

R 11-19-1 Definitions

- ❖ "Attendance" at an agency or institution includes, but is not limited to:
 - Attendance in person and having homebound instruction; and
 - The period during which a person is working under a work-study program.
- ❖ "Consent" means that:
 - The parent has been fully informed of the information set out in this document in his or her native language or other mode of communication, unless it clearly is not feasible to do so;
 - The parent understands and agrees in writing to the carrying out of the activity for which consent is sought, and the consent sets forth that activity and lists the records (if any) which will be released and to whom; and
 - The parent understands that the granting of consent is voluntary on the part of the parent.
- ❖ "Destruction" means physical destruction or removal of personal identifiers so that the information is no longer personally identifiable.
- ❖ "Directory information" includes a student's name, address, telephone listing, e-mail, photograph, date, and place of birth, major field of study, dates of attendance, grade level, 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.
- ❖ "Disciplinary action or proceeding" means the investigation, adjudication, or imposition of sanctions by an educational agency or institution with respect to an infraction or violation of the internal rules of conduct applicable to students of the agency or institution.
- ❖ "Disclosure" means permitting access or the release, transfer, or other communication of education records of the student or the personally identifiable information contained therein, orally or in writing, or by electronic means, or by any other means to any party.
- ❖ "Educational institution" or "educational agency or institution" means any public or private agency or institution under the general supervision of the West Virginia Board of Education.
- ❖ "Education records" means those records that are directly related to a student and are collected, maintained or disclosed by an educational agency or institution or by a party acting for the agency or institution. The term does not include:
 - Records of instructional, supervisory, and administrative personnel and educational personnel ancillary to those persons that are kept in the sole possession of the maker of the record and are not accessible or revealed to any other individual except a temporary substitute.
 - Records of the law enforcement unit of an educational agency or institution, subject to the provisions of Section 126-94-7.
 - Records relating to an individual who is employed by an educational agency or institution that are made and maintained in the normal course of business; relate exclusively to the individual in that individual's capacity as an employee, and are not available for use for any other purpose. However, records relating to an individual in attendance at the agency or institution who is employed as a result of his or her status as a student are education records and are not exempted.
 - Records relating to an eligible student that are:

- Created or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional or assisting in a paraprofessional capacity;
 - Created, maintained, or used only in connection with the provision of treatment to the student; and
 - Disclosed only to individuals providing the treatment (provided that the records can be personally reviewed by a physician or other appropriate professional of the student's choice). For the purpose of this definition, "treatment" does not include remedial educational activities or activities that are a part of the program of instruction at the educational agency or institution.
- Records of an educational agency or institution that contain only information related to a person after that person is no longer a student at the educational agency or institution. (An example would be information collected by an educational agency or institution pertaining to the accomplishments of its alumni).
- ❖ "Eligible student" means a student who has attained 18 years of age, or is attending an institution of post-secondary education.
 - ❖ "Exceptional student" means a student having been determined to have an exceptionality in accordance with eligibility criteria under *SBP 2419, Regulations for the Education of Students with Exceptionalities*, (hereinafter, Policy 2419) who receives services under an Individualized Education Program (IEP).
 - ❖ "Financial Aid" means a payment of funds provided to an individual (or a payment in kind of tangible or intangible property to the individual) that is conditioned on the individual's attendance at an educational agency or institution.
 - ❖ "Institution of post-secondary education" means an institution that provides education to students beyond the secondary school level; "secondary school level" means the educational level (not beyond grade 12) at which secondary education is provided, as determined under state law.
 - ❖ "Parent" includes a parent, guardian, or an individual acting as a parent of a student in the absence of a parent or guardian.
 - ❖ "Party" means an individual, agency, institution or organization.
 - ❖ "Personally identifiable" means that the data or information includes, but is not limited to;
 - The name of a student, the student's parent, or other family member;
 - The address of the student or student's family;
 - A personal identifier such as the student's social security number, or student number;
 - A list of personal characteristics that would make the student's identity easily traceable; or
 - Other information that would make the student's identity easily traceable.
 - ❖ "Record" means any information or data recorded in any medium including, but not limited to: handwriting, print, video or audio tape, film, microfilm, microfiche, and computer media.
 - ❖ "Secretary" means the Secretary of the U.S. Department of Education or an official or employee of the U.S. Department of Education acting for the Secretary under a delegation of authority.

- ❖ "Student" includes any individual who is or has been in attendance at an educational agency or institution, and regarding whom the educational agency or institution collects, maintains, or discloses educational records.