. Stat. § 17a-101k
Conn. Gen. Stat. § 19a-581 et seq.
Conn. Gen. Stat. § 46b-134
Regs. Conn. State Agencies § 10-76d-18

Office of the Public Records Administrator, Retention Schedule M8-Education Records, available at <http://www.cslib.org/retschedules.htm>

Federal Law:

Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §§ 1232g et seq.

USA Patriot Act of 2001, Pub. L. 107-56

No Child Left Behind Act of 2001, Pub. L. No. 107-110

34 CFR 99.1 - 99.67 (as amended)

34 CFR 300.560-300.576

Balancing Student Privacy and School Safety: A Guide to the Family Educational Rights and Privacy Act for Elementary and Secondary Schools, US Department of Education (October 2007), available at <http://www.ed.gov/policy/gen/guid/fpco/ferpa/safeschools/>.

Policy Adopted: 12/15/2009

Optional Addition to Confidentiality Policy: The School District may opt for dividing Student Records into the following categories and including these classifications in the Confidentiality Policy. **Note:** The following section is not required by statute, but may be included if desired by the School District.

ADMINISTRATIVE REGULATIONS REGARDING CLASSIFICATION OF STUDENT RECORDS

The School District will appoint a Custodian of Records who will ensure that student education records are kept as follows:

A. CATEGORY "A" RECORDS:

1. Category A includes official administrative records that constitute the minimum personal data necessary for the operation of the educational system.
2. Category A records should be reviewed at least every three (3) years, while the student is in school.
3. Category A records may be maintained on microfilm after six (6) years beyond graduating class date.
4. Category A records shall be maintained for at least fifty (50) years after the student leaves school or graduates.
5. Category A records shall include the following identifying data:

<u>RECORD</u>	<u>LOCATION</u>
a. Name, address, date of birth	Cumulative/Health File
b. Name of parent(s) or guardian, address, telephone #	Cumulative/Health File
c. Academic achievement (grades/transcript)	Cumulative File
d. Level of academic achievement (class standing/academic level)	Cumulative File
e. Date of high school graduation or equivalent	Cumulative File
f. Student activities and significant awards	Cumulative File
g. Records of immunizations	Cumulative/Health/Pupil Personnel File

B. CATEGORY "B" RECORDS

1. This includes verified information for the formulation of education programs for all students, but not absolutely necessary over an indefinite period of time.

2. Data in Category B must be accurate, clearly understood, and verified before becoming part of any continuing record. There should be no anonymous entries in a student's school record. Category B information should be reviewed at least every three (3) years while the student is in school.
3. Category B records may be destroyed after six (6) years following the student's graduation, or the graduation of the class to which he/she belonged.
4. Notice of a student's suspension or expulsion shall be expunged from the student's cumulative educational record if the student graduates from high school, except for notice of an expulsion based upon possession of a firearm or deadly weapon.
5. *In cases where a student is suspended or expelled for the first time, and the Administration or the Board, respectively, has shortened or waived the period of suspension or expulsion in accordance with the Board's disciplinary policy relating to first time offenses, the Administration or the Board, respectively, may choose to expunge such notice of suspension or expulsion from the student's cumulative record at the time the student completes the specified program and any other conditions imposed by the Administration/Board, rather than after graduation. Should the notice be expunged in accordance with this provision, a record of the fact that the student had been suspended or expelled shall be maintained apart from the student's cumulative record, for the limited purpose of determining whether any subsequent offenses by the student would constitute the student's first suspension or expulsions.
6. Records containing information pertaining to child abuse/neglect referrals or reports, or containing confidential HIV-related information should be kept separate from the student's cumulative folder, in confidential files.
7. Confidential HIV-related information contained in the confidential file should only be disclosed pursuant to district policy.
8. Information contained in documents related to any Department of Children and Families ("DCF") child abuse and/or neglect investigation, or any such investigation conducted by local law enforcement officials, shall be kept confidential. Such records shall only be disclosed in accordance with the Board's policy regarding Confidentiality and Access to Student Records
9. Category B records shall include the following (if applicable):

<u>RECORD</u>	<u>LOCATION</u>
a. Standardized academic achievement test scores (CTBS, CAPT, CMT)	Cumulative File
b. Standardized group aptitude and/or personality testing program results	Cumulative File
c. Diagnostic reading/math test results (not special education)	Cumulative File
d. Educational and/or vocational interest	Cumulative File

e. Speech/language and hearing evaluations (not special education)	Cumulative/Health File
f. Family background information	Cumulative File
g. Systematically gathered teacher or counselor ratings and observations	Cumulative File
h. Comprehensive health records	Cumulative/Health/Pupil Personnel File
i. Correspondence relating to the student	Cumulative/Health/Pupil Personnel File
j. Disciplinary records	Cumulative File*
k. Extracurricular activities	Cumulative File
l. Letters of Recommendation	Cumulative File
m. Parent/eligible student's signed release forms for disclosure	Cumulative/Health/Pupil Personnel File
n. Family with Service Needs Records	Cumulative File
o. Reports of Child Abuse/Neglect	CONFIDENTIAL FILE
p. Reports Containing Confidential HIV-Related Information	CONFIDENTIAL FILE

C. CATEGORY "C" RECORDS – SPECIAL EDUCATION

1. Category C includes verified information necessary for the formulation of prescriptive educational plans designed to meet the unique needs of selected students.
2. Category C information should be kept separate from the student's cumulative folder, in the Pupil Personnel File, and reviewed annually.
3. Category C records may be destroyed after six (6) years following the student's graduation, or the graduation of the class to which he/she belonged. Prior to the destruction of Category C information, notification to parents and/or eligible students via media will be made and opportunity provided to copy said records.

Category C shall include (where applicable):

<u>RECORD</u>	<u>LOCATIONS</u>
a. PPT referral forms	Pupil Personnel File
b. Reports of serious recurrent behavior patterns	Pupil Personnel File
c. Psychological evaluations and psychologists' reports or recommendations	Pupil Personnel File
d. Planning and Placement Team minutes, findings, and recommendations	Pupil Personnel File
e. Individualized education plans ("IEPs")	Pupil Personnel File
f. School social work summaries	Pupil Personnel File
g. Learning disabilities evaluations	Pupil Personnel File
h. Occupational therapy evaluations	Pupil Personnel File
i. Physical therapy evaluations	Pupil Personnel File
j. Reports of evaluations completed outside the school system (neurological, psychiatric, medical, etc.)	Pupil Personnel File
k. Section 504 Records	Pupil Personnel File
l. Consent forms	Pupil Personnel File
m. Individualized Family Service Plans ("IFSPs")	Pupil Personnel File
n. Due process records	Pupil Personnel File

D. DURATION OF STUDENT RECORDS

1. Records shall be destroyed in accordance with district policy and the Records Retention Schedule of the Public Records Administrator.
2. Records may be maintained for longer periods of time whenever valid cause for the retention of records is shown to the custodian of records.

3. Notwithstanding the applicable retention schedule, the school district shall not destroy any education record if a parent or eligible student has an outstanding request to inspect and review the education record.

E. RESPONSIBILITY FOR MAINTENANCE OF STUDENT RECORDS

1. The Director of Special Services is the Custodian of Records.
2. In addition, the following personnel are designated as the guardians of records for each of the schools:
 - a. Categories A and B: Principal at each school.
 - b. Category C: Case Manager at each school.
 - c. With respect to confidential HIV-related information, if the Principal is a recipient of an HIV-related disclosure, the Principal shall be the guardian of records. If not, whoever was the recipient of the HIV-related disclosure shall be the guardian of the records. With respect to child abuse and neglect investigation material, the Case Manager at each school shall be the guardian of the records.
3. The chief custodian of records will annually list for public inspection the names and positions of the custodians of records in each of the schools.
4. Each of the custodians of records shall supply parents, on request, a list of the types and locations of education records collected, maintained, or used within the Montville Public Schools.

Notification of Rights under FERPA for Elementary and Secondary Institutions

[NOTE: Under the procedures outlined in the policy, the following information will be disclosed on an annual basis to parents of students currently in attendance, or eligible students currently in attendance.]

The Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, et seq., affords parents and eligible students (*i.e.*, students over 18, emancipated minors, and those attending post-secondary educational institutions) certain rights with respect to the student's education records. They are:

(1) The right to inspect and review the student's education records within forty-five (45) calendar days of the day the District receives a request for access.

Parents or eligible students should submit to the school principal a written request that identifies the record(s) they wish to inspect. The principal, or designee, will make arrangements for access and notify the parents or eligible student of the time and place where the records may be inspected.

(2) The right to request the amendment of the student's education records that the parents or eligible student believe are inaccurate or misleading, or otherwise violate the student's privacy rights.

Parents or eligible students may ask the District to amend an education record that they believe is inaccurate, misleading, or otherwise violates the student's privacy rights. Parents or an eligible student should write the school principal, clearly identifying the part of the record the parents or eligible student want changed, and specify why it is inaccurate or misleading, or otherwise violates the student's privacy rights.

If the District decides not to amend the record as requested by the parents or eligible student, the District will notify the parents or eligible student of the decision and advise them of their right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the parents or eligible student when notified of the right to a hearing.

(3) 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.

One exception that permits disclosure without consent is disclosure to a school official with legitimate interests. A school official is a person employed by the District as an administrator, supervisor, instructor or support staff member (including health or medical staff and law enforcement unit personnel); a person serving on the Board of Education; a person or company with whom the District has contracted to perform a special task (such as an attorney, auditor, medical consultant, or therapist); 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. 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.

Upon request, the District will disclose a student's education record without consent to officials of another school, including other public schools, charter schools, and post-secondary institutions, in which the student seeks or intends to enroll.

(4) Unless notified in writing by a parent or eligible student to the contrary within two weeks of the date of this notice, the school district will be permitted to disclose "Directory Information" concerning a student, without the consent of a parent or eligible student. Directory Information includes information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. It includes, but is not limited to, the parent's name, address and/or e-mail address, the student's name, address, telephone number, e-mail address, photographic, computer and/or video images, date and place of birth, major field(s) of study, grade level, enrollment status (full-time; part-time), participation in school-sponsored activities or athletics, weight and height (if the student is a member of an athletic team), dates of attendance, degrees, honors and awards received, and the most recent previous school(s) attended. Directory information does not include a student's social security number, student identification number or other unique personal identifier used by the student for purposes of accessing or communicating in electronic systems unless 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.

The school district may disclose directory information about students after they are no longer in enrollment in the school district. Notwithstanding the foregoing, the district will continue to honor any valid objection to the disclosure of directory information made while a student was in attendance unless the student rescinds the objection.

An objection to the disclosure of directory information shall not prevent the school district from disclosing or requiring a student to disclose the student's name, identified or institutional email address in a class in which the student is enrolled.

The written objection to the disclosure of directory information shall be good for only one school year. School districts are legally obligated to provide military recruiters and institutions of higher learning, upon request, with the names, addresses and telephone numbers of secondary school students, unless the secondary student or the parent of the student objects to such disclosure in writing. Such objection shall be in writing and shall be effective for one school year. In all other circumstances, information designated as directory information will not be released when requested by a third party unless the release of such information is determined by the administration to be in the educational interest of the school district and is consistent with the district's obligations under both state and federal law.

(5) The right to file a complaint with the U.S. Department of Education concerning alleged failures by the District to comply with the requirements of FERPA. The name and address of the agency that administers FERPA is:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, DC 20202-4605

RELEASE OF CONFIDENTIAL HIV-RELATED INFORMATION

I hereby authorize _____, to release
[Name of individual who holds the information]

confidential HIV-related information, as defined in Conn. Gen. Stat. § 19a-581, concerning

_____ to the following personnel:
[Name of protected individual]

- _____ 1) School Nurse
- _____ 2) School Administrator(s)
 - a) _____
 - b) _____
- _____ 3) Student's Teacher(s)
 - a) _____
 - b) _____
- _____ 4) Paraprofessional(s)
- _____ 5) Director of Pupil Personnel Services
- _____ 6) Other(s)
 - a) _____
 - b) _____

This authorization shall be valid for

- _____ 1) the student's stay at _____ School.

- _____ 2) the current school year.
- _____ 3) Other _____
Specify period

I provide this information based on my responsibility to consent for the health care of _____ . I understand that such information shall be held confidential by the persons authorized here to receive such information, except as otherwise provided by law.

_____ [Name] _____ [Relationship to Student]
 _____ [Date]

TRANSFER OF CONFIDENTIAL STUDENT INFORMATION

Date: _____

Pursuant to the Family Educational Rights and Privacy Act ("FERPA"), I hereby authorize the _____ Public Schools to **release** and/or **obtain** (please circle) the following confidential records regarding my child:

Name of Child: _____
Address: _____

DOB: _____
Parent(s)/Guardian(s): _____
School: _____

(Please check all that apply)

	<u>Obtain</u>	<u>Release</u>
All Records	<input type="checkbox"/>	<input type="checkbox"/>
Cumulative File	<input type="checkbox"/>	<input type="checkbox"/>
Pupil Personnel/Special Education	<input type="checkbox"/>	<input type="checkbox"/>
Disciplinary	<input type="checkbox"/>	<input type="checkbox"/>
Health/Medical*	<input type="checkbox"/>	<input type="checkbox"/>
Other (please specify)	<input type="checkbox"/>	<input type="checkbox"/>

To/From: _____
 Name

Address: _____
 Street Town State/Zip Code

Telephone: (_____) _____ Fax: (_____) _____

I understand that the information to be disclosed is protected as an "education record" under FERPA, and that such information shall not be re-disclosed unless permitted under FERPA. I further understand that the officers, employees, and agents of any party that receives protected information under FERPA may use such information only for purposes for which the disclosure is made.

Signature of Parent/Guardian

Date

Print Name of Parent/Guardian

***If this authorization is being used to obtain Protected Health Information from a child's physician or other covered entity under HIPAA, the following section must also be completed:**

I, the undersigned, specifically authorize _____ to disclose my child's
Name of Physician

medical information, as specified above, to my child's school, _____,
Name of School

at the above address for the purposes described below (i.e. health assessment for school entry, special education evaluation etc.):

By signing below, I agree that a photocopy of this authorization will be valid as the original. This authorization will be valid for a period of one year from the date below. I understand that I may revoke this authorization at any time by notifying the physician's office in writing, but if I do, it will not have any effect on actions taken by the Physician prior to receiving such revocation.

I understand that under applicable law, the information disclosed under this authorization may be subject to further disclosure by the recipient and thus, may no longer be protected by federal privacy regulations.

I understand that my child's treatment or continued treatment with any health care provider or enrollment or eligibility for benefits with any health plan may not be conditioned upon whether or not I sign this authorization and that I may refuse to sign it.

Any information received by the school pursuant to this authorization is subject to all applicable state and federal confidentiality laws governing further use and disclosure of such information.

.....

Signature of Parent/Guardian

Date

Print Name of Parent/Guardian