



## Confidentiality of Special Education Student Information Procedures

### **Authority**

Provident Charter School recognizes the need to protect the confidentiality of personally identifiable information in the education records of students with disabilities. The LEA shall maintain a system of safeguards to protect the confidentiality of students' educational records and personally identifiable information when collecting, retaining, disclosing, and destroying student special education records, in accordance with Board policy, state requirements, and federal and state law and regulations.

The rights provided by these procedures apply to parents and or guardians of students who receive special education programming and services from outside programs provided through Provident Charter School.

### **Definitions**

**Destruction** - shall mean the physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.

**Disclosure** - shall mean 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.

**Education Records** - for purposes of these procedures, shall include the records and information covered under the definition of education records in the Family Educational Rights and Privacy Act (FERPA) and its implementing regulations.

**Personally identifiable information** - includes, but is not limited to:

1. The name of a student, the student's parents/guardians, or other family members.
2. The address of the student or student's family.
3. A personal identifier, such as the student's social security number, student number, or biometric record.
4. Other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name.

## **Guidelines**

### **Parental Access Rights**

Provident Charter School shall permit parents/guardians to inspect and review any education records relating to their child(ren) that are collected, retained, or used by the school in connection with providing special education services to the student.

Provident Charter School shall comply with a parental request to inspect and review education records without unnecessary delay and before any meeting regarding an Individualized Education Program (IEP); any impartial due process hearing relating to the identification, evaluation, educational placement, or the provision of a Free and Appropriate Public Education (FAPE) to a student; a hearing related to the discipline of the student; and a resolution meeting.

Provident Charter School shall presume a parent/guardian has the authority to inspect and review records relating to his/her child unless it has been provided documentation that the requesting parent/guardian does not have this authority under applicable state law.

Provident Charter School shall comply with a parental request for review within forty-five (45) days following receipt of the request.

A parent's/guardian's right to inspect and review education records includes the right to:

1. A response from Provident Charter School to reasonable requests for explanations and interpretations of the records;
2. Request that Provident Charter School provide copies of the records if failure to provide copies would effectively prevent the parent/guardian from exercising the right to inspect and review the records; and
3. Have a representative inspect and review the records.

If an education record includes information on more than one (1) student, the parents/guardians shall have access only to the information relating to their child or shall be informed of the information in the record.

Provident Charter School shall provide parents/guardians, upon request, a list of the types and locations of education records collected, maintained, or used by the school.

### **Fees**

Provident Charter School shall charge a standard fee (Based on Right to Know Fees) as long as the fee does not effectively prevent parents/guardians from exercising their right to inspect and review those records:

1. Copying: \$.25 per copy.

2. Postage: For materials fitting into a standard business envelope and sent first class, no charge.
3. Prepayment: By check or money order made payable to Provident Charter School. Provident Charter School shall not charge a fee to search for or retrieve information in response to a parental request.

### Record of Access

Provident Charter School shall maintain a record of parties obtaining access to education records collected, maintained, or used in providing special education and related services to students with disabilities, except access by parents/guardians and authorized employees.

Provident Charter School's record of access shall include the name of the party, the date access was given, and the purpose for which the party is authorized to use the records.

### Amendment of Records Upon Parental Request

If a parent/guardian believes that information in the student's education records is inaccurate, misleading, or violates the privacy or other rights of the student, the parent/guardian may request that Provident Charter School amend the information.

Provident Charter School shall decide whether to amend the information within a reasonable period of time from receipt of the request. If Provident Charter School declines to amend the information in accordance with a parental request, the Director of Special Education or designee shall inform the parent/guardian of the refusal and advise the parent/guardian of the right to a hearing.

### Records Hearing

Provident Charter School shall, on request, provide parents/guardians with an opportunity for a hearing to challenge information in the student's education records to ensure that the information is not inaccurate, misleading, or otherwise in violation of the student's privacy or other rights. Provident Charter School recognizes that parents/guardians who believe that there is a due process violation relating to an alleged violation of confidentiality may also request a special education due process hearing.

### Hearing Procedures

A hearing to challenge information in education records must meet the following requirements:

1. Provident Charter School shall hold the hearing within a reasonable time after receiving the request for a hearing.
2. Provident Charter School shall give the parent/guardian reasonable advanced written notice of the date, time, and place of the hearing.

3. The hearing may be conducted by any individual, including a Provident Charter School official, who does not have a direct interest in the outcome of the hearing.
4. Provident Charter School shall give the parent/guardian a full and fair opportunity to present relevant evidence. The parent/guardian may, at their own expense, be assisted or represented by one (1) or more individuals of their choice, including an attorney.
5. Provident Charter School shall inform parents/guardians of 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.

#### Result of Hearing

If, as a result of the hearing, Provident Charter School decides that the information is inaccurate, misleading, or otherwise in violation of the student's privacy or other rights, the Director of Special Education or designee shall amend the information accordingly and inform the parent/guardian in writing.

If, as a result of the hearing, Provident Charter School decides that the information is not inaccurate, misleading, or otherwise in violation of the student's privacy or other rights, the Director of Special Education or designee shall inform the parent/guardian of the parent's/guardian's right to place in the student's records a statement commenting on the information and/or providing any reasons for disagreeing with the school's decision.

Any explanation placed in the student's records shall be:

1. Maintained by Provident Charter School as part of the student's records as long as the record or contested portion is maintained by the school; and
2. Included with the record or contested portion if the record or contested portion is disclosed to any party.

#### Storage, Retention, and Destruction of Information

Provident Charter School shall store all education records and personally identifiable information of students receiving special education services in such a way as to protect the confidentiality and integrity of the records and information, prevent unauthorized access to and disclosure of records and information, and ensure compliance with other legal and regulatory requirements regarding records retention.

Provident Charter School shall maintain, for public inspection, a current listing of the names and positions of those employees who have access to personally identifiable information.

In order to comply with state compliance monitoring requirements, the Provident Charter School shall maintain education records for students receiving special education services for at least six (6) years.

Provident Charter School shall inform parents/guardians when personally identifiable information collected, maintained, or used is no longer needed to provide educational services to the student. After notice, such information shall be destroyed upon parental request. No education record shall be destroyed if there is an outstanding request to inspect or review the record or if a litigation hold exists.

Provident Charter School may maintain a permanent record of the student's name, address, phone number, grades, attendance record, classes attended, grade level completed, and year completed.

Provident Charter School shall ensure the destruction of education records in a manner that protects the confidentiality and privacy rights of the student and the student's family.

### Disclosure to Third Parties

Provident Charter School shall obtain parental consent before disclosing personally identifiable information to parties other than school officials with a legitimate educational interest or other educational institutions that provide special education services to the student for the purposes of meeting a requirement of law or regulation unless the information is contained in education records and the disclosure is permitted without parental consent under law and regulations.

Parental consent must be obtained before personally identifiable information is released to officials of participating agencies providing or paying for transition services.

The following situations indicate whereby Provident Charter School can disclose personally identifiable information from an education record without parental consent:

1. The Disclosure is in connection with financial aid for which the student has applied or which the student has received.
2. The Disclosure is to organizations conducting studies for, or on behalf of, educational agencies or institutions to develop, validate, or administer predictive tests, administer student aid programs, or improve instruction.
3. The Disclosure is to accrediting organizations to carry out their accrediting function.
4. The Disclosure is to parents/guardians of a dependent student.
5. The Disclosure is in connection with a health or safety emergency.
6. The Disclosure is information the education agency has designated as "directory information".
7. The Disclosure is to the parent/guardian of a student who is not an eligible student or to the student.
8. The Disclosure is to a victim of an alleged perpetrator of a crime of violence or a nonforcible sex offense.
9. The Disclosure is in connection with a disciplinary proceeding at an institution of postsecondary education.

10. The Disclosure is to a parent/guardian of a student at an institution of postsecondary education regarding the student's violation of any federal, state, or local law or of any rule or policy of the institution governing the use or possession of alcohol or a controlled substance.
11. The Disclosure concerns sex offenders and other individuals required to register under the Violent Crime Control and Law Enforcement Act of 1994.

Written parental consent need not be obtained by the school before education records, or personally identifiable information contained therein is disclosed to the following:

1. **Authorized school officials** with legitimate educational interests.
  - a. Authorized school officials shall be defined as teachers, guidance counselors, school psychologists, administrative personnel, and secretaries who need to access student information to complete assigned duties.
2. **Legitimate educational interest** shall be defined as:
  - a. Person(s) directly responsible for providing instruction to the students.
  - b. Person(s) providing supportive service to the student.
  - c. Appropriate authorities in a health/safety emergency after consideration of the seriousness of the threat, the need for the information to meet the emergency, the position of the requesting party to deal with the emergency, and the extent to which time is of the essence in meeting the emergency.
  - d. Officials of other primary and secondary schools which the student attends or to which the student has transferred.
  - e. When a school district in which the student is enrolled or seeks to enroll requests the release of information by the school from the educational record of the former student or present student, the school shall comply with the request within seven (7) days of the request. Prior notification of the parent/guardian or eligible student is not necessary. However, a copy of the record to be released is available to the parents/guardians or eligible students upon request.
  - f. Authorized representatives of the Comptroller General of the United States; the Attorney General of the United States; the Secretary; or state and local authorities.
  - g. To state and local officials or authorities to whom information is specifically required to be reported or disclosed pursuant to state statute adopted prior to November 19, 1974.
  - h. To comply with a judicial order or lawfully issued subpoena, provided that the school makes a reasonable effort to notify the parent/guardian of the student or eligible student of the order or subpoena in advance of compliance therewith.
  - i. To postsecondary institutions where the student is enrolled or seeks to enroll.
  - j. Agencies to which Provident Charter School has reported a crime.

### Disclosure to Law Enforcement

When reporting an incident committed by a student with a disability to the appropriate authorities, in accordance with applicable law, regulations, and Board policy, Provident Charter School shall provide the information required by state and federal laws and regulations and shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by these authorities. Provident Charter School shall ensure compliance with the Family Educational Rights and Privacy Act when transmitting copies of the student's special education and disciplinary records.

### **Delegation of Responsibility**

In order to maintain the confidentiality of the educational records and personally identifiable information of students with disabilities, the Board designates the Operational Compliance Officer and Director of Special Education to coordinate Provident Charter Schools' efforts to comply with these procedures, Special Education Policy, and applicable laws and regulations.

All Provident Charter School employees collecting or using personally identifiable information shall receive training or instruction regarding Board policy, administrative regulations, and state and federal law and regulations regarding confidentiality of education records and personally identifiable information.