

Ki Charter Academy

Local FERPA Procedures

PREFACE

The federal Family Educational Rights and Privacy Act (“FERPA”)ⁱ is the law that sets forth basic privacy requirements for personally identifiable information contained in educational records created or maintained by schools. These regulations contain the specific provisions with which schools must comply. All requirements of FERPA are specifically incorporated into the Individuals with Disabilities Education Act (“IDEA”)ⁱⁱ, the special education regulations adopted by the United States Department of Educationⁱⁱⁱ, and the Texas Education Code^{iv}. It is the policy of Ki Charter Academy that all employees shall comply with the requirements of FERPA.

DEFINITIONS

Education Records

Records that are (1) directly related to a student, and (2) maintained by an educational agency or a party acting on behalf of the educational agency. See also 34 C.F.R. §300.611(b). Records means any information recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche. *The term educational records does not include records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except as a temporary substitute for the maker of the record.*

Directly Related to a Student

Records which contains “personally identifiable information” regarding a student.

Personally Identifiable

Personally identifiable refers to information about a single individual and includes:

1. Name;
2. Name of parents or other family members;
3. Address;
4. Personal identifier (e.g., social security number, student number, or

biometric record);

5. Other indirect identifiers (date of birth, place of birth, mother’s maiden name, race, ethnicity);
6. Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community to identify the student with reasonable certainty;
7. Information requested by a person who the school reasonably believes knows the identity of the student to whom the record relates.

Maintained

Documents that are kept by a school district employee or agent. Schools are responsible for maintaining individual student records for all special education students.

Disclosure

Disclosure means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record.

Destruction

Destruction means physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.

SPECIAL EDUCATION RECORDS

Ki Charter Academy is legally mandated to create and maintain records for students eligible to receive special education services. These records are required to ensure that students receive a free appropriate public education and to demonstrate compliance with federal and state special education laws.

Creation of Video or Audio Records

Prior authorization from the Ki Charter Academy Director of Special Education is required prior to making any video or audio records which will or may be considered special education student record.

Maintenance of Cumulative Records

Employees and service providers shall maintain cumulative records for each student from entrance into the school until withdrawal or graduation. The cumulative records shall be maintained in the Electronic Student Records System (“TReX”). Records for non-enrolled students shall be retained for a period of time required by law. No permanent records may be destroyed without explicit permission from the Superintendent.

Maintenance of Special

Employees and service providers shall maintain special education records

Education Records

relating to each student currently receiving special education placement and services from Ki Charter School and shall maintain special education records related to each student who are no longer receiving special education placement and services, but whose maintenance of records are required by law or otherwise needed.

Special education records shall be maintained in the eligibility folder for each student receiving special education services and those students who were screened or evaluated for special education and did not qualify. Employees and service providers shall refrain from maintaining special education records in any other manner, such as file cabinets, office drawers, or in the student's cumulative file^v.

Regardless of the location, employees and service providers shall maintain special education records in accordance with FERPA, IDEA, and the Texas Administrative Code requirements, including timely saving or otherwise maintaining the records, and ensuring that only authorized individuals may access the records.

At a minimum, employees and service providers shall maintain the following special education records:

- Consent for Full and Individual Initial Evaluation
- Consent for/Notice of Reevaluation
- Evaluation/Assessment Reports
- Eligibility Data Worksheet/Forms/Reports
- Meeting Notices
- Individualized Education Programs ("IEPs")
- Prior Written Notices
- Screening Reports or Outcome Findings
- Extended School Year ("ESY") Services
- Functional Behavior Assessment ("FBA")
- Behavior Intervention Plans ("BIP") and Behavior Support Plans ("BSP")
- Manifestation Determination Review ("MDR")
- Communication Plan
- Autism and other Supplements
- Agreement to Excuse and Dismiss Attendance at IEP Meeting
- Authorization for Exchange of Information
- Authorization for the Release of Health and/or Educational Information
- Parent's written comments to an IEP
- Documents/justification for Special School Placement
- Assessment protocols which contain personally identifiable personal

information

- Progress or therapy notes and daily logs
- Copies of evaluative forms from outside professionals or service providers which are completed by school personnel
- Records from prior schools, outside providers or professionals, government agencies, and records from the residential care program
- Video or audio recordings, emails, text messages, and any correspondence or record meeting the definition of a special education record

ACCESS TO RECORDS

Access by Employees

Employees and service providers will comply with Ki Charter Academy's Policy 400.060. Only school officials with a legitimate educational interest in the information may be allowed access to information protected by FERPA.

School officials include:

- An employee, Board member, or agent of Ki Charter Academy, including an attorney, a consultant, a contractor, a school resource officer, and any outside service provider used by the Ki Charter Academy to perform institutional services.
- An employee of a cooperative of which Ki Charter Academy is a member or of a facility with which Ki Charter Academy contracts for placement or services for students with disabilities.
- A contractor retained by a cooperative of which Ki Charter Academy is a member or by a facility with which Ki Charter Academy contracts for placement of students with disabilities.

All employees and service providers who access student records must document/log which student's records were accessed and the reason for accessing the student's records.

Disclosure, including but not limited to verbal disclosures, which violate federal or state law, must be immediately reported to the campus administrator.

Access by Parents or Adult Students

Ki Charter Academy's Custodian of Records, Administration, and legal counsel are solely responsible for making a student's records available to the student's parents, adult student, or other agency or official as permitted by

law. Disclosure of records by other employees or service providers is prohibited.

Employees and service providers who receive a request to access records from any person or agency shall immediately forward the request, whether verbal or written, to the Custodian of Records.

**Notice of Right to Review
Records**

Ki Charter Academy is responsible for notifying the parent and eligible student of their rights to view the student’s records.

Health and Safety Emergencies

If an employee or service provider determines that there is an articulable or significant threat to the health or safety of a student or other individuals, it may disclose information from education records to any person whose knowledge of the information is necessary to protect the health and safety of the student or individuals. Such emergencies may include, but are not limited to, a reasonable belief that a student is at risk of attempting suicide, exhibiting or threatening physical self-harm, harming others, or being harmed by others.

Child Abuse Investigation

Employees and service providers may provide personally identifiable information contained in a student’s education records to Texas Department of Family and Protective Services – Child Protective Services or law enforcement officer in conjunction with a child abuse investigation without obtaining parental consent^{vi}.

**Judicial Orders and Lawful
Subpoenas**

Disclosure of personally identifiable information to law enforcement officer including the U.S. Attorney General^{vii} for reasons other than health and safety emergencies or child abuse investigations require a judicial order or subpoena.

Employees who receive a judicial order or subpoena should immediately notify the campus administrators.

AMENDMENTS

Amendment of Records

Employees and service providers may not unilaterally amend a student record. If a parent, adult student, employee or service provider believes the information in the student record is inaccurate, misleading, or violates the privacy or other rights of the student, the individual may request that Ki Charter Academy amend the records.

Employees and services providers should immediately notify the Ki Charter School Director of Special Education if they believe a student records is inaccurate, misleading, or violates the privacy or other rights of the student.

DESTRUCTION

Destruction of Student Records

No permanent records may be destroyed without explicit permission from the Superintendent. Employees and service providers shall maintain student records in accordance with state law^{viii} and Ki Charter Academy board policy.

Destruction of Non-Student Records

Employees and service providers may destroy non-student records in accordance with Ki Charter Academy's policy. Non-student records include, but are not limited to, lesson plans, private notes, test instruments, protocols or question booklets that do not contain the student's name or other personally identifiable information, records maintained solely for law enforcement purposes, security video and audio recordings, and minor day-to-day email communications.

ⁱ 20 U.S.C. §1232(g);

ⁱⁱ 20 U.S.C. §1412(a)(8)

ⁱⁱⁱ 34 C.F.R. Part 99; 34 C.F.R. Parts 300.610-300.627

^{iv} Chapter 26 of the Texas Education Code

^v 19 T.A.C. §89.1075(a)

^{vi} 42 U.S.C. §67 - Child Abuse Prevention and Treatment Act

^{vii} USA Patriot Act of 2001; 34 C.F.R. §99.31

^{viii} T.G.C. §441.158