

Southwest Vermont Regional Technical School District	EDUCATIONAL FILES AND RECORDS (Family Educational Rights and Privacy Act - FERPA)	Policy #5265C [Required]
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It is the policy of the Southwest Vermont Regional Technical School District:

1. That any information gathered in the form of a directory is subject to the Open Record Law except Personnel Records and legal matters.
2. To inform, at least annually, parents and eligible students of their rights under this policy and regulations which implement the Family Educational Rights and Privacy Act (FERPA), as described in the procedural rules below.
3. To respond promptly to parents and eligible students' reasonable requests to review, inspect, and request correction of education records, pursuant to the procedural rules below.
4. Not to disclose personally identifiable information from a student's education record without written parental or eligible student consent, except as allowed by law.
5. To disclose designated directory information (as defined below) concerning students and former students without the prior consent of the parent or eligible student and without any record of such disclosure, pursuant to the procedural rules below.
6. To disclose designated directory information (as defined below) concerning students and former students without the prior consent of the parent or eligible student and without any record of such disclosure, pursuant to the procedural rules below.
7. To maintain a record of all disclosures of part(s) of education records as and to the extent required by law. Parents and eligible students may inspect and review that record.
8. To forward a student's educational record to any other school in which the pupil enrolls, transfers, or attends, on a part or full-time basis, upon request by the other school or the parent or eligible student.
9. To disclose personally identifiable information to school officials with legitimate educational interests (as defined below) without prior consent of the parents or eligible student.
10. To protect the confidentiality of personally identifiable information in education records at the collection, storage, disclosure and destruction stages, and to keep education records in safe and secure locations.

11. Not to provide parents or eligible students copies of standardized test questions or answers and/or copies of copyrighted materials which contain personally identifiable information, in order to protect test integrity and to avoid copyright infringement. Where necessary and appropriate, copies of such materials may be provided to qualified evaluators working on behalf of the parents and/or students.

Legal References:

34 C.F.R. 99.6; 99.31; 99.34; 99.37

VDE Rule 2193

Family Educational Rights and Privacy Act

Definitions:

CFR: Code of Federal Regulations

VDE: Vermont Department of Education

	Date Drafted	Date Warned	Date Adopted
Southwest Vermont Regional Technical School District	5/21/07	8/20/07	9/17/2007

Administrative Regulations

District Policy on the Collection and Maintenance of Education Files, Policy # 5265C

I. PROCEDURAL RULES:

Definitions Used for Implementing the District Policy in the Collection, Maintenance and Dissemination of Student Records

1. "Education Record" means records relating to a student which are maintained by the District or a party acting for the District. "Records" means any information recorded in any way, including handwriting, print, video or audio tape, film, microfilm, microfiche, and by various electronic means, including computer media.

The term does not include: (a) records of instructional and/or administrative personnel and ancillary educational personnel, in the sole possession of the maker and not accessible to or revealed to any other person except a temporary substitute, and/or (b) records which contain only information about a person after (s)he is no longer a student in the district. 34 C.F.R.99.3.

2. "Destruction" means (a) physical destruction, and (b) removal of personal identifiers from information so that the information is no longer personally identifiable.

3. "Disclosure" means permitting access to, release, transfer, or communication orally, in writing, or by electronic or other means, of a student's education records or of personally identifiable information contained in such records.

4. "Directory information" means information contained in an education record which would not generally be considered harmful or an invasion of privacy if disclosed. It includes, but is not limited to: student's name, address, telephone number, date and place of birth, major field of study, participation in officially recognized activities or sports, weight and height of members of athletic teams, dates of attendance, and/or degrees/awards received. 34 C.F.R. 99.3

5. "Eligible student" means a student who has reached the age of eighteen (18). When a student turns 18, the rights afforded to parents under the Family Educational Rights and Privacy Act ("FERPA") transfer to the student. In this context, it does not refer to eligibility requirements for any program or service. 34 C.F.R. 99.3; 99.5.

6. "Parent" means the parent of a student, and includes a natural parent, adoptive parent, surrogate parent, legal guardian or individual acting as the parent in the absence

of a parent or guardian. The District will give full rights under this policy to both parents of the student, unless the District has been provided with evidence that there is a court order, a State statute, or a legally binding document, relating to such matters as divorce, separation or custody, which expressly revokes such rights. Rights of parents under FERPA terminates when the student reaches the age of 18 (becomes an eligible student). 34 C.F.R. 99.3

7. "Personally identifiable information" means:

- a. student's name;
- b. parents' or guardians' names;
- c. home address;
- d. student's photograph, if available;
- e. personal identifiers, such as social security numbers or student numbers;
- f. a list of personal characteristics that would make the student's identity easily traceable; or
- g. other information that would make the student's identity easily traceable.

8. "School official with a legitimate educational interest" means any teacher, administrator, other professional or service provider employed by or contracted with the District to provide educationally-related services (including, but not limited to, consultants, attorneys, auditors, insurers, evaluators, support staff, substitute, assigned student teachers, interns, volunteers, teacher's aides), or school board member who needs information relating to a particular student in order to carry out his/her official duties for the District. Where an issue is raised, the Principal (or Superintendent) shall decide whether an individual has a legitimate educational interest in the information or record.

9. "Student" includes any individual for whom an educational record is maintained by the District. 34 C.F.R. 99.3

II. ANNUAL NOTIFICATION OF RIGHTS AND DIRECTORY INFORMATION

1. Notice of Rights

Notification to parents and/or eligible students of their rights regarding the maintenance of education records, and policies and procedures of the Southwest Vermont Regional Technical School District shall occur annually.

The District shall cause notice(s) of such rights in the form contained in Appendix A to be published annually in a newspaper(s) in general circulation in the area.

In addition, each school principal shall cause the notice to be provided by at least one of the following ways:

- a. inclusion of the notice (Appendix A) in the Student Handbook;
 - b. mailing of leaflets;
 - c. posting on a bulletin board accessible to parents,
 - d. any other method deemed appropriate by the school Director. 34 C.F.R. 99.7(b)
- Notice shall be effectively provided to parents/eligible students with disabilities. 34 C.F.R. 99.7(b)(1)

Where there are students/parents with a primary or home language other than English, effective annual notification shall be given in the home language. 34 C.F.R. 99.7 (b) (2)

2. Notice of Directory Information

It is the policy of the District to disclose designated directory information (as defined above) concerning students and former students without the prior consent of the parent or eligible student and without any record of such disclosure.

The annual public notice of this policy shall be given in the form contained in Appendix B, by publishing it with the Notice of Rights (Appendix A), whenever it is published, posted or otherwise distributed. 34 C.F.R. 99.3

III. INSPECTION/REVIEW OF RECORDS BY AN ELIGIBLE PARENT OR STUDENT:

1. Parent(s) or eligible students may review a student's education records with an authorized member of the school staff by scheduling an appointment through the school Director. 34 C.F.R. 99.10(a)

2. Requests for a review or inspection of education records will be complied with no later than 45 days from receipt of a written request by the parent/eligible student. 34 C.F.R. 99.10(b). Requests for review of records in preparation for a meeting regarding an IEP or hearing relating to special education matters shall be complied with before the meeting. 34 C.F.R. 300.5(2)(a)

3. The school will respond to reasonable requests for explanations or interpretations of part(s) of the education records. 34 C.F.R. 99.10 (c)

4. Education records will be provided to parents or eligible students where failure to provide copies would effectively prevent them from exercising their right to inspect and review the records. 34 C.F.R. 99.10(d). Charges for copies of educational record kept at the central offices of the Supervisory Union will be based on the actual cost of copying as determined by the Superintendent. No charge shall be made for search or retrieval of records. The 34 C.F.R. 99.11. At no time shall the copying fee effectively prevent exercise of the right to inspect and review the records. 34 C.F.R. 99.11; 34 C.F.R. 300.566

5. The District will not provide copies of standardized test questions or answers, nor will it provide copies of copyrighted materials. Where such materials contain personally identifiable information, the parents/eligible student shall be allowed to inspect and review the item. 34 C.F.R. 99.6(a)(2)(ii)

6. When an education record contains personally identifiable information concerning more than one student, the parent or eligible student may inspect, review or be informed of only the specific information about that student. 34 C.F.R. 99.12(a); 34 C.F.R.

7. Upon request by a parent of a student who is eligible for special education, the school shall provide a list of the types and locations of education records collected, maintained or used by the school. 34 C.F.R. 300.564.

IV. TYPE, LOCATION AND CUSTODIAN OF EDUCATION RECORDS

The following list is the minimum:

<u>Type</u>	<u>Custodian/Responsible Person</u>
Cumulative School Records	CDC Director /designee
Health Records	School Nurse 34 C.F.R. 99.6(a)(2)(iv)

V. PARENT/ELIGIBLE STUDENT REQUEST TO AMEND RECORDS

1. Parent or eligible students have the right to ask to have the school district amend the record. In so doing, they should identify the part of the record they want changed and specify why they believe it is inaccurate, misleading or in violation of the student's privacy or other rights. The request should be addressed to the school principal in writing, who will make a decision, or refer it to an appropriate staff member for decision. The decision whether to comply shall be made within a reasonable time after

receipt of the request.

2. If the decision is made to comply with the requested amendment, the request shall be carried out promptly, with notice to the requesting party. If it is decided not to comply in whole or in part, the district shall notify the parent or eligible student of the decision in writing and advise them of their right to request a hearing to challenge the information believed to be inaccurate, misleading, or in violation of the student's rights.

3. Upon request, the school district shall arrange for a hearing, and notify the parent or eligible student, reasonably in advance, of the date, place, and time of the hearing. The hearing shall be held within a reasonable time after receipt of the hearing request.

4. The hearing will be conducted by the superintendent or designee (the "hearing officer"). The hearing officer may be a school district official, but may not be a person with a direct interest in the outcome of the hearing. The parents or eligible student will be afforded a full and fair opportunity to present evidence showing that the record is inaccurate, misleading, or in violation of the student's privacy rights. The parents or eligible student may be assisted by one or more individuals, including an attorney, at their own expense.

5. Within a reasonable time after the close of the hearing, the hearing officer shall prepare a written decision based solely on the evidence presented at the hearing. The decision will include a summary of the evidence presented and the reason for the decision.

6. If the hearing officer decides that the challenged information is not inaccurate, misleading, or in violation of the student's right of privacy, the hearing officer shall notify the parents or eligible student that they have a right to place in the record a statement setting forth reasons for disagreeing with the decision, and/or commenting on the disputed information.

7. The statement will be maintained as part of the student's education records as long as the contested portion is maintained. Thereafter, whenever the District discloses the contested portion of the record, it shall also disclose the statement.

8. If the hearing officer decides that the information is inaccurate, misleading, or in violation of the student's right of privacy, the District will amend the record and notify the parents or eligible student, in writing, that the record has been amended. (34 C.F.R. 99.20-99.22)

VI. DETERMINATION OF AUTHORIZED ACCESS TO EDUCATION RECORDS:

1. Access to education records will be limited to parents, eligible students and school officials with a legitimate educational interest in the information in the record, except as described below. See definitions above. Where there is any question, the school principal or, for central office records, the Superintendent, shall determine whether a person is a "school official with a legitimate educational interest."

2. In the event that a school official requires access to information in a student's education record, that school official will arrange with the record's custodian for access to pertinent parts of the record.

3. No access to education records shall be provided for persons not listed in paragraph 1 unless the consent requirements in Section III of these procedural rules have been satisfied.

4. Information kept solely by the originator, or a substitute, and not shared with any other person(s), shall not be considered as a part of an education record (i.e. grade books, lesson plans, etc.). 34 C.F.R. 99.3(b)(1). 34 C.F.R. 99.3; 99.10; 99.31

VII. CONSENT FOR RELEASE REQUIRED/NOT REQUIRED LIMITATIONS ON REDISCLOSURE RECORD OF DISCLOSURES

1. The District will obtain written, signed and dated parental or eligible student consent prior to disclosing any personally identifiable information from an education record (other than directory information) to persons other than the parent, eligible student, persons with written consent from the parent or eligible student, or school official with a legitimate educational interest in access to the record, except as provided in paragraph 3 below. The consent must contain all information called for by the consent form, Appendix C. 34 C.F.R. 99.30

2. The District will keep, as part of a student's education record, a record of all requests and/or disclosures of personally identifiable information to parties other than those described in paragraph 1 (above). See Appendix D. The record of disclosure may be inspected by the parents, eligible student and school officials and assistants responsible for custody of records, as well as by those authorized by law to audit the District's record keeping. 34 C.F.R. §99.32

3. Written consent to release information from an educational record need not be obtained by the school where the disclosure is:

- A. to school officials with a legitimate educational interest as defined above;
- B. to officials of another school system in which the student intends or seeks to enroll, or is currently enrolled; (see additional conditions in Note 1 below);
- *C. to authorized officials in State or Federal government for activities related to legitimate activities of these agencies;
- *D. to accrediting organizations and/or for the purpose of certain educational studies;
- E. to appropriate persons in a health or safety emergency; (see additional conditions in Note 2 below);
- *F. in response to a court order or lawfully issued subpoena (upon certain conditions);
- *G. under other circumstances allowed by the Family Educational Rights and Privacy Act ("FERPA");
- H. of directory information; (when procedures for notice of directory information have been completed). See pages 3 and 5 above.

4. Any record relating to a particular student which is provided to a school official shall be considered in education record, and shall be subject to the disclosure requirements and limitations of this policy.

5. Disclosure of education records or personally identifiable information from education records may be made only upon condition that the party to whom the disclosure is made will not re-disclose the information without the prior written consent of the parent or eligible student. (This rule shall not apply where the initial disclosure is to a parent of a student who is not an eligible student, or to a student, or where directory information only is disclosed). Re-disclosure without prior consent is permissible where the re-disclosure is under circumstances covered by any of the exceptions in subparagraphs 3A-H above, and if a record of the disclosure is made if required under the record keeping rules in paragraph 2 above.

6. Disclosures to a corporate entity or other organization, or a representative thereof, shall be made upon the condition that the information can be used only by

officers, employees, or agents of the organization for the purposes for which the disclosure was made.

7. Parties to whom disclosure is made shall be informed of restrictions on re-disclosure. The form attached as Appendix E may be used to provide notice of disclosure limitations to recipients of copies of education records. 34 C.F.R. 99.30; 99.31, 99.32; and 99.33

*NOTE: Disclosures under subparagraphs 3 C, D, F, G are subject to additional requirements of law and may require legal advice. Prior to making any such disclosure, please contact the Superintendent of Schools.

Note 1 (to subparagraph 3B): (1) By law, if you make a disclosure from an education record under paragraph 3B (to officials at another school system), you shall give the parent or eligible student, upon request, a copy of the record that was disclosed; and give the parent or eligible student, upon request, an opportunity for a hearing to amend the record as described above. (2) The school may disclose an education record of a student in attendance to another educational agency or institution if: the student is enrolled in or receives services from other agency or institution; and the disclosure meets the other requirements cited in part (1) of this Note. 34 C.F.R. 99.31 (a) (2); 99.34 (b).

Note 2 (to subparagraph 3E): The school may disclose personally identifiable information from an education record to appropriate parties in connection with an emergency if knowledge of information is necessary to protect the health or safety of the student or other individuals. This requirement shall be strictly construed. 34 C.F.R. 99.31(a) (10); 99.36.

VIII. DESTRUCTION OF RECORDS:

1. The following limitations are placed on the destruction of education records by the school:

A. the school will not destroy any education records if there is an outstanding request by the parent or eligible student to review them (34 C.F.R. 99.10(e));

B. explanations or attachments to record(s) by parents/eligible students will not be destroyed unless the amended record is to be destroyed (34 C.F.R. 99.21(c));
or

- C. each record of access form will be maintained for as long as the education record to which it pertains is maintained (34 C.F.R. 99.32(a) (2)).
2. Prior to destruction of part(s) of an education record the school will give written notice to the parent/eligible student. This notice will be sent to the last known address. If no response is forthcoming within thirty(30) days of the mailing date of the notice, the school may destroy the record.
 3. Parents/eligible students may review the record prior to its destruction.
 4. The district shall maintain the following permanent records:
 - a. Name, last known address, phone number
 - b. Courses, grades, grade point average or rank in class, multi-year plan (where applicable)
 - c. Date of birth
 - d. Degrees/awards received
 - e. Date separated/date graduated
 - f. Attendance record
 - g. Destruction of record form(s)
 5. The Southwest Vermont Regional Technical School District shall inform the parents of a student with a disability when personally identifiable information is no longer needed to provide educational services to the student, and of the right to request the destruction of the records, other than those required to be maintained by paragraph 4 above. In order to comply with federal law, special education records shall be kept for a period of five (5) years after the completion of services under the special education law, in order to reflect compliance with the special education laws. Appendix F. VDE Rule 2193; 34 C.F.R. 300.573; 34 C.F.R. §§76.734-76-76.734.

IX. CONTINGENCIES NOT COVERED BY THESE POLICIES AND PROCEDURAL RULES:

1. State and federal law contain additional requirements concerning records. Additional regulations applying to special education and FERPA are included at the back of these procedures for easy reference.
2. In the event that a contingency occurs which is not covered by the District policy and procedural rules, the principal (or superintendent, for Supervisory Union records) will

make a determination of any action to be taken.

3. Actions taken pursuant to paragraph 2 of this section will be in accord with federal and state law and rules.

APPENDIX A

Southwest Vermont Regional Technical School District

ANNUAL NOTIFICATION OF RIGHTS OF PARENTS AND ELIGIBLE STUDENTS CONCERNING EDUCATION RECORDS

TO: All parents of students, and to eligible students*, currently attending school in the Southwest Vermont Regional Technical School District [RTSD]:

1. As the parent of a student enrolled in the Southwest Vermont Regional Technical School District or as an eligible student, you have the following rights with respect to your child's (or, if an eligible student, your own) education records.
 - a. To inspect and review the student's education records;
 - b. To seek amendment of the student's education records to ensure that they are not inaccurate, misleading, or otherwise in violation of the student's privacy rights;
 - c. To provide consent prior to disclosures of personally identifiable information contained in the student's education records, except to the extent that the law allows disclosure without your consent;
 - d. To file a complaint with the U.S. Department of Education concerning alleged failures by the school district to comply with the requirements of law with respect to your rights under the Family Educational Rights and Privacy Act (FERPA). A complaint may be made in writing to the Family Policy Compliance Office, U.S. Department of Education, 4512 Switzer Building, Washington, DC 20202-4605.
2. The procedure for exercising your right to inspect and review education records is in Appendix C.
3. The procedure for seeking amendment of education records is to put the request and reasons in writing to the Director of the CDC.
4. The RTSD has a policy of disclosing educational records to school officials with a legitimate educational interest without prior consent.

5. The CDC forwards education records to other agencies or institutions that have requested records and in which the student seeks or intends to enroll.

This Annual Notification of Rights is only a summary of rights. Your rights to inspect and review education records, and the school district's duty to have your written consent prior to disclosure of personally identifiable information, are subject to limitations. Further details are contained in the school district's detailed student record policy and procedures, and in state and federal law.

*You are an eligible student if you are at least 18 years of age or are attending an institution of post-secondary education.

APPENDIX B

SOUTHWEST VERMONT REGIONAL TECHNICAL SCHOOL DISTRICT [The CDC]

ANNUAL NOTIFICATION OF DESIGNATION OF DIRECTORY INFORMATION AND RIGHT OF REFUSAL

TO: All parents of students, and to eligible students*, currently attending the Southwest Vermont Regional Technical School District. The district may not disclose designated directory information on students and eligible students without the prior consent of the parent or eligible student, and without any record of such disclosure. The following types of personally identifiable information have been designated directory information:

-Student's name, address, telephone number, date and place of birth, major field of study, participation in officially recognized activities or sports, weight and height of members of athletic teams, dates of attendance, and/or degrees/awards received. 34 C.F.R. 99.3

Disclosure may include such personally identifiable information contained or reflected in photographs.

If you are an eligible student and are currently attending any of the above-named schools, or if you are the parent of a student currently attending school in any of the Supervisory Union School districts, you have a right to refuse to permit the designation of any or all of these types of information as directory information concerning your child or (if you are an eligible student) yourself, by providing written notice of your refusal, listing the type(s) of information which you refuse to have so designated, to the principal of the school your child attends (or the school you attend, if you are an eligible student), on or before 20 working days beyond date of public notice.

*You are an eligible student if you are at least 18 years of age or are attending an institution of post-secondary education.

APPENDIX C

PARENTAL PERMISSION FOR THE RELEASE OF PERSONAL IDENTIFIABLE INFORMATION

To Parent/Guardian/Educational Surrogate or Adult Student:

If you sign this form, you are giving your permission for the release of records and/or information from your child's (or your) school record. Therefore, if you do not understand any part of this form, please contact the CDC Staff or the Superintendent's office.

I. Student's Name _____

II. Records to be disclosed:

III. The purpose of this disclosure is:

IV. Records may be disclosed to the following party or class of parties:

_____ I willfully give my permission for the school district to release the above-described records.

_____ I do not give my permission for the disclosure of the above-described records.

_____ Date

_____ Signature

(Parent/Guardian/Education Surrogate Parent or Adult Student)

APPENDIX D

SOUTHWEST VERMONT REGIONAL TECHNICAL SCHOOL DISTRICT

RECORD OF ACCESS TO STUDENT EDUCATION RECORDS*

The following parties have requested and/or obtained information from the education records of this student.

*NOTE: It is not necessary to record name of parents, students, or school officials with a legitimate educational interest in the records, nor is it necessary where the request is only for disclosure of directory information, or where disclosure is to a party who has written consent for release by the parent or eligible student.

STUDENT'S NAME

NAME OF REQUESTOR	DATE OF REQUEST	PURPOSE OF REQUEST AND LEGITIMATE INTEREST IN THIS STUDENT	DENIED, OR DATE OF DISCLOSURE

REMINDER: Remove information of all other students from the record prior to disclosing information on this student.

This record may be inspected by the parent, eligible student; school officials with a legitimate educational interest in the record and their assistants responsible for the custody of education records; and by those authorized by law to audit the record keeping procedures of the R.T.S. District.

This record shall be maintained for so long as the education records to which it pertains are maintained.

APPENDIX E

Southwest Vermont Regional Technical School District
Address: 321 Park Street, Bennington, VT 05201
Telephone: [802] 447-0220
Date _____

NOTICE OF LIMITATIONS ON DISCLOSURE AND REDISCLOSURE

The education records produced with this cover sheet contain personally identifiable information concerning a student. The information is subject to strict federal disclosure limitations. The person/entity to which this disclosure is made is therefore put on notice as follows:

1. The disclosure of the enclosed records and information contained therein is made to you subject to the condition that the content hereof will be used only by you, (or, if the disclosure is to an organization or corporate entity, by employees, agents, or officers of the organization), and that it will be used solely for the purpose(s) for which it was disclosed to you or to the organization.

2. The information and records produced with this notice may not be disclosed without prior written consent of the parents of the student (or consent of an adult student him/herself), unless such redisclosure is allowed by federal law and a record is made of the redisclosure if/as required by federal law. If you have any questions concerning your right to use or redisclose this information, please call _____ at _____.

APPENDIX F

Southwest Vermont Regional Technical School District
Address: 321 Park Street, Bennington, VT 05201
Telephone: [802] 447-0220
Date _____

DESTRUCTION OF SPECIAL EDUCATION RECORDS

_____ Student Name	_____ Date of Birth	_____ Date
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We are planning to destroy the following special education records as the information is no longer relevant/needed for the student's education program.

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

There are no outstanding requests on file from the parent or guardian or from a Court or other agency for viewing these materials.

If you wish to have these records before they are destroyed, please contact us at the above address or telephone number within one month of the above date. After that time, these records will be destroyed.

IMPORTANT

Please be advised that some of the information contained in this file may be needed later on for other purposes such as eligibility for Social Security Disability benefits.