



## **POLICY 5.50**

**4-E** I recommend that the Board adopt the proposed revised Policy 5.50, entitled "Student Records."

[Contact: Judith Klinek, PX 43876.]

### **Adoption**

### **CONSENT ITEM**

- This revision includes various updates and clarifications, including information on the types of student records and their location; fee schedules for copies of records; access by parents and adult students; written consent and waiver of confidentiality; and emergency disclosures.

**POLICY 5.50**

**STUDENT RECORDS**

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1. The Board and Superintendent affirm their responsibility for establishing student records procedures compliant with law, including Fla. Stat. § 1002.22, State Board of Education Rule ("SBER") 6A-1.0955, 20 U.S.C. 1232g ("FERPA"), and 34 C.F.R. Part 99. Student records are defined by federal law, Fla. Stat. § 1002.22 (2) (c) & (d) and SBER 6A-1.0955 (2)(a). Personnel who handle student records are responsible for being acquainted with those laws, which this Policy implements and supplements.
  
2. **Annual Notice of FERPA and Florida Rights as to Student Records**-- An annual notice of parents' (and adult students') rights under FERPA and Fla. Stat. § 1002.22, regarding student records, shall be published in the School District's Student and Family Handbook or other printed materials distributed to students and on the School District's Web site at [www.palmbeach.k12.fl.us/SupplementalEducationalSevices/Records.htm](http://www.palmbeach.k12.fl.us/SupplementalEducationalSevices/Records.htm). This annual notice to students' parents/guardians and adult students, shall include, but is not be limited to, the following:
  - a. Right of access, right of waiver of access, right to challenge and hearing (pursuant to School Board Policy 5.1816), and right of privacy;
  - b. Notice of the location and availability of this Policy and Policy 5.1816 on education records; ~~and~~
  - c. The designation of certain non-School District agency personnel as "other school officials" who may have a "legitimate educational interest" in student records information;
  - d. A statement that the School Board has a policy of supporting the law on rights relating to student records; the types of information and data generally entered in the student records as maintained by the School Board; and the procedures to be followed in order to exercise such rights, and
  - e. Any other matters required by law.
  
3. **Types of Student Records and Their Location** -- Student education records include the Cumulative Record folder kept for each child at the school center as stated below in subparagraph (3)(c). This folder contains personal student information, student grades, and test results. The District shall maintain student information as required by SBER 6A-1.0955 (3)(a)3 and may retain student information as set forth in SBER 6A-1.0955 (4).

- 36 a. The following education records may be maintained to facilitate instruction  
37 guidance and educational progress of students and adults enrolled in this  
38 School District. The student's information can be found at the school center  
39 and the student's cumulative record folder includes the student's legal name,  
40 proof of birth information, last known address, name of parent/guardian,  
41 location of last school attended, days absent/present, and date withdrawn and  
42 date enrolled, courses taken, record of achievement, date of graduation or  
43 withdrawal. Additional student information retained at a school center may  
44 include: Health and background data, extracurricular information, guidance  
45 information, standardized test scores, educational and career plans, honors,  
46 work experience and teacher comments, exceptional student staffing  
47 information, list of schools attended, driver education certificate,  
48 correspondence from private or community agencies, written agreements of  
49 corrections, deletions or expunctions of records and discipline records.
- 50 b. Other records that fall within the definitions in federal law, Fla. Stat. § 1002.22  
51 (2) (c) & (d), or SBER 6A-1.0955 (2)(a) are also deemed student records for  
52 purposes of confidentiality protections.
- 53 c. Records are kept by the school's records custodian and school's Principal at  
54 the last school attended or graduated from for 3 years. Records are then sent  
55 to the Records Management Department of the school district. Records  
56 Management can be contacted at (561) 434-8951. These records also appear  
57 on TERMS within the district's mainframe. School addresses are available on  
58 the District's Web site.
- 59 4. **5--Access by Parents and Adult Students.--** Parents and adult students shall be  
60 granted access to that student's records within 30 days after receipt of a request  
61 by the ~~institution~~ School District. The right to access student records by the parent  
62 or eligible student includes the right, upon request, to be shown any record or  
63 report relating to such student maintained by the School District and that, upon a  
64 reasonable request, the school shall furnish such parent or student with an  
65 explanation or interpretation of any such record or report. Copies of any list, record,  
66 or report requested under the provisions of Fla. Stat. § 1002.22(3) shall be  
67 furnished to the parent or student upon request.
- 68 a. Both parents' right of access will be honored by the school unless there is a  
69 binding legal document or court order, on file at the school, specifically  
70 denying the right to one or both parents.
- 71 b. A parent or adult student shall have the right, upon request, to be shown any  
72 record or report relating to that student and maintained by any public  
73 educational institution. However, if the record or report includes information on  
74 more than one pupil, the parent or adult student shall be entitled to receive, or

75 be informed of, only the part of the record that pertains to the student who is  
76 the subject of the request; the other pupils' information must be redacted.

77 c. A minimal fee based on the fee schedule below, may be is charged for these  
78 copies, when the School District is providing a record not usually provided a  
79 parent, is providing a large quantity of documents, is providing documentation  
80 to a non-parent either with the consent of the parent or pursuant to court order  
81 or subpoena, or is a duplication of a record previously provided. However, the  
82 fee shall not exceed the actual cost to the School District for providing the  
83 copies and cannot be charged if it would deny availability of the records to the  
84 parent. The principal will make arrangements for access and notify the parent  
85 or eligible student of the time and place where the records may be inspected.

86 d. Fee Schedule --Schedule of Fees -- When fees are authorized under section  
87 (4)(c) above, the School District shall furnish the parent a copy or certified  
88 copy of any student record upon payment of the fees prescribed below.  
89 Wherever the term "actual cost" appears in this Schedule, it shall mean "the  
90 cost of the material and supplies used to duplicate the record, but it does not  
91 include the labor cost or overhead cost associated with such duplication."

<u>TYPE OF RECORD DUPLICATED</u>	<u>FEES</u>
<u>Legal page, one side</u>	<u>\$0.15</u>
<u>Letter page, one side</u>	<u>\$0.15</u>
<u>Legal page, double-sided</u>	<u>\$0.20</u>
<u>Letter page, double-sided</u>	<u>\$0.20</u>
<u>Audio tape</u>	<u>Actual cost (approx. \$3.00 per tape)</u>
<u>Video tape</u>	<u>Actual cost (approx. \$5.00 per video)</u>
<u>Computer diskette</u>	<u>Actual cost (approx. \$0.45 per diskette)</u>
<u>Computer tape (cartridge)</u>	<u>Actual cost (approx. \$5.35 per tape)</u>
<u>CD</u>	<u>Actual cost</u>
<u>Computer tape (round)</u>	<u>Actual cost (approx. \$10.00 per tape)</u>

<u>ADDITIONAL SERVICES</u>	<u>FEES</u>
<u>Certified copy charge</u>	<u>\$1.00</u>

92 **Other Types of Copies -- For any copies not listed above, the charge shall**  
93 be limited to the actual cost of duplication.

94 5. Waiver - Parents and adult students have the right to waive the right of access to  
95 letters or statements of recommendation or evaluation for that student. Such  
96 waivers may not be required as a condition for admission to, receipt of financial aid  
97 from, or receipt of any other services or benefits from, any public agency or public  
98 educational institution in this state.

- 99 a. Such waiver shall apply to recommendations or evaluations only if:
- 100 i. the parent or student is, upon request, notified of the names of all persons  
101 submitting confidential letters or statements; and
- 102 ii. such recommendations or evaluations are used solely for the purpose for  
103 which they were specifically intended.
- 104 b. NOTE: The waiver shall include but not be limited to access to confidential  
105 letters or statements. The waiver shall not be valid unless in writing and signed  
106 by the adult student or the parent or guardian of the pupil, as appropriate. The  
107 waiver may be revoked in writing with respect to actions occurring after the  
108 revocation. The School District may not require that adult students or the  
109 parent or guardian of pupils waive any rights under Fla. Stat. § 1002.22(3).
- 110 6. **7. Disclosures and Exemption from Public Records Requests.**-- Student  
111 records are confidential and exempt from the Public Records Act. That is,  
112 personally identifiable records or reports of a student, and any personal information  
113 contained therein, are confidential and exempt from Florida's Public Records  
114 Statutes. They cannot be obtained through public records requests. Even student  
115 records that have been redacted to obscure personally-identifiable information  
116 remain confidential and exempt from the Public Records Act, pursuant to *Florida*  
117 *State University v. Hatton*, 672 So. 2d 576, 580 (Fla. 1st DCA 1996). However,  
118 when a personnel investigative report or litigation records contains any personally-  
119 identifiable student information, "all student identifying information [shall] be  
120 redacted from the report prior to it being released." *Johnson v. Deluz*, 875 So. 2d 1  
121 (Fla. 4th DCA 2004). See also Fla. AGO 2006-21.
- 122 7. **Release of Student Records** -- The School District may not permit the release of  
123 confidential student records, reports, or information without the written consent of  
124 the student's parent, or of the student himself or herself if he or she is qualified as  
125 eligible, to any individual, agency, or organization, except as allowed by law.  
126 Personally identifiable records or reports of a student may be released, however,  
127 without the consent of the student or the student's parent, to certain persons or  
128 organizations, including to school officials and other school officials with a  
129 legitimate educational interest, as well as under other conditions stated within Fla.  
130 Stat. § 1002.22 (3)(d).
- 131 8. **Written Consent** -- Where prior written consent of the adult student or the parent  
132 or guardian of a student, as appropriate, is required, written consent may be  
133 obtained by the following
- 134 a. The written consent required must be signed and dated and shall include:
- 135 i. Specification of the records to be disclosed;
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- 137            ii.     The purposes of the disclosures; and
- 138            iii.     The party or class of parties to whom a disclosure is to be made.
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- 140        b.     Personally identifiable information shall be disclosed only on the condition  
141        that the party to whom the information is disclosed shall not disclose the  
142        information to any other party without prior written consent of the adult  
143        student or the parent or guardian of the pupil, as appropriate. Personally  
144        identifiable information, which is disclosed to an institution, agency, or  
145        organization, may be used by its officers, employees and agents, but only  
146        for the purpose for which the disclosure was made.
- 147        c.     Whenever written consent is required, the School District shall presume  
148        that the adult student or the parent or guardian of the student, as  
149        appropriate, "giving consent has the authority to do so unless the School  
150        District has been provided with evidence that there is a legally binding  
151        instrument, or state law or court order governing such matters as divorce,  
152        separation, or custody which provides to the contrary.
- 153        d.     When disclosure is made through prior written consent, if a parent or  
154        eligible student so requests, the School District shall provide him or her  
155        with a copy of the records disclosed; and if the parent of a student who is  
156        not an eligible student so requests, the School District shall provide the  
157        student with a copy of the records disclosed.
- 158        e.     A record of requests and disclosures of personally identifiable information  
159        from the education records, shall be maintained and kept with the  
160        education records of the student. Such record of access shall be available  
161        only to parents and to the school official and his/her assistants who are  
162        responsible for the custody of such records. Records of requests and  
163        disclosures do not have to be maintained when the disclosure is to the  
164        adult student or to the parent or guardian of the pupil, when the disclosure  
165        is based on written consent, or when the disclosure is to School District  
166        officials or other school officials with a legitimate educational interest. The  
167        record of requests for disclosure shall include but is not limited to the  
168        following:
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- 170            i.     The parties who have requested or obtained personally identifiable  
171            information; and
- 172            ii.    The legitimate interests of the persons or entities requesting or  
173            obtaining the information.
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175    9.    **3-Access by "Other School Officials."**-- Joint agreements, which provide for the  
176    exchange of information about students, may be negotiated with the Palm Beach

177 County Health Department, the Florida Department of Health, the Health Care  
178 District of Palm Beach County, the Children's Services Council of Palm Beach  
179 County, the Florida Department of Children and Families, and other agencies in  
180 specific circumstances where agency personnel have a legitimate educational  
181 interest in students jointly served, and brought to the School Board for approval,  
182 and such agency personnel are therefore designated by the Board as "other school  
183 officials" who may have a "legitimate educational interest" in student records  
184 information, pursuant to the Board's authority under 34 C.F.R. § 99.31(a)(1); 34  
185 C.F.R. § 99.7(3)(iii); and Fla. Admin. Code R. 6A-1.0955(6)(h).

186 a. As required Fla. Stat. § 1002.22(3)(d)2, the agreement with such agencies  
187 shall specify that the agency shall impose safeguards to limit access only to  
188 those personnel "who have legitimate educational interests in the information  
189 contained in the records." Legitimate educational interests are defined as the  
190 need to review an education record in order to fulfill the employee's  
191 professional responsibilities and complete job duties in performing an official  
192 task that requires access to information in the education records of students  
193 jointly served.

194 b. Moreover, pursuant to State Board of Education Rule 6A-1.0955(6)(g), such  
195 inter-agency agreements shall allow personally-identifiable student information  
196 to be disclosed to such agencies "only on the condition that the party to whom  
197 the information is disclosed shall not disclose the information to any other  
198 party without prior written consent of the adult student or the parent or  
199 guardian of the pupil, as appropriate."

200 c. The scope and extent of legitimate educational interests that "other school  
201 officials" have will vary depending on the purpose of their need for access.  
202 For example, a yearbook vendor hired to publish a school's yearbook will have  
203 a very limited scope of student information in which he/she has legitimate  
204 educational interests: only the amount needed to complete the task under  
205 contract. By contrast, an attorney retained by the School District to defend a  
206 case would have a much greater scope of legitimate educational interests—in  
207 many cases, it could include the entire student-records file, when such access  
208 is needed to fulfill the attorney's professional responsibility. The School  
209 District has the sole authority to determine the scope of legitimate educational  
210 interests held by "other school officials."

211 d. Pursuant to the Board's authority under 34 C.F.R. § 99.31(a)(1); 34 C.F.R. §  
212 99.7(3)(iii); and Fla. Admin. Code Rule 6A-1.0955(6)(h), the School District  
213 hereby designates "other school officials" who shall be deemed to have a  
214 "legitimate educational interest" in student records information.

215 i. The Board designates such "school officials" to include an administrator,  
216 supervisor, instructor, or support staff member (including health or

217           medical staff, ~~and school police, a university student who is placed in a~~  
218           ~~school under a Professional Development School Partnership or student-~~  
219           ~~teaching internship), or a School Board member, who needs to access~~  
220           student records information in order to carry out his or her official duties  
221           or fulfill his/her professional responsibility.

222           ii. “Other school officials” shall also include pursuant to an information-  
223           sharing agreement as stated above, persons such as: the School  
224           District’s health care partners and other governmental and social  
225           agencies jointly serving students, to the extent student records  
226           information is needed to provide and/or evaluate health services and  
227           governmental/social services to students; a person or company with  
228           whom the school has contracted or partnered to perform a special task  
229           (such as a class ring or yearbook vendor under contract with the school,  
230           or an attorney, auditor, nurse, psychologist, medical consultant, or  
231           therapist under contract with the School District); ~~a university student who~~  
232           ~~is placed in a school under a Professional Development School~~  
233           ~~Partnership or student-teaching internship;~~ and a parent or student or  
234           other person serving on an official committee (such as a disciplinary or  
235           grievance committee) or assisting another school official in performing his  
236           or her tasks; or an official of a charter school of this School District (to  
237           access name/address mailing labels of School District students to the  
238           extent legitimately needed for recruiting purposes and only upon  
239           agreement not to redisclose the information to third parties.

240    10. 4. **Transfer of Records**

241           a. The school and School District will disclose education records without consent  
242           to officials of another school district in which a student seeks or intends to  
243           enroll, upon request of those officials.

244           b. Federal law requires the School District to “facilitate the transfer of disciplinary  
245           records, with respect to a suspension or expulsion . . . to any private or public  
246           elementary school or secondary school for any student who is enrolled or  
247           seeks, intends, or is instructed to enroll, on a full- or part-time basis, in the  
248           school.” 20 U.S.C. § 7165(b).

249    11. 6.—**Access by Military Recruiters and Institutions of Higher Learning.--**

250           Because the School Board does not have a directory information Policy,  
251           information that many school districts have designated as “directory information”  
252           will be released only upon written parental consent unless otherwise allowed by  
253           law. However, as part of the No Child Left Behind Act of 2001, Congress has  
254           required that school districts receiving assistance under the Elementary and  
255           Secondary Education Act of 1965 (ESEA) must give military recruiters access to  
256           certain directory information.

257 a. Federal law (20 U.S.C. § 7908(a)(1)) now requires that high schools “shall  
258 provide, on a request made by military recruiters or an institution of higher  
259 education, access to secondary school students’ names, addresses, and  
260 telephone listings.” This requirement is also found in 10 U.S.C. §  
261 503(c)(1)(A)(ii). The information will be used for military recruiting purposes  
262 and other legitimate purposes such as informing students of scholarship  
263 opportunities at institutions of higher learning. Parental consent is not required  
264 before providing the information to recruiters and institutions of colleges,  
265 although parents may “opt out.”

266 b. In accordance with those laws, military recruiters are entitled to receive the  
267 name, address, and telephone listing of high school students, unless the  
268 parent or student have advised the school that they do not want the student’s  
269 information to be disclosed without specific prior written consent.

270 c. Parents will be notified of the right to opt out in the School District's Family  
271 Student Handbook and New and Returning Student Registration form.

272 d. e.—“A secondary school student or the parent of the student may request that  
273 the student's name, address, and telephone listing . . . not be released without  
274 prior written parental consent” to military recruiters or institutions of higher  
275 learning. 20 U.S.C. § 7908(a)(2). Therefore, ~~if~~ if a high school student or  
276 parent does not want the school or the School District to disclose one or more  
277 of these categories of information (name, address, or telephone) to military  
278 recruiters or officials of institutions of higher learning without prior written  
279 consent, the parent or student must notify the school principal in writing within  
280 10 days after the ~~annual~~ distribution of the Student and Family Handbook, and  
281 ~~the principal should also forward to Student Services.~~

282 12. ~~8.~~ **Production of Student Records Pursuant to a Subpoena or Court Order.**--  
283 If a party to litigation presents a subpoena or court order for release of student  
284 records, the School District shall ensure that the “student's parent are notified of  
285 the order or subpoena in advance of compliance therewith by the educational  
286 institution or agency.” Fla. Stat. § 1002.22(3)(d)11.

287 a. As stated in 34 C.F.R. §99.31(a)(9)(ii), the purpose of this notice is to allow the  
288 student and parents to object or seek protective action. Non-party students  
289 and parents shall receive 10 days’ notice; and students and parents who are a  
290 party to the litigation shall receive 5 days’ notice.

291 b. Litigants seeking student records should bear in mind that discovery of  
292 confidential records is limited by law. The requestor of confidential records  
293 must demonstrate "extraordinary necessity" or "exceptional circumstances."  
294 See *State, Department of Highway Safety and Motor Vehicles v. Krejci Co.*  
295 *Inc.*, 570 So. 2d 1322, 1324-25 (Fla. 2d DCA 1990); *Henderson v. Perez*, 835

296 So.2d 390 (Fla. 2d DCA 2003). See also *Florida State University v. Hatton*,  
297 672 So. 2d 576, 580 (Fla. 1st DCA 1996) (requiring a balancing test to  
298 determine whether the requestors have a legitimate need that outweighs the  
299 students' express, substantial statutory privacy rights in the confidentiality of  
300 student information.)

301 c. Moreover, if the court allows discovery of confidential records, it should take  
302 "all precaution to ensure the confidentiality of the records." *Krejci Co. Inc.*, 570  
303 So. 2d at 1325. For example, Fla. Admin. Code R. 6A-1.0955(6)(g)2  
304 delineates that: "Personally identifiable information shall be disclosed only on  
305 the condition that the party to whom the information is disclosed shall not  
306 disclose the information to any other party with out prior written consent of the  
307 adult student or the parent or guardian of the pupil, as appropriate." Other  
308 appropriate means of safeguarding the information would be: clearing the  
309 courtroom if documents are allowed to be submitted at trial; instructing jurors  
310 not to redisclose the information, and sealing such records from public access  
311 in court files.

312 13. **Emergency Disclosure -- The School District may disclose personally identifiable**  
313 **student information in health and safety emergencies determined based upon, but**  
314 **not limited to, the following factors.**

315 a. The seriousness of the threat to the health or safety of the pupil or adult  
316 student or other individuals;

317 b. The need for the information to meet the emergency;

318 c. Whether the parties to whom the information is disclosed are in a position to  
319 deal with the emergency; and

320 d. The extent to which time is of the essence in dealing with the emergency.

321 STATUTORY AUTHORITY: Fla. Stat. §§ 1001.32(2); 1001.41(2); 1001.43(8);  
322 1002.22(4)

323 LAWS IMPLEMENTED: Fla. Stat. § 1002.22; 20 U.S.C. § 1232g; 34 C.F.R. Part 99

324 RULE SUPPLEMENTED: State Board of Education Rule 6A-1.0955

325 HISTORY: 2/18/72; 2/28/72; 1/18/78; 4/6/83; 8/2/2004;    /    2008

Legal Signoff:

The Legal Department has reviewed proposed Policy 5.50 and finds it legally sufficient for adoption by the Board.

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Attorney

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Date