

### POLICY 5.51

**5-A** I recommend the Board approve the proposed Policy 5.51, to be entitled "Student Directory Information."

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#### Further Development

#### CONSENT ITEM

- The first development reading of this proposed Policy was on June 2, 2003. To clarify issues raised at that meeting, the Legal Department recommended having another development reading. A summary of the issues is included in the Appendix.
- This new Policy supplements the existing Policy 5.50, "Student Records." It also incorporates and supersedes Directive 5.05(12).
- The proposed Policy is needed to comply with Fla. Stat. § 1002.22 and (3)(d) (flush-left language following subparagraph (3)13) and recent amendments to the federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, as amended by the No Child Left Behind Act of 2001.
- The Board can choose to classify any (or none) of the following data categories as student directory information: "the student's name, address, telephone number if it is a listed number, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended by the student." Fla. Stat. § 1002.22(2)(b).
- Currently, Directive 5.05(12)(a) lists "name, birthdate, school address, home address, [listed] telephone number and dates of attendance" as directory information. However, as stated in the Florida Board of Education DPS Memorandum 03-042, "before making any . . . disclosure [of directory information], public notice must be given relating this intent and the type of information to be released, and the district must have a written policy in place establishing such intentions."
- After designating certain statutory categories of information as "directory information" in a Policy, the District will still need to keep those categories confidential unless and until the District also does all of the following:
  - a) gives specific public notice of such categories (at least once annually);
  - b) gives parents a reasonable time to opt out after the notice; and
  - c) "normally" publishes such information "for the *purpose of release to the public in general*." See FLA. STAT. § 1001.22(3)(c), (d); and SBER 6A-1.0955(6)(j).
- Any Board member with a technical question about this Policy is invited to confer with the contact persons or the Chief Counsel.

## POLICY 5.51

### STUDENT DIRECTORY INFORMATION

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3 1. **Definition.**-- "Student directory information" is generally defined as "information  
4 contained in an education record of a student that would not generally be  
5 considered harmful or an invasion of privacy if disclosed," 34 C.F.R. § 99.3, and  
6 therefore, directory information relating to the student body in general or a portion  
7 thereof may be released to the general public **if it is normally published for the**  
8 **purpose of release to the public in general,** as stated in Fla. Stat. §  
9 1012.22(3)(d), and if all the requirements of the other sections of this Policy have  
10 been fulfilled.
- 11 2. The primary purpose of directory information is to allow the school or the District to  
12 include certain limited student information in publications without having the  
13 administrative burden of obtaining affirmative consent. Some examples may  
14 include, but are not limited to: the **annual yearbook**; a **graduation program**; a  
15 **playbill** showing a student's role in a drama production; the **honor roll** or other  
16 recognition lists; **sports activity sheets** showing weight and height of team  
17 members; and a **newsletter article** about a student who received an award.  
18 These directory documents are intended for publication to the school community or  
19 general public, *as opposed to being compiled for release to a lone individual.*
- 20 3. **Designated Categories of Information**
  - 21 a. The Board designates the following categories of data as student directory  
22 information as allowed by Fla. Stat. § 1002.22(2)(b): "the student's name,  
23 address, telephone number if it is a listed number, date and place of birth,  
24 major field of study [i.e. grade level], participation in officially recognized  
25 activities and sports, weight and height of members of athletic teams, dates of  
26 attendance, degrees and awards received, and the most recent previous  
27 educational agency or institution attended by the student."
  - 28 b. Consistent with DOE General Counsel's Opinion 01-19 and the Legislature's  
29 declining to enact CS/SB 192 (2001) (which would have made student  
30 photographs and e-mail addresses directory information), the District shall not  
31 classify student's photographs or e-mail addresses as directory information.  
32 Therefore, specific consent shall be required before disclosure of those  
33 categories of student information, **including yearbook photos**, pursuant to  
34 Fla. Stat. § 1002.22(3)(d).

35 **4. Annual Notice and Opt-Out Period.**-- As required by Fla. Stat. § 1002.22(3)(d),  
36 the District "shall give public notice of the categories of information that it has  
37 designated as directory information with respect to all students attending the  
38 institution and shall allow a reasonable period of time after such notice has been  
39 given for a parent or student to inform the institution in writing that any or all of the  
40 information designated should not be released."

41 a. Such annual notice shall be provided in the Student and Family Handbook.  
42 The notice shall inform parents and students of their right to opt out of any or  
43 all categories of directory information about the student by notifying the  
44 Principal in writing within 10 days of the annual distribution of the Student and  
45 Family Handbook.

46 b. Although Title IV, Part A, § 9528, of the No Child Left Behind Act of 2001  
47 requires the District to provide secondary students' names, addresses, and  
48 telephone numbers to military recruiters and institutions of higher education  
49 upon request, the annual notice shall inform students and parents of their  
50 right, under that law, to request that the student's name, address, and  
51 telephone listing not be released, without specific prior parental consent, to  
52 military recruiters and institutions of higher learning.

53 c. A list of graduating seniors and their addresses will be prepared annually by  
54 the Division of Information Technology to be used where logic and reason  
55 allow that these be provided. This list is for internal School District purposes  
56 only and shall not be considered, treated, or released as either directory  
57 information or a public record.

58 **5. Handling Requests for Directory Information.**-- Requests for lists of students,  
59 their addresses or listed telephone numbers, or other personally identifiable  
60 directory information shall be referred to the Superintendent's designee. The  
61 Superintendent's designee will serve as the central clearinghouse for screening  
62 requests for lists of students, which may be provided only if they have been  
63 normally published for the purpose of release to the general public, and only  
64 including the information of students who have not opted out. Regarding those  
65 who have opted out, the information shall not be released as directory information  
66 absent specific student/parent permission on a case-by-case basis.

67 **6. Once a parent, guardian, or student has opted out from release of any particular**  
68 category, that opt-out request shall be honored from that time forward during the  
69 current school year, unless and until the written request is modified by a contrary

70 written request for a specific instance or in general. A student will not be allowed to  
71 override a parent or guardian's written request (that was submitted while the  
72 student was a minor) unless the student has reached the age of majority.

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74 STATUTORY AUTHORITY: §§ 1001.41(2); 1002.22, Fla. Stat.

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76 LAW IMPLEMENTED: §§ 1001.43(6); 1002.22(2)(b), (3)(d), Fla. Stat.; Title IV,  
77 Part A, § 9528 of the No Child Left Behind Act of 2001.

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79 HISTORY: \_\_\_\_\_ / \_\_\_\_\_ / 03

Legal Signoff:

The Legal Department has reviewed proposed Policy 5.51 and finds it legally sufficient for development by the Board.

\_\_\_\_\_  
Attorney

\_\_\_\_\_  
Date

## APPENDIX

### COMMON QUESTIONS ABOUT DIRECTORY INFORMATION

#### A. Why do state and federal laws allow designation of directory information?

The primary purpose of designating student directory information, under federal and state law, is to allow schools or the District to include a *limited set of information* about students in school publications or District publications, without having to obtain the express written consent of the parent or guardian.

Administrative Directive 5.05(12) currently allows use of directory information as permitted by federal law and FLA. STAT. § 1002.22. The proposed Policy 5.51 simply adopts current practice into an official School Board Policy, which is necessary to comply with the Administrative Procedure Act. Without a Board Policy that allows publication of directory information, the District could be acting without valid authority each time it publishes any student information without the specific consent of the parent/guardian.

#### B. What are some examples of publications that can use student directory information?

Some examples of school or District publications that commonly use student directory information may include, but are not limited to:

- the annual yearbook
- graduation or talent show programs
- a playbill, showing the student's name and role in a drama production
- the honor roll or other recognition lists
- a school newspaper article about students who won an award
- sports activity sheets, such as for wrestling, showing weight and height of team members
- articles in School District publications about students deserving special recognition or who have received awards

#### C. What kinds of directory information can be included in such publications?

Florida Statutes § 1002.22(2)(b) allows the Board to adopt a Policy designating any or all of the following categories of data as student directory information that can appear, without express written consent, in school or District publications:

- name
- address
- telephone number if it is a listed number
- date and place of birth
- major field of study (e.g., grade level)
- participation in officially recognized activities and sports

- weight and height of members of athletic teams
- dates of attendance
- degrees and awards received
- the most recent previous school attended by the student

Although parents must be given an opportunity to opt-out from such information being included in publications, the law recognizes that most parents would not object to such innocuous data being included in publications: this information “would not generally be considered harmful or an invasion of privacy if disclosed” in a publication. 34 C.F.R. § 99.3 (regulation implementing the federal law on privacy of student education records).

**D. How easy is it for parents to opt-out of having their children’s directory information included in publications?**

The attached “*Annual Notice For Student Directory Information*” will be published in the Student and Family Handbook. It states: “If you do not want the school or the District to disclose one or more of these categories of directory information from your child’s education records without your prior written consent, you must notify the school principal in writing within 10 days after the distribution of this Student and Family Handbook.” The proposed Policy contains a similar provision in section (3)(a).

**E. How should use of photographs be handled?**

The attached “*Annual Notice For Student Directory Information*” will be published in the Student and Family Handbook, which is distributed to parents and is posted on the District’s Web site. It states: “Please Note: Although photographs are not designated as directory information, annual yearbooks and other publications may customarily include student photographs, and therefore *parents must sign and submit the following form to authorize publication of photographs in annual yearbooks and other school publications.*” (See the attached photo/video consent form.)

**F. Can someone who would normally not have access to student records obtain information, by telephone, from a student’s file if the data falls within the categories designated as “directory information”?**

No; directory information is not to be disseminated by telephone. Florida law makes it very clear that “no educational institution shall release, to any individual, agency, or organization . . . directory information relating to the student body in general or a portion thereof unless it is normally published for the purpose of release to the public in general.” FLA. STAT. § 1012.22(3)(d). In other words, if the school or District has included the information in a publication, the requestor may obtain the publication through a public

records request. On the other hand, if the school or District has not included the information in a publication, written parental consent would be needed to authorize release.

**G. Can the Board Designate Directory Information as “Opt-In” Rather than “Opt-Out”?**

Florida law clearly contemplates that school boards may designate certain innocuous categories of data as student directory information, and that parents must be notified of those categories and be given a reasonable time to *opt-out* (i.e., to request that the data not be included in any directory-type publications or treated as directory information).

We believe the law would allow the Board to require opting-in through written consent (since this plan would simply protect student privacy). However, this approach would have the practical effect having *no* directory information (since express written consent would be needed as for any other student record information). Instead of processing a few hundred opt-out requests, school officials would be required to obtain consents from the parents of some 160,000 students. If schools had to obtain the opt-in written consent of parents before any publication of a student’s name (or other limited information) in a publication such as a school newsletter article, annual yearbook, or graduation program, schools would have a prohibitive administrative burden of tracking which parents had given permission. Moreover, the burden on parents would be prohibitive; perhaps relatively few would take the time and effort to provide the consent forms, even if they have no objection to publishing the information, and certain school or District publications could become very difficult to prepare. We advise against an “opt-in” alternative.