



## FERPA Board Policy

### Student Records, Privacy Rights & Release of Information

Providence Hall Charter School (PHCS) complies with all state and federal laws pertaining to protecting the privacy of student records, students, and their parents/guardians and families. In general, PHCS employees are not to disclose personal information about students or their school performance unless the individual or agency requesting such information has both a legal right and a legitimate educational need to obtain the information.

#### I. PURPOSE

The purpose of this policy is to ensure that students and their parents/guardians are notified of and afforded their rights under the law, including:

- A. the right to examine and request the amendment of education records;
- B. the right to limit access to student records and/or personal information;
- C. the right to be notified of, examine, and either consent to or opt of, participating in surveys or educational activities that relate to specific protected areas; and
- D. the right to deny the release of names, addresses, and telephone numbers of high school students to military or college recruiters.

PHCS will set forth its specific process for implementing this board policy through the Administrative Procedures found below.

#### II. DEFINITIONS

##### A. Parent/Guardian

The parent or legal guardian of a student.

##### B. Eligible Student

Any student over the age of 18, or who is married, legally emancipated, or enrolled in postsecondary education programs.

#### III. PROCEDURES FOR IMPLEMENTATION

##### A. General Procedures

- 1. All documents in the student cumulative/permanent record file, which include directory information, ethnic origin, schools and years attended, subjects completed, grades and credits earned, competency evaluations, certain health records, and other documents related to the education program, are private records with the exception of certain directory information.
- 2. Student records shall be accessible to:
  - a. A school official who has the responsibility for the student's educational program, and to individuals conducting federal, state, or district audits of educational programs.
    - i. A school official typically includes a person employed by PHCS as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel) or a person serving on the Board of Trustees (Board).
    - ii. A school official also may include a volunteer, contractor, or consultant who, while not employed by PHCS, performs an institutional service or function for which PHCS would otherwise use its own employees and who is under the direct control of PHCS with respect to the use and maintenance of PII from education records, such as an attorney, auditor, medical consultant, or therapist; a parent/guardian or student volunteering to serve on an



- official committee, such as a disciplinary or grievance committee; or a parent/guardian, student, or other volunteer assisting another school official in performing his or her tasks.
- iii. A school official typically has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.
  - b. Parents/Guardians  
In the event that parents/guardians are divorced or separated, both parents/guardians shall be entitled to access their child's student records unless prohibited by court order.
  - c. Eligible students.
3. Except in accordance with state and federal law, access to student records shall not be given to individuals other than those listed in Section 2 above.
  4. Certain student information designated as "directory information" may be made public without prior written consent. However, there is no legal requirement that the school release directory information about a student. PHCS has designated the following student information as directory information:
    - a. student's name, address, and telephone listing;
    - b. participation in officially recognized activities and sports;
    - c. weight and height of members of athletic teams;
    - d. dates of enrollment at a school;
    - e. degrees and awards received;
    - f. the most recent or previous educational agency or institution attended by the student;
    - g. current grade in school and teacher(s); and
    - h. yearbook photos.
  5. Parents/guardians or students who do not want this information to be made public will be given an opportunity each year to notify the school that such information is not to be made public through the FERPA Annual Notice.
  6. A copy of the FERPA Annual Notice, which includes information on access rights, must be included in student registration packets and all student handbooks, posted on PHCS's website, and otherwise widely distributed and made available to parents/guardians and eligible students.
  7. School staff, the media, or other organizations, with the approval of the PHCS principal of the appropriate campus or designee, may take photographs of students, make audio or videotape recordings of students, or interview students for school related stories. These recordings or images may appear in school publications, the school website, on school approved social networking accounts, or in the news media.
    - a. This information and these images are generally not considered harmful or an invasion of privacy if released. However, parents/guardians or eligible students may opt out of having such information released.
    - b. Parents/guardians or eligible students should complete and submit PHCS's Media Release Form to the PHCS principal of the appropriate campus or designee if they wish to opt out of giving media consent within 20 days of completing the annual Skyward information update (Skyward Online Registration).
  8. PHCS's Military and College Recruiting Opt-Out form must also be included in high school registration packets, published in high school handbooks, posted on the PHCS's website, and otherwise widely distributed and made available to parents/guardians and eligible students.



## B. Request to Review Student Records

1. Parents/guardians of students currently enrolled in PHCS or eligible PHCS students may submit a written request to the PHCS principal of the appropriate campus or designee to review or obtain copies of their student's record.
2. Before allowing a person access to student records, PHCS personnel must verify the identity of the person making the request.
3. Directory information should not routinely be released to the public or media. PHCS employees should contact the PHCS principal of the appropriate campus or designee if they have questions about requests they may receive.
4. Access to school records under the Family Educational Rights and Privacy Act (FERPA) pertains only to official educational records, such as grades, attendance, and other information found in the cumulative file. It does not extend to classroom records held by an individual teacher, principal, counselor, or other staff.
5. PHCS is not required to prepare special reports or to recreate lost or destroyed records to satisfy a request for student records.
6. Copies of records must be provided to parents/guardians and eligible students at a reasonable cost. Inability to pay reproduction costs may not prohibit access to the record itself.
7. Requests for access to records should be granted in a timely manner; however, schools have up to 45 days to reply to a request.
8. Except for those individuals listed in Section 9 below, PHCS must maintain a record of each request for access to, and each disclosure they make from, an education record.
  - a. The record of access must include the names of parties who have requested or received information from the records, and the stated reason for the request.
  - b. A copy of the signed parent/guardian or eligible student consent to release a record must be kept in the student's cumulative file.
9. PHCS is not required to keep a log or other record of access if the request is from, or the disclosure made to, any of the following:
  - a. the parent/guardian or eligible student;
  - b. a properly designated school official for a legitimate educational purpose; or
  - c. a party seeking directory information.

## C. Denial of Release of Student Information

1. When a PHCS school receives either a parent's/guardian's or eligible student's written authorization to deny the release of student directory information, or a signed Media Release Form or Military and College Recruiting Opt-Out Form, the PHCS school will document that authorization in the student information system in a timely manner and in such a way that any PHCS employee may readily determine whether to deny disclosure of the student's directory information.
2. A request made by parents/guardians or eligible students to deny the release of student directory information will only be valid in the documented school year. Requests must be made each year if parents/guardians or eligible students wish to continue the request.
3. PHCS schools must monitor each request to deny the release of student directory information to ensure that the request is honored.
4. At the high school level, all requests for student names, addresses, and telephone listings received from military recruiters or institutions of higher education will be referred to the PHCS principal of the appropriate campus or designee for a response.



5. Before releasing student directory information, the PHCS principal of the appropriate campus or designee will verify, to the best of his or her ability, whether any documentation restricting the release of such information exists.
6. Before releasing any student information to or on any media, the applicable PHCS employee will verify, to the best of his or her ability, whether any documentation restricting the release of such information exists.

#### **D. Requests to Amend Student Records**

1. If parents/guardians or eligible students believe their student's record contains information that is inaccurate, misleading, or in violation of the student's right of privacy, he or she may request that the record be amended or corrected.
2. Parents/guardians or eligible students should submit a written request to the PHCS principal of the appropriate campus or designee seeking a review of their student's record. The requesting person should cite information they believe to be inaccurate, misleading, or a violation of their child's privacy rights and provide any documentation that supports their belief.
3. The PHCS principal of the appropriate campus or designee will review the record, gather more information, and may conference with the requesting person to clarify their concerns.
4. The PHCS principal of the appropriate campus or designee will render a decision within 20 school days of the receipt of the request.
5. If the requesting person wishes to appeal the decision, the requesting person may send a written request for a hearing to the Board of Trustees within 10 school days of the decision.
6. The Board of Trustees will conduct a hearing within 20 school days.
7. The appealing person will have the opportunity to present evidence supporting their request that the record be changed at the hearing.
8. The appealing person may be assisted or represented by one or more individuals, including their attorney; however, the appealing person must give advance notice if they intend to bring legal counsel, so that PHCS also has the opportunity to have legal representation present at the hearing.
9. The Board of Trustees will render a written decision within 20 school days. The decision will include a summary of the evidence and the basis for the decision.
10. If the decision is made to amend or correct the student's record, the amendment will be made and the appealing person will be informed of the amendment in writing.
11. If the Board of Trustees determines that the record will not be changed, the appealing person may place a statement in the student's record commenting on the contested information and/or an explanation of why he or she disagrees with the hearing officer's decision.

#### **E. Requests for Records by Subpoena or in an Emergency**

1. Before releasing student information pursuant to a subpoena, PHCS should notify parents/guardians or eligible students that their student's records have been subpoenaed so that the parents/guardians or eligible student has the opportunity to seek legal counsel, and seek to quash the subpoena.
2. PHCS may disclose student information to appropriate parties in an emergency situation if the sharing of the information is necessary to protect the health or safety of an individual.

#### **F. Prior Written Notification and Consent Required for Student Participation in Certain Activities**

1. Prior written consent from parents/guardians or eligible students must be obtained before students are asked to complete written assignments, answer questions, or



complete questionnaires or take psychological or psychiatric examinations, tests or treatments which reveal any of the following information about the student or the student's family, whether such information is personally identifiable or not:

- a. political affiliations or, except as provided for in state law, political philosophies;
  - b. mental or psychological problems;
  - c. sexual behavior, orientation, or attitudes;
  - d. illegal, anti-social, self-incriminating, or demeaning behavior;
  - e. critical appraisal of individuals with whom the student or family member has close family relationships;
  - f. religious affiliations or beliefs;
  - g. legally recognized privileged and analogous relationships, such as those with lawyers, medical personnel, or ministers; o
  - h. income, except as required by law.
2. Prior written consent under Section 1 above is required in all grades, kindergarten through grade twelve. The prohibitions included in Section 1 also apply within the curriculum and other PHCS activities unless appropriate prior written consent has been obtained.
  3. In order for the prior written consent to be valid, parents/guardians or eligible students must be given notification at least 2 weeks before any information outlined in Section 1 is solicited.
  4. This notice must include information that a copy of the educational or student survey questions to be asked is available at the PHCS school for the parents/guardians or eligible students to review.
  5. This notice must provide parents/guardians and eligible students a reasonable opportunity to obtain written information concerning:
    - a. records or information, including information about relationships, that may be examined or requested;
    - b. the means by which the records or information shall be examined or reviewed;
    - c. the means by which the information is to be obtained;
    - d. the purposes for which the records or information are needed;
    - e. the entities or persons, regardless of affiliation, who will have access to the personally identifiable information; and
    - f. a method by which parents/guardians and eligible students can grant permission to access or examine the personally identifiable information.
  6. PHCS staff will provide appropriate consent forms to parents/guardians and eligible students and will monitor student participation as per written consent.
  7. Unless otherwise agreed to by parents/guardians and eligible students and the person requesting written consent, the authorization is valid only for the activity for which it was granted.
  8. Following disclosure, parents/guardians and eligible students may waive the 2 week minimum notification period.
  9. The 2 week prior written notification requirement is not applicable in a situation which a PHCS employee reasonably believes to be an emergency, in relation to child abuse or neglect reports, or by order of the court.
  10. This policy does not limit the ability of a student to spontaneously express sentiments or opinions otherwise protected from disclosure.
  11. If a PHCS employee or agent believes that a situation exists which presents a serious threat to the well-being of a student, that PHCS employee or agent shall notify parents/guardians or eligible students without delay. If, however, the matter has



been reported to the Division of Child and Family Services (DCFS), it is the responsibility of DCFS to notify parents/guardians and eligible students. (See, Board Policy S-8, Child Abuse.)

12. These procedures outlining the need for prior written notification and consent in certain circumstances, are necessary in order for PHCS to comply with the Utah Family Educational Rights and Privacy Act (UFERPA) and the Protection of Pupil Rights Amendment (PPRA). (See, UFERPA at Utah Code Ann. §53A-13-302, and PPRA at 20 U.S.C. §1232(h); 34 C.F.R. Part 98.)

### **G. Internet Safety**

In accordance with the Children's Internet Protection Act (CIPA), PHCS I has developed an Internet safety plan that protects students from the unauthorized disclosure, use, and dissemination of their personal information on the Internet. Please refer to Student Acceptable Use Policy, and accompanying administrative procedures for more information.

### **H. Notification of Student Data Breach**

PHCS must notify parents/guardians and eligible students if there is a release of the student's personal records.

### **REFERENCES**

- Utah Code Ann. §53A-13-301 et seq.
- Utah Family Educational Rights and Privacy Act 20 U.S.C §1232(g)
- Family Educational Rights and Privacy Act, 34 CFR Part 99 20 U.S.C §1232(h)
- Protection of Pupil Rights Amendment, 34 CFR Part 98 Annual Notice
- Cornell Law School, Legal Information Institute, 34 CFR 99.7(a)(3)(iii)