

# POLICY: FAMILY EDUCATION RIGHTS AND PRIVACY ACT

J PAUL TAYLOR ACADEMY

www.jpaultayloracademy.org

Adoption date: April 19, 2017

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## STUDENT RECORDS

### I. PURPOSE

To ensure compliance with the Family Educational Rights and Privacy Act (FERPA) which is a federal law intended to protect student and family rights to keep student education records confidential, have access to those records, and to provide an opportunity to request correction of a student's education records.

### II. RIGHTS OF PARENTS/LEGAL GUARDIANS TO REVIEW AND INSPECT RECORDS

A. Parents and Legal Guardians have the right to inspect and review their student's education records. **Education records** means records directly related to a student and maintained by J. Paul Taylor Academy (JPTA). It does not include records that are in the sole possession of the maker, e.g. notes a teacher may keep that are not disclosed to others.

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B. Parents/legal guardians or eligible students who wish to inspect and review student education records shall submit a request in writing to the Executive Director.

1. When the Executive Director receives a written request for review of education records from a parent/legal guardian who has a right to inspect the records, they shall schedule the review.

2. The appointment date must be scheduled within 45 days after the request was made. The inspection and review shall be made in the office of the Executive Director or at another designated place.

3. The Executive Director or other school official competent in interpreting student records shall be present to explain the purpose of the records that are examined.

C. After the inspection, a parent or guardian may request copies of the records they inspected.

D. Prior to the release of records, parents/guardians or students will pay for duplication at a rate of .10 cents per page after the first 10 pages.

E. Parents/legal guardians or students who live farther than 50 miles from the place where the records are kept may request copies of the records without first inspecting them at JPTA.

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F. The copies shall be sent by registered mail, return receipt requested, or parents will be notified when they may be picked up from the school and will be asked to sign to release them.

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G. Prior to the release of records, parents/guardians or students will pay for the duplication fees, if any.

H. Additionally, all students of any age, when accompanied by a parent/guardian, have the right to inspect the contents of their education records, but only in the presence of the Executive Director or his/her designee.

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### III. HEARING TO CORRECT INACCURACIES

Parents/legal guardians of a student who has not yet reached the age of 18 and eligible students have the right to request an amendment of a student's education record(s) that the parent or student believes is inaccurate, misleading, or otherwise in violation of a student's privacy rights under FERPA.

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A. A parent/legal guardian or student who believes that an education record(s) record is inaccurate or misleading or otherwise violates the student's rights, may request in writing that the records be amended by the Executive Director. The request must clearly identify the part of the record sought changed and specify why it should be changed.

1. By five school days after receipt of a request to amend, the Executive Director shall decide whether to amend the records in accordance with the request.

2. If the Executive Director finds that the challenge is not justified, the Executive Director shall inform the person who made the request of the finding and shall also inform that person of the right to request in writing, a hearing.

B. Hearing to Correct Inaccuracies

1. The Governance Council Chair or designee shall serve as the hearing officer and he or she shall set a date for the hearing as soon as possible but not more than 10 school days after the request for the hearing.

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2. The hearing officer shall give the parent/legal guardian or the student at least two school days advance written notice of where and when the hearing will be held.

3. At the expense of the parents/legal guardians or student, an attorney or anyone else of their choice may assist at the hearing.

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4. The hearing officer shall render a written decision as soon as possible but within five school days after the hearing.

5. The decision shall be based only on evidence presented at the hearing and shall include a summary of this evidence and the reasons for the decisions.
  - a. If the hearing officer decides that the information in the cumulative record folder is not inaccurate or misleading or does not otherwise violate the student's rights, the parents/legal guardians or student shall be notified in writing of the decision.
  - b. At the same time, the parent or student shall be informed of the right to submit to the Executive Director, a statement of objection (of reasonable length) to the information contained in the records
  - c. Any explanation submitted by the parent/guardian or student shall be placed in the student's cumulative record folder.
  - d. The parent's objection to the education record or part thereof shall be disclosed by the school whenever the contested portion of the particular education record(s) is disclosed.

#### IV. DISCLOSURE TO PERSONS OTHER THAN PARENTS/LEGAL GUARDIANS OR STUDENTS

##### A. Persons Authorized to Have Access.

1. JPTA may disclose a student's education record(s) without prior authorization by the parent/guardian or student to the following persons:
  - a. School officials who have a legitimate educational interest in examining the information. The term "school official" includes any teacher, assigned student teacher, intern, instructional assistant, administrator, or any other professional employee of the school and members of the governance council. The Executive Director shall determine whether a school official is seeking the information to carry out an official duty and whether the specific information sought will help in carrying out that duty.
  - b. Authorized representatives of the U.S. Comptroller General, U.S. Department of Education, U.S. Department of Health and Human Services, or officials of the New Mexico Public Education Department, if they seek the information in connection with either the audit and evaluation of state or federally funded programs or the enforcement of state or federal legal requirements that relate to these programs.
  - c. Accrediting organizations that seek the information to carry out their accrediting functions.
  - d. Persons or organizations conducting studies for or on behalf of the school district or another educational agency to develop or validate predictive tests, administer student aid programs, or improve instruction. Any report released on the basis of data collected under this paragraph may not

include information that personally identifies students or their parents/legal guardians.

- e. Persons who seek the information in connection with a student's application for or receipt of financial aid.
- f. Officials of another school in which the student applies to enroll. JPTA shall forward requested education records without notifying the parents/legal guardians or student of the transfer or seeking their consent. If the parents or the eligible student so request, the principal shall furnish them an unofficial copy of the records to be transferred and give them an opportunity to correct any inaccuracies in accordance with the procedure set forth in this regulation as the Rights of Parents/Legal Guardians to Inspect Records.
- g. Persons who seek information in connection with a health or safety emergency that threatens the health or safety of the student or other persons.

B. Directory Information.

- 1. FERPA requires that JPTA, with certain exceptions, obtain a parent's written consent prior to the disclosure of personally identifiable information from a child's education records. JPTA could disclose what is referred to as "directory information" about a student without prior consent. At this time however, it is the policy of JPTA to not disclose information that would be considered directory information, but reserves the right to designate directory information in the future with notice and an opportunity to opt out of disclosure by parents.

C. Parent/Legal Guardian or Student Consent.

~~No one~~ else may have access to a student's education records except when proper written consent for the release of such records has first been obtained from the student's parent/legal guardian. Acceptable written consent must be signed and dated and must specify the record(s) to be disclosed, the purpose for disclosure, and the persons or class of persons to whom the disclosure may be made.

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- 1. Upon request, ~~JPTA~~ shall supply a copy of the records released to the parent/legal guardian or the student who gave the consent.
- 2. If the parents/legal guardians give consent for a student, the parents/legal guardians may request that a copy of the records released be given to the student even though the student is not yet 18 years of age.

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- D. Compliance with a court order: Upon receipt of a court order or subpoena, the Executive Director shall immediately send written notice to the student's parents/legal guardians or to the eligible student at their last known address that a court order or subpoena has been received.

E. Disclosure of released information. When the Executive Director discloses information a student's education record, other than directory information, to anyone other than the parent(s), the student himself, or other school officials, JPTA shall inform the person who receives the information that it may not be transferred to any other party without the written consent of the parent/guardian or eligible student.

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F. Inspection Log

1. The Executive Director shall maintain, in each cumulative record folder for which the principal is responsible, a cumulative inspection log.
2. The inspection log shall include the name and reason for inspection of each person who requests access to the student's education record(s). 3. Those persons who are not required to utilize this log are local school officials, including teachers, nurses, counselors, or other staff who have a legitimate educational interest in obtaining this information.
3. The log may be reviewed by the parents/legal guardians or student.

V. WAIVER OF RIGHTS

A. Parents/legal guardians of a student or an eligible student may waive any of their rights under this policy. A waiver of rights must be in writing, must be by the parents/legal guardians or the student and must specify the rights to be waived. A waiver is effective until revoked in writing. If a parent/legal guardian executes a waiver, the student may revoke it upon reaching 18 years of age.

VI. ~~NOTICE TO~~ PARENTS/LEGAL GUARDIANS OR STUDENTS

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In compliance with the Family Educational Rights and Privacy Act (FERPA)

- A. Annual notice of this policy of compliance with FERPA shall be included in the JPTA Student Handbook.
- B. The notice shall be available to all parents/legal guardians of students currently attending JPTA through the school's website or upon request.
- C. The notice shall specifically state the rights with respect to the student's education record that FERPA affords parents and students who are 18 years of age or older ("eligible students").
- D. The right to file a complaint with the U.S. Department of Education concerning alleged failures by the school to comply with the requirements of FERPA. The name and address of the Office that administers FERPA is:  
Family Policy Compliance Office U.S. Department of Education 400

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## VII. SPECIAL EDUCATION STUDENT RECORDS

A. In addition to the policies and regulations pertaining to confidentiality of student records, additional regulations apply to student special education records which are tentative, highly personal, but critical to programming. JPTA will follow the state and federal regulations governing the collection, storage, disclosure, and destruction of:

1. Reports of professionals who have screened, assessed, and/or evaluated the student;
2. Reports from outside agencies or specialists;
3. Anecdotal records; and
4. Individualized Education Plan (IEP) documentation.

B. JPTA shall maintain special education student records for five years after services have been provided.

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The New Mexico Administrative Code (NMAC 1.20.2.102) requires the district to...

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