


HOWARD GARDNER MULTIPLE INTELLIGENCE CHARTER SCHOOL

	Special Education	SP21-0101
	Exceptional Student Record Policy	<p>ADOPTED DATE: January 19, 2021</p> <p>REVIEWED DATE: January 16, 2024</p> <p>REVISED DATE:</p>

Overview

The Board of Trustees at the Howard Gardner Multiple Intelligence Charter School (“Charter School”) recognizes the need to protect the privacy rights of Charter School’s exceptional students and their parents. The classification, collection, use, maintenance and dissemination of any information about a student or his or her family raises issues regarding the privacy of that information. Thus, the Charter School shall adhere to the provisions of federal and state laws pertaining to those privacy rights, including but not limited to the Family Educational Rights and Privacy Act of 1974 (“FERPA”), as amended, and its accompanying regulations; the applicable provisions of the Individuals with Disabilities Education Improvement Act (2004) (“IDEA”), as amended, and its implementing regulations; the applicable provisions of the Pennsylvania Public School Code of 1949, and the applicable provisions of Chapters 12 and 711 of the Pennsylvania Administrative Code containing the regulations of the Pennsylvania State Board of Education and other provisions applicable to charter schools. The Chief Executive Officer (“CEO”) or his/her designee is designated as the administrator responsible for the maintenance, access, use and release of exceptional student records. For additional information, reference the Charter School’s FERPA policy, concerning the Federal law that protects the privacy of student education records.

Health Insurance Portability and Accountability (HIPPA) is a federal statute, distinct from FERPA, that protects the privacy of “individually identifiable health information” but specifically excludes education records covered by FERPA. For mor information concerning HIPPA, see 45 CFR sections 160, 162, and 164.

The CEO or his/her designee shall be responsible for the implementation of this policy.

CONSENT FOR DISCLOSURE OF PERSONALLY IDENTIFIABLE INFORMATION (34 CFR §300.622)

Unless the information is contained in education records, and the disclosure is authorized without parental/legal guardian consent under FERPA, the student’s parent’s/legal guardian’s consent (or student’s consent if the student has reached the age of majority and is otherwise eligible to have record rights transferred to him or her) must be obtained before personally identifiable information about that student is disclosed to parties other than officials of the Charter School. Except under the circumstances specified below, parental consent is not required before personally identifiable information is released to officials of the Charter School for purposes of meeting a requirement of Part B of IDEA 2004.

A parent’s (legal guardian’s) consent, or consent of an eligible child who has reached the age of majority under State law, must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services.

ACCESS TO CONFIDENTIAL INFORMATION RELATED TO STUDENT (34 CFR §300.611)

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1. Related to the confidentiality of information, the following definitions apply:

- a. **Destruction** means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.
- b. **Education records** means the type of records covered under the definition of “education records” in 34 CFR Part 99 (the regulations implementing the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. §1232g (FERPA)).
- c. **Participating agency** means any charter school, agency or institution that collects, maintains, or uses personally identifiable information, or from which information is obtained, under Part B of the IDEA.
- d. **Personally identifiable (34 CFR §300.32)** means information that has:
 - 1) A child’s name, a parent’s name, or the name of another family member;
 - 2) A child’s address;
 - 3) A personal identifier, such as a child’s social security number or student number; **or**
 - 4) A list of personal characteristics or other information that would make it possible to identify a child with reasonable certainty.

2. Access Rights (34 CFR §300.613)

a. Parent Access

The Charter School must permit a parent to inspect and review any education records relating to the parent’s child that are collected, maintained, or used by the charter school under Part B of the IDEA. The Charter School must comply with a parent’s request to inspect and review any education records on the parent’s child without unnecessary delay or before any meeting regarding an Individualized Education Program (IEP), or any impartial due process hearing (including a resolution meeting or a hearing regarding discipline), and in no case more than 45 calendar days after the parent has made a request.

A Parent’s right to inspect and review education records includes:

- 1) A parent’s right to a response from the Charter School to reasonable requests for explanations and interpretations of the records;
- 2) A parent’s right to request that the Charter School provide copies of the records if the parent cannot effectively inspect and review the records unless the parent receives those copies; **and**
- 3) A parent’s right to have a representative inspect and review the records. In addition,
 - a) The Charter School may presume that a parent has authority to inspect and review records relating to the parent’s child unless advised that the parent does not have the authority under applicable State law governing such matters as guardianship, or separation and divorce.
 - b) If any education record includes information on more than one child, the parents of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information.
 - c) On request, each charter school must provide the parent with a list of the types and locations of education records collected, maintained, or used by the Charter School.

b. Other Authorized Access (34 CFR §300.614)

the Charter School must keep a record of parties obtaining access to education records collected, maintained, or used under Part B of the IDEA 2004 (except access by parents and authorized employees of the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

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2. Fees

The Charter School may charge a fee for copies of records (34 CFR §300.617) that are made for a parent under Part B of the IDEA, if the fee does not effectively prevent the parent from exercising the right to inspect and review those records.

The Charter School may not charge a fee to search for or to retrieve information under Part B of IDEA 2004.

3. Amendment of Records at Parent's Request (34 CFR §300.618)

If a parent believes that information in the education records regarding the parent's child collected, maintained, or used under Part B of IDEA 2004 is inaccurate, misleading, or violates the privacy or other rights of the child, the parent may request the charter school that maintains the information to change the information.

The Charter School must decide whether to change the information in accordance with the parent's request within a reasonable period of time of receipt of the parent's request.

If the Charter School refuses to change the information in accordance with the parent's request, it must inform the parent of the refusal and advise the parent of the right to a hearing for this purpose.

4. Opportunity for a Records Hearing (34 CFR §300.619)

The Charter School must, on request, provide the parent an opportunity for a hearing to challenge information in education records regarding the parent's child to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child.

a. Hearing Procedures (34 CFR §300.621)

A hearing to challenge information in education records must be conducted according to the following procedures for such hearings under the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. Section 1233g (FERPA):

- 1) The educational agency or institution shall hold the hearing within a reasonable time after it has received the request for the hearing from the parent or eligible student.
- 2) The educational agency or institution shall give the parent or eligible student notice of the date, time, and place, reasonably in advance of the hearing.
- 3) The hearing may be conducted by any individual, including an official of the educational agency or institution who does not have a direct interest in the outcome of the hearing.
- 4) The educational agency or institution shall give the parent or eligible student a full and fair opportunity to present evidence to challenge the content of the student's education records on the grounds that the information contained in the education records is inaccurate, misleading, or in violation of the privacy rights of the student. The parent or eligible student may, at their own expense, be assisted or represented by one or more individuals of his or her own choice, including an attorney.
- 5) The educational agency or institution shall make its decision in writing within a reasonable period of time after the hearing.
- 6) The decision must be based solely on the evidence presented at the hearing and must include a summary of the evidence and the reasons for the decision.

b. Result of Hearing (34 CFR §300.620)

If, as a result of the hearing, the Charter School decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, it must change the information accordingly and inform the parent in writing. If, as a result of the hearing, the Charter School decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the parent's child, the parent may place in the records that it maintains on the parent's child

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a statement commenting on the information or providing any reasons the parent disagrees with the decision of the participating agency.

Such an explanation placed in the records of the parent's child must:

1. Be maintained by the Charter School as part of the records of the child as long as the record or contested portion is maintained by the Charter School; **and**
2. If the Charter School discloses the records of the child or the challenged portion to any party, the explanation must also be disclosed to that party.

c. Safeguards (34 CFR §300.623)

Each charter school must protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.

The CEO or his/her designee must assume responsibility for ensuring the confidentiality of any personally identifiable information.

All persons collecting or using personally identifiable information must receive training or instruction regarding Pennsylvania's policies and procedures regarding confidentiality under Part B of IDEA 2004 and FERPA.

Each charter school must maintain, for public inspection, a current listing of the names and positions of those employees within the agency who have access to personally identifiable information.

Persons who have access to personally identifiable information at the Charter School will include members of the child's IEP team, the Charter School's records custodian and the CEO or his/her designee. Any individual accessing a student's personally identifiable information must sign a sheet evidencing review of the records. The sheet will be maintained with the student records.

5. Destruction of Information (34 CFR §300.624)

The Charter School must inform the parent when personally identifiable information collected, maintained, or used is no longer needed to provide educational services to the parent's child, and the information must be destroyed at the parent's request.

However, a permanent record of the child's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

The Charter School must comply with record maintenance requirements in accordance with FERPA and Chapters 711 and 12 of Title 22 of the Pennsylvania Code, together with directives of the Pennsylvania Department of Education (PDE) with regard to record maintenance. Special Education records must also be maintained in accordance with PDE 6-year cyclical monitoring period guidelines established by PDE.

TRANSFER OF RECORDS BETWEEN SCHOOLS

When the education records for a child with a disability are transferred from a public agency, private school, approved private school or private agency, to a charter school, the public agency, private school, approved private school or private agency from which the child transferred shall forward all of the child's educational records, including the most recent IEP, within 10 days after the public agency, private

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school, approved private school or private agency is notified in writing that the child is enrolled in a charter school.

When the educational records for a child with a disability are transferred to a public agency, private school approved private school or private agency from a charter school, the charter school shall forward the child's educational records, including the most recent IEP, within 10 school days after the charter school is notified in writing that the child is enrolled at another public agency, private school, approved private school or private agency. Reasonable guidelines per PDE should be honored within ten (10) business days, or such other timeframe per PDE.

REFERRAL TO AND ACTION BY LAW ENFORCEMENT AND JUDICIAL AUTHORITIES AND RECORD TRANSMITTAL

The Charter School reporting a crime committed by a child with a disability must ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to whom the crime is reported. A charter school reporting a crime may transmit copies of the child's special education and disciplinary records only to the extent that the transmission is permitted by FERPA.

ELECTRONIC TRANSMISSIONS

The Charter School will ensure that any records kept or transmitted electronically are subject to high standards of electronic security. The Charter School uses electronic firewalls and encryption systems, and monitors and tests the system regularly to ensure its stability and integrity. All the Charter School electronic mail correspondence shall include the following:

CONFIDENTIALITY NOTICE

The information in this transmission is intended only for the individual or entity named above. It may be legally privileged and confidential. If you have received this information in error, notify us immediately by calling the Charter School at 570.941.4100. Send the original transmission to us by mail. Return postage is guaranteed. If the reader of this message is not the intended recipient, you are hereby notified that any disclosure, dissemination, distribution or copying of this communication or its contents is strictly prohibited.

ADMINISTRATIVE PROCEDURES:

The CEO or his/her designee shall be responsible for ensuring that the education records, confidentiality policies and procedures established under IDEA 2004 (relating to confidentiality of education records of exceptional students) are enforced and administered. This official shall:

Notify parents on an annual basis of the policies and procedures regarding exceptional student education records and the rights of parents under both Federal and State Law concerning the confidentiality of education records of exceptional students;

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Develop a system of safeguards which will protect the confidentiality of personally identifiable information at the point of collection, storage, use, maintenance, release and destruction;

Provide training and instruction in the implementation of records policy requirements for all educational agency personnel who collect or use exceptional student personally identifiable information; and

Maintain a current listing of the names and positions of those agents and employees of the Charter School who are authorized by the school to have access to personally identifiable information of exceptional students.

An education record shall not be destroyed by the Charter School if there is an outstanding request to inspect and review it by the parent or eligible student.

The Charter School will inform the parents of an exceptional student when personally identifiable information collected, maintained, or used in the records of the exceptional student is no longer needed to provide educational services to the exceptional student. (See Student Educational Records Policy for more information)

Upon request of the parents, information no longer relevant to and necessary for the provision of educational services to the exceptional student must be destroyed by the Charter School. However, a written record of an exceptional student's name, address, phone numbers, grades, attendance records, classes attended, grade level completed, and year completed will be maintained for six (6) years beyond the school year during which the student to whom such data pertains attains age twenty-one (21). All stored data must be preservable, too.

Prior to the destruction of the information referred to in the above paragraph, the Charter School shall send written notification to the parents which shall inform the parents of their right to receive a copy of the material to be destroyed. The Charter School shall not destroy education records containing information necessary for the education of an exceptional student who is currently enrolled.

Except as is stated in the above paragraph of this subsection, nothing in this section shall be construed to mean that the Charter School is required to destroy education records and the Charter School Administration is directed to implement any procedures necessary to maintain student records consistent with this policy and applicable state and federal laws and regulations.

TO THE EXTENT THAT ANYTHING IN THIS POLICY COULD BE CONSTRUED TO CONFLICT WITH THE SCHOOL'S CHARTER OR APPLICABLE STATE AND/OR FEDERAL LAWS, THE APPLICABLE STATE AND/OR FEDERAL LAWS AND/OR CHARTER CONTROL.