

TOPEKA PUBLIC SCHOOLS	REGULATION NUMBER: 8250-01
SUBJECT: COLLECTING, MAINTAINING, AND RELEASING INFORMATION FROM STUDENT RECORDS	DATE OF ISSUE: 06/18/80 <hr/> REVISIONS: 04/20/01; 02/20/09; 07/01/09; 08/17/15 <hr/> PREPARING OFFICE: DEMOGRAPHIC SERVICES

I. PURPOSE:

To establish procedures for collecting, maintaining, and releasing of information contained in the confidential permanent school record for each student enrolled in Topeka Public Schools in accordance with state and federal laws and regulations.

II. DEFINITIONS:

A. "Education records" means any information or data recorded in any medium, including but not limited to handwriting, print, tapes, film, microfilm, and microfiche, which contain information directly related to a student and which are maintained by the Board of Education or its employees.

1. For purposes of this regulation, "education records" does not include records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker and which are not accessible or revealed to any other person except a substitute. In this context, a "substitute" means an individual who performs on a temporary basis the duties of the individual who made the record and does not refer to an individual who permanently succeeds the maker of the record in his or her position.

2. "Education records" also does not include records that are made and maintained by the law enforcement unit, Topeka Public School Police Department for law enforcement purposes. Such records may become an education record if used in a disciplinary or other school-related context.

B. "Parent" means natural or adoptive parent, lawful custodian, or an individual acting as a parent in the absence of a parent or lawful custodian. Parent does not mean a person who has been deprived of custody by a court of law or governmental agency. Either parent of the student has authority to inspect and review the educational records of the student unless the records manager has been provided with evidence that there is a legally binding instrument or a state law or court order governing such matters as divorce, separation, or custody which provides to the contrary. A copy of this instrument shall be filed in the student's record folder with the date of receipt noted thereon.

06/18/80

Revisions: 03/03/83; 07/02/86; 04/20/01; 07/01/09; 08/17/15

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- C. "Student" means any person who is or has attended the Topeka Public Schools and for whom the Topeka Public Schools maintains education records or personally identifiable information.
- D. "Eligible Student" means a student who has attained 18 years of age.
- E. "Personally identifiable" means that the data or information includes:
 - 1. The name of the student, the student's parent, or other family member;
 - 2. The address of the student;
 - 3. A personal identifier, such as the student's social security number or student number;
 - 4. A list of personal characteristics which would make the student's identity easily traceable; or
 - 5. Other information which would make the student's identity easily traceable.

III. REQUIRED RECORDS:

The Topeka Public Schools shall compile and maintain the following classes of education records:

- A. Personal data which identify each student enrolled in the Topeka Public Schools. These data shall include name, address, race, gender, date and place of birth, name and address of parent or lawful custodian;
- B. Attendance data;
- C. Description of student progress, including grade level completed, school attended, academic work completed, grades, standardized test scores, and date of graduation;
- D. Certification of immunizations, physical exams, and other required health data.
- E. Pursuant to the U.S. Office of Management and Budget (OMB), Topeka Public Schools is authorized to collect racial and ethnic data but cannot make such information public. This OMB revision requires that guardians must complete a pre-determined two-part question:

PART A: Is this student Hispanic/Latino? (Choose only one)

- No, not Hispanic/Latino
- Yes, Hispanic/Latino (A person who is Cuban, Mexican, Puerto Rican, South or Central American or other Spanish culture or origin, regardless of race.)

PART B: What is the student's race? (Choose one or more)

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- American Indian or Alaska Native (A person having origins in any of the original peoples of North or South America (including Central America), and who maintains tribal affiliation or community attachment.)**
- Asian (A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent including, for example, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand and Vietnam.)**
- Black or African American (A person having origins in any of the black racial groups of Africa.)**
- Native Hawaiian or Other Pacific Islander (A person having origins in any of the original peoples of Hawaii, Guam, Samoa or other Pacific Islands.)**
- White (A person having origins in any of the original peoples of Europe, the Middle East or North Africa.)**

Should guardians choose not to provide the race and ethnic information pursuant to OMB regulations, school officials are required to provide an answer on the student's behalf.

IV. PERMITTED RECORDS:

The Topeka Public Schools may compile and maintain for a limited period of time the following classes of education records if, and only if, (a) all entries are made only by professional school personnel who have assigned responsibility to the student and who date and sign their entries; and (b) such records are necessary to promote the educational welfare of the student:

- A. Scores on standardized intelligence and aptitude tests;**
- B. Scores on personality tests, interest tests, and individually administered psychological tests and reports;**
- C. Family background information;**
- D. Record of extracurricular activities;**
- E. Health data;**
- F. Systematically gathered teacher or counselor ratings and observations;**
- G. Reports of serious or recurrent behavior patterns, provided that reports contain only factual information and not subjective information;**
- H. Disciplinary reports. (Supplementary materials are not a part of student's permanent record.)**

V. DIRECTORY INFORMATION

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- A. The Topeka Public Schools has the right to release "directory information" about a student if such information is available, without the parent's prior written consent, unless the parent or eligible student informs the Topeka Public Schools that any or all of the information designated below should not be released without prior consent.
- B. For the purpose of this provision, the following information is designated as "directory information":
1. Student's name, address, telephone listing, school electronic mail address and date and place of birth;
 2. Parent or lawful custodian's name, address, and telephone listing;
 3. Major field of study and grade level classification, (Example: elementary, 6th grade, sophomore);
 4. Student's participation in officially recognized activities and sports;
 5. Weight and height of members of athletic teams;
 6. Dates of attendance, dates of enrollment, withdrawal, re-entry;
 7. Degrees, awards and honors received;
 8. Most recent previous educational agency or institution attended by the student;
 9. Student's photograph, video or digital image.
- C. Each year, the Topeka Public Schools shall give public notice of the categories of information which it considers directory information regarding students in the system. The Topeka Public Schools shall allow until September 1st of each school year for parents to inform the general director of assessment and demographics in writing of specific directory information pertaining to such student that should not be released without prior consent of the parent(s) or eligible student, except as provided by law. If no objection is received by September 1, the information will be classified as directory information until September 1 of the next school year. The notice requirement contained in this paragraph shall not apply to records of a student who no longer attends a Topeka public school.

VI. RETENTION AND SECURITY:

- A. The general director of assessment and demographics shall be the district manager of all student records. Each principal shall be the records manager for the education records of students enrolled in his/her school building. The district manager may designate another person as records manager of education records maintained elsewhere. Records managers shall have the overall responsibility for maintaining and preserving the confidentiality of education records. Records managers may, however, designate another professional employee of the Board of Education to perform the

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- duties of records manager.
- B. Education records shall be kept secure at all times under the supervision of the records manager or the manager's designee.**
- C. To eliminate unnecessary or outdated information, the permitted records shall be reviewed by the school principal or the principal's designee when the student is promoted from middle school to senior high school and when the student graduates.**
- 1. In the event that a parent or an eligible student objects to the contents of a student's education records, such eligible student or parent shall state the objections in writing with signature and date of statement to the records manager and to the building principal if the records are kept in the school where the student is enrolled. If the objection is not satisfied by discussion with the records manager and/or the principal of the school in which the records are kept, the parent or student shall have the right to appeal to a review panel, and the parent or eligible student shall be advised of the right to appeal. Request for such appeal shall be in writing to the records manager within 14 days after the parent or eligible student is advised of the right to appeal. The parent or eligible student may challenge the retention of any data in the education records on the basis that it is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student.**
 - 2. The superintendent of schools shall create a review panel composed of not less than three qualified professional personnel. This review panel shall decide, upon appeal by the student or parent, whether the permitted education records data shall be destroyed or amended as requested by the parent.**
 - 3. The review panel shall, within four weeks after being notified of such appeal (or longer should the appellant request a delay), conduct a fair hearing to decide the issues presented by the appellant. The parent of the student or the eligible student shall be given notice of the date, place, and time reasonably in advance of the hearing. At such hearing:**
 - a. The records manager shall have the burden of proof on the issues presented by the appellant**
 - b. The appellant and the records manager shall have the right to be represented by an advocate of his or her choosing to cross-examine witnesses, to present evidence, and to have a written decision reciting, in summary, the evidence and the reasons for the decision.**
- D. If the eligible student or parent appeals pursuant to the foregoing provisions and obtains a favorable ruling, the contested data shall be corrected or expunged from the student's education records.**
- E. If the eligible student or parent receives an unfavorable ruling upon appeal, then the objection must be noted in the student's education records and the parent or student be given the opportunity to insert into the education records a written explanation respecting the contents of such records.**

COLLECTING, MAINTAINING, AND RELEASING INFORMATION FROM STUDENT RECORDS (continued)**VII. ACCESS TO STUDENT RECORDS:**

A. The Topeka Public Schools shall provide parents of students or eligible students access to the education records of such students. The parents of students or eligible students shall make their requests for access in writing on the form provided by the Topeka Public Schools to the records manager having custody of the education records. The rights of access include:

- 1. The right to be provided with a list of the types of education records which are maintained by the Topeka Public Schools and are directly related to students;**
- 2. The right to review and inspect the content of those records at all reasonable times;**
- 3. The right to obtain copies of those records at the expense of the parent or eligible student. Such expense shall be reasonable and shall not include a charge for the search and retrieval of said student record;**
- 4. The right to a response from the Topeka Public Schools to reasonable requests for explanation and interpretations of those records, provided that a psychologist shall be present when any psychological records are opened for review;**
- 5. The right to an opportunity for a hearing to challenge the content of those records (see Section V 6).**

If any material or document in the education records of a student includes information on more than one student, the right to inspect and review that part of the material or document which relates to such student or to be informed of the specific information contained in that part of the material.

B. The Topeka Public Schools shall not permit access to or the release of educational records or personally identifiable information contained therein other than directory information without the written consent of the parent or the eligible student to any party other than the following:

- 1. School officials with a legitimate educational interest. A “school official” is:**
 - a. A person employed by the district as an administrator, supervisor, instructor or support staff member, including health or medical staff and law enforcement unit personnel);**
 - b. A person serving on the Board of Education;**
 - c. A person or company with whom the district has contractd to perform a specific task (including, but not limited to an attorney, auditor, medical consultant, or therapist);**
 - d. A parent or student serving on a specific committee, such as a disciplinary or grievance committee; or**
 - e. An individual who is assisting a school official in performing his or her tasks. A school official has a legitimate educational interest in the record if the official needs to review the education record in order to fulfill his or her professional responsibility. One has a legitimate education interest if the person has**

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assigned responsibility (a) for the educational development of the student; (b) for providing psychological services to the student; (c) for maintaining discipline over the student body of which the student is a member; (d) for student attendance; (e) for providing counseling, record keeping, or health services.

2. Persons considering a student's application for or receipt of financial aid. Provided, that personally identifiable information from the education records of the student may be disclosed only as may be necessary for such purposes as: (a) to determine the eligibility for financial aid; (b) the amount of the financial aid; (c) the conditions which will be imposed regarding the financial aid; or (d) to enforce the terms or conditions of the financial aid.
3. Authorized representatives of (a) the comptroller general of the United States; (b) the secretary of health, education and welfare; (c) the commissioner, the director of the National Institute of Education, or the assistant secretary for education; or (d) state education authorities as may be necessary in connection with the audit and evaluation of federally supported education programs, or in connection with the enforcement of the federal legal requirements which relate to such programs: provided that except when authorized by federal law, any data collected by such officials shall be protected in a manner which will not permit the personal identification of students and their parents by other than those officials, and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, and enforcement of federal legal requirements.
4. State and local officials or authorities to which such information is specifically required to be reported or disclosed pursuant to state statute.
5. Organizations which satisfy the superintendent or the superintendent's designee that the organization is conducting studies for or on behalf of educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students and their parents by persons other than representatives of such organizations, and such information will be destroyed when no longer needed for the purpose for which it was collected.
6. Accrediting organizations in order to carry out their accrediting functions.
7. Any law enforcement officer or officer of any court upon presentation of a subpoena or court order, provided that unless the order specifically prohibits notice, the parent or eligible student will be given written notice, in advance of the release of the record, that the records will be released in compliance with the court order or subpoena.
8. Appropriate persons in connection with an emergency if the knowledge of such information is necessary to protect the health or safety of a student or other persons.

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9. Officials of another school or school system in which the student seeks or intends to enroll. When records are requested by another school in which the student is seeking to enroll, Topeka Public schools will forward the records without further notice to the parent or eligible student that the records have been requested and/or forwarded.
 10. Disclosure is to an agency caseworker or representative of a state or local child welfare agency or tribal organization who as the right to access a student's case plan when the agency or organization is legally responsible for the care and protection of the student and further disclosure of such information will be limited in accordance with the law.
- C. **Withholding of Records Forbidden.** All school district property in the possession of any student shall be returned to the proper school district administrator or be paid for by the student upon withdrawal from the school district. However, in accordance with K.S.A. 72-5386, the school records of any such student shall not be withheld for any reason.
- D. Where the consent of a parent or student is required for the release of records, the consent shall be in writing, be signed by the person giving such consent, and shall include (a) a specification of the records to be released; (b) the reasons for such release; and (c) the names of the parties to whom such records will be released.
- E. Whenever a student has attained 18 years of age, the consent required of and the rights accorded to the parent(s) of the student shall thereafter only be required of and accorded to the student. The status of an eligible student as a dependent of his or her parents does not otherwise affect the rights accorded to and the consent required of the eligible student as provided by this paragraph. A court-ordered waiver of the age requirement may be accepted for determination of "eligible student" status.
- F. Each request for consent to inspect education records must be handled separately.
- G. The records manager shall maintain a record, kept with the education records of each student, which will indicate (other than school officials and teachers who have legitimate educational interest, parents of a student, persons receiving written consent of a parent of a student, or an eligible student) all other individuals, agencies, or organizations that have requested and obtained access to a student's educational records.
1. The record will indicate specifically the legitimate interest such person, agency, or organization has in obtaining the information as well as the date and time of the request and the data disclosed.
 2. The record of access shall be available only to the parents, the student, the records manager and the manager's other assistants, and to persons or organizations having responsibility for auditing the operation of the records-keeping system.

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3. This paragraph does not apply to disclosures of directory information under Section IV.
- H. Any parent or eligible student who provides written authorization for the release of any or all of the student's record to a person, agency, or institution thereby releases the Topeka Public Schools from the responsibility of maintaining the confidentiality of the whole or that part of the student's record to which access or copy was provided.
- I. Any parent, student, or other person seeking access under authority of Section VII-A or Section VII-B-1 through Section VII-B-9 may appeal according to the procedures set out in Section VI-C; provided, however, that such appeal shall be limited to the question of right of access to education records. Each request of a parent or student or other person listed in Section VII shall be granted within a reasonable period of time but in no case more than 45 days after the request has been made.

VIII. INFORMING PARENTS OF STUDENTS OR ELIGIBLE STUDENTS OF THEIR RIGHTS GRANTED BY FEDERAL LAW:

- A. The Topeka Public Schools shall give parents of students in attendance or eligible students in attendance annual notice of their rights under the Family Educational Rights and Privacy Act (FERPA), 20 US Code Sec 1432g.
- B. Annual notice shall be by such means as is reasonable and likely to inform the parents or eligible student of the rights under FERPA. If the Topeka Public Schools knows that the primary or home language of the parent or eligible student is other than English, the Topeka Public Schools shall provide an effective notice of the rights by either an oral or written explanation in the primary or home language of the parent(s) or eligible student. Publication of the notice of rights in the Student Handbook, which is available on the school district website, shall serve as the primary means of providing notice of these rights. A copy of this publication, or information on how to access the student handbook on-line shall be provided to parents and students at enrollment and/or through information provided in district or school newsletters.

IX. TYPES AND LOCATIONS OF STUDENT EDUCATION RECORDS MAINTAINED BY THE TOPEKA PUBLIC SCHOOLS:

- A. The Topeka Public Schools maintains required and permitted records (see Sections III and IV).
- B. The general director of assessment and demographics is the district manager of all student educational records. Each principal is the records manager for the educational records of students enrolled in his/her school building. The director of special education ancillary services is the manager of records associated with individual educational progress reports and clinical findings. The coordinator of nursing services is the manager of all physical health and immunization records.
- C. The educational records of each currently enrolled student are kept at that school or instructional program location. When a student leaves a Topeka public school, the records are transferred to the Demographic Services Office in the Administrative

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Center, 624 SW 24 Street, Topeka, KS 66611 (phone number 785-575-6151), where they will be made permanent and maintained for an indefinite period of time.

X. RECORD KEEPING AND CONFIDENTIALITY OF SPECIAL EDUCATION STUDENT INFORMATION:

A. INTRODUCTORY COMMENTS

Kansas legislation requires that every school district "shall adopt a policy in accordance with applicable federal laws and regulations to protect the right of privacy of any student or pupil and his or her family regarding personally identifiable records, files, and data directly related to such student or pupils (K.S.A. 72-6214)." The following policy reflects the Department of Special Services' response to this legislative mandate.

B. APPLICABLE REGULATIONS

1. PL 93-112, Section 504 -Nondiscrimination on Basis of Handicap
2. 20 US Code Sec. 1400 –Individuals with Disabilities Education Act (IDEA)
3. 34 Code of Federal Regulations, Part 300 –IDEA regulations
4. K.S.A. 72-962, et seq. –Kansas law on special education
5. K.A.R. –91-40-1, et seq.–Kansas regulations on special education
6. Board of Education Policies

C. NOTIFICATION REGULATION

1. Purpose:

To inform the public of policies and procedures established to ensure the confidentiality of personally identifiable data, information, and records collected or maintained by this agency pursuant to the location, identification, evaluation, and educational placement of exceptional children.

2. Procedure:

A copy of this regulation will be provided to the parent(s) of students who become involved in any special education action. The regulation will normally be provided the parents at the same time that parental consent for evaluation is obtained. A notation that the parents have been provided a copy of these regulations will be made on the face sheet of the student's special education record.

PARENT/CHILD RIGHTS REGULATION

1. Purpose:

To assure and advise parents of the confidentiality practices and procedures of the Department of Special Services, Topeka Public Schools.

2. Procedure:

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- **Parents or their duly authorized representative shall be permitted to inspect and review any personally identifiable data relating to their child without unnecessary delay (in no case more than 45 days after the request has been made and prior to any hearing relating to the identification, evaluation, or placement of the child). (Note: We will presume that the parent has authority to exercise this right unless the agency has been advised that the parent does not have the authority under applicable state law governing such matters as guardianship, separation, and divorce.)**
- **If any record includes data on more than one child, parents shall inspect and review only those data relating to their child. If this is not feasible, parents shall be informed of the data specific to their child.**
- **Parents shall be provided a response to reasonable requests for explanation or interpretation of the data by a qualified professional.**
- **Records of names of all persons who have obtained access to a child's records (excluding parents and authorized employees of the agency), the date access was given, and the purpose for which the person was given access to the records shall be maintained for each student at each record location.**
- **A listing of types and locations of data collected and maintained by the Department of Special Services shall be maintained at the office of the director of special education ancillary services. This listing will be made available to parents upon request.**
- **No charge will be made to parents to search for or to retrieve data. The first 20 pages copied of records requested by parents will be provided without cost. A charge of 25 cents for each page copied will be charged thereafter unless it can be demonstrated that such fee will effectively prevent parents from exercising their right to inspect and review these records. In the latter case, a smaller fee or no fee will be charged. All fees collected for this purpose will be sent to the treasurer of the Board of Education.**

b. Hearing Rights of Parents

- **Parents may request appropriate amendments to records which they believe to be inaccurate, misleading, or in violation of the privacy or other rights of the child.**
- **Within a reasonable period of time, either (1) the records shall be amended as requested, or (2) the parents shall be notified of the agency's decision to refuse the request and advised of their right to a hearing in order to challenge the data.**

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- Upon parental request, a hearing shall be conducted to determine whether or not the challenged data are inaccurate, misleading, or in violation of the legal rights of the child.
- If a hearing is requested, it shall be held within a reasonable period of time after the request; and the parents shall be given advance notice of the time, date, and place of the hearing.
- The hearing shall be impartial, that is, conducted by a party who does not have a direct interest in its outcome.
- Parents may present evidence relevant to the issues and may be assisted or represented by individuals of their choice (including an attorney) at their own expense.
- Parents shall be notified in writing, within a reasonable period of time, of the agency's decision. This decision shall be based solely upon the evidence of the hearing and shall include a summary of the evidence and the reasons for the decision.
- If, as a result of the hearing, the agency decides that the record should be amended as requested, it shall so amend the record. If the agency decides not to amend the record, it shall inform the parents of their right to enter into the records a statement about the challenged data which gives the reasons for disagreeing with the decision of the agency. This statement shall be maintained in and treated as part of the child's records as long as the records or the contested portion thereof are maintained by the agency.
- If parents are in disagreement with the results of the hearing, they may appeal to the Kansas State Board of Education, which shall review the pertinent facts and attempt to resolve the disagreement through communications with the parents and the agency.

c. Parental Consent Regulation

If parental consent is denied in any of the following cases, the agency involved shall attempt to seek resolution through individual conference(s). If the parents still refuse to allow the proposed action, the agency shall either accept the decision or apply to a court of competent jurisdiction for an order directing the parents to comply. To this end, records of contacts and consultations with parents shall be maintained on the face sheet of the student's Special Education folder.

- Parental consent shall be obtained before personally identifiable data are:
 - (1) disclosed to anyone other than officials of the agency collecting or using the data. (Section 438 of the General Education Provisions Act shall

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apply to educational agencies);

(2) used for any purpose other than identification and evaluation for purposes of determining a need for special education and related services; and

(3) used for purposes other than those previously specified to the parent.

- Parental consent shall be sought before a child is given a comprehensive evaluation.

D. SAFEGUARDS

1. Purpose:

To assure that certain safeguards are implemented.

2. Procedure:

- a. The confidentiality of data shall be protected at collection, storage, disclosure, and destruction states.
- b. The director of special education ancillary services shall be responsible for assuring the confidentiality of any personally identifiable data.
- c. All personnel collecting or using personally identifiable data as discussed above shall be instructed annually regarding the policies and procedures as set forth in this document. The immediate administrative supervisor will be responsible for providing this instruction.
- d. The current listing of names of agency personnel who may have access to personally identifiable data is available for public inspection in the office of the director of special education ancillary services

E. DESTRUCTION OF DATA

1. Purpose:

To advise parents of their rights regarding the destruction of data maintained in the student's special education record. Destruction means the physical destruction or the removal of personal identifiers so that the data is no longer personally identifiable.

2. Procedure:

- a. On graduation and/or a student otherwise leaving the district, the applicable program administrators will forward all records of that student to the office of the director of special education ancillary services. The material forwarded will be organized into two sections: material recommended to be maintained and

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material recommended to be destroyed. Upon receiving this material, the director of special education ancillary services will forward the attached letter to the parents advising them that this information is no longer needed to provide educational services to the child and that they have a right to request this information be destroyed. If the parents request that the information be destroyed, the district shall comply. However, a permanent record of the student's name, address, telephone number, grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation. If no reply is received or the parents so indicate, material recommended to be destroyed will be, and the file will be placed in closed storage.

- b. When informing parents about their rights in regard to the destruction of personally identifiable information, the district will remind them that the records may be needed by the child for Social Security benefits or other purposes. For example, material generally requested in order to make a disability determination by the Department of Social and Rehabilitation Services includes scores and reports of psychological testing, medical records, teacher reports of classroom behavior, information on physical condition of a student, and reports of staffings where exceptionality was determined.

F. CHILDREN'S RIGHTS POLICY

When a child has reached the age of majority, eighteen (18) years, the permission or consent required of and the rights accorded to parents of the child shall be required of or accorded to only the child provided the child has not been legally adjudicated to be an incapacitated person.