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To: Members of the Board of Education
From: Doug Larson
Re: Policy Readings
Date: January 25, 2021

Policy and Legal Services will present a First Reading during the next Board of Education meeting. A description of the policy under consideration is provided below.

Article V.C.15 Student Data and Privacy Protection

Requirements for soliciting student information and safeguarding student records are governed by state and federal laws. Policy language related to compliance of those laws is currently found in a variety of locations. This policy intends to consolidate the compliance requirements and direction in one policy for ease of reference.

Article V.C.15 Student Data and Privacy Protection

A. Statement of Purpose

The collection and analysis of student data is essential to the teaching and learning process. The Board of Education of Granite School District (Board) provides standards and procedures that protect the privacy of students and ensure that their data is used only for legitimate educational purposes in compliance with state and federal laws.

B. Definitions

1. "Biometric information" means a retina or iris scan, fingerprint, human biological sample used for testing or screening, or scan of hand or face geometry used to identify an individual regardless of how the information is collected, converted, stored, or shared.
2. "Destroy" means to remove data or a record: (a) in accordance with current industry best practices; and (b) rendering the data or record irretrievable in the normal course of business of an LEA or a third-party contractor.
3. "Directory information" means information contained in an education record of a student, which, if disclosed, would not generally be considered harmful or an invasion of privacy.
4. "Disclosure" means to permit access to, or the release, transfer, or other communication of personally identifiable information contained in education records to any party, by any means, including oral, written, or electronic means.
5. "Education records" means those records, files, documents, and other materials which contain personally identifiable information directly related to a student; and are maintained by an educational agency or by a person acting for such agency.
6. "Expunge" means to seal or permanently delete data.
7. "Invasive physical examination" means any medical examination that involves the exposure of private body parts, or any act during such examination that includes incision, insertion, or injection into the body, but does not include a hearing, vision, or scoliosis screening.
8. "Legitimate educational interest" is when a school official needs to review an

education record in order to fulfill his or her professional responsibility.

9. “Metadata dictionary” means a record that (a) discloses personally identifiable student data collected and shared by the education entity; (b) comprehensively lists recipients with whom the education entity has shared personally identifiable student data, including: (i) the purpose for sharing the data with the recipient; (ii) the justification for sharing the data and whether sharing the data was required by federal law, state law, or a local directive; and (iii) how sharing the data is permitted under federal or state law; and (c) without disclosing personally identifiable student data, is displayed on the education entity’s website.
10. “Parent,” for the purposes of this policy, includes a legal guardian or other person with whom the child lives, or a person who is legally responsible for the welfare of the child.
11. “School official” means 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); a person serving as a volunteer; a person serving on the District School Board; a person or company with whom the District or school has contracted to perform a specialized task or to whom the District has outsourced institutional services or functions.

C. Protection of Pupil Rights

The Protection of Pupil Rights Amendment, 20 U.S.C. 1232h (PPRA) and Utah’s Student Privacy and Data Protection Act, Utah Code §53E-9-203 place restrictions on the types of information that can be asked of students and grant certain rights to parents and students related to sensitive or private information.

1. Before the administration or distribution of a survey created by a third party, Granite School District (District) employees shall provide notice to parents and the opportunity to inspect the survey within a reasonable time of receiving the request. Requests shall be made to school administration.
2. Written parental consent in all grades, kindergarten through grade 12, is required before students are administered a psychological or psychiatric examination, test, or treatment, or any survey, analysis, or evaluation in which the evident intended effect is to cause the student to reveal information, whether information is personally identifiable or not, concerning one or more of the following sensitive areas about the student or any family member:

- a. political affiliations, beliefs, or political philosophies (except as provided under Utah Code §53G-10-202);
 - b. mental or psychological problems;
 - c. sexual behavior, orientation, or attitudes;
 - d. illegal, anti-social, self-incriminating, or demeaning behavior;
 - e. critical appraisals of others with whom the student or family member has close family relationships;
 - f. legally recognized privileged relationships, such as with lawyers, medical personnel, or ministers;
 - g. religious practices, affiliations, or beliefs of the student or student's parent; or
 - h. income, other than as required by law to determine program eligibility.
3. The restrictions detailed above shall also apply within the curriculum and other school activities unless prior written consent of the student's parent has been obtained.
4. Written parental consent is valid where parents are afforded written notice, including making student survey questions available at the school, and where parents are afforded a reasonable opportunity to obtain written information concerning any of the following:
 - a. records or information, including information about relationships, that may be examined or requested;
 - b. the means by which the records or information shall be examined or reviewed;
 - c. the means by which the information is to be obtained;
 - d. the purposes for which the records or information are needed;
 - e. the entities or persons, regardless of affiliation, who will have access to the personally identifiable information; and
 - f. a method by which a parent of a student can grant permission to access or examine the personally identifiable information.
5. Written parental consent shall be valid for the activity for which it was granted. Parents may make a written withdrawal submitted to the school principal terminating consent. A general consent used to approve admission to school or involvement in special education, remedial education, or a school activity does not constitute written consent under this section.
6. Prior written consent shall not be required as part of a suicide prevention program as described in Utah Code §53G-9-702 where the parent has received notification

and the ability to opt out of the program, or in circumstances where a school official has a reasonable belief that they need to address an emergency involving child abuse, neglect, or a serious threat to the wellbeing of the student.

- a. If a school employee, agent, or school resource officer (SRO) believes a student is at-risk of attempting suicide, physical self-harm, or harming others, the school employee, agent, or SRO may intervene and ask a student questions regarding the student's suicidal thoughts, physically self-harming behavior, or thoughts of harming others for the purposes of referring the student to the appropriate prevention services and informing the student's parent without delay.
 - b. If the matter has been reported to the Division of Child and Family Services (DCFS) within the Department of Human Services, it is the responsibility of the division to notify the student's parent of any possible investigation, prior to the student's return home from school.
 - c. School officials, including SROs shall use the minimum degree of intervention to accomplish the goals of this policy.
7. Parents may inspect any instructional materials used as part of the educational curriculum including printed or representational materials, audio-visual materials, and materials in electronic and digital formats used as part of the educational curriculum for the student. However, the opportunity to inspect instructional materials shall not extend to academic tests or academic assessments.
8. This policy in no way limits the speech rights of students appropriate for the school environment, or the ability of a student to express beliefs or opinions otherwise protected against disclosure under this policy.

D. Family Educational Rights and Privacy

Federal and state laws, including the Family Educational Rights and Privacy Act (FERPA), govern access to student records maintained by the schools and the District. Any information collected under this policy shall be protected in accordance with FERPA.

1. Parents have the right to inspect and review all of their student's education records maintained by the District or school.
2. If the education records of a student contain information on more than one student, the parent may inspect and review or be informed of only the specific information about their student.

3. Both custodial and non-custodial parents have access to inspect student records student unless the District or school has been provided with evidence that there is a court order or legally binding instrument relating to such matters as divorce, separation, or custody that specifically revokes these rights.
4. Each school shall establish appropriate procedures for the granting of a request by a parent for access to the education records of their child within a reasonable period of time, but in no case more than forty-five (45) days after the request has been made.
5. Parents may request the District or school amend any portion of their student's education record that is inaccurate, misleading, or in violation of the privacy rights of the student. The District or school shall consider the request and decide whether to amend the records within a reasonable amount of time. If the District or school decides not to amend the record as requested, it shall inform the parent of its decision and of their right to a hearing. The hearing shall be informal and shall be conducted by an appointee of superintendent.
 - a. If, as a result of the hearing, the District decides that the challenged information is inaccurate or misleading, the record should be amended accordingly, and the parent informed in writing.
 - b. If, as a result of the hearing, the District decides that the challenged information is not inaccurate or misleading, the District shall inform the parent of their right to place a statement in the record, commenting on the challenged information in the record, or stating why they disagree with the decision. The statement shall remain with the contested part of the record for as long as the record is maintained and shall be disclosed whenever the portion of the record to which the statement relates is disclosed.
6. The District or school may not disclose information from education records without prior parental consent, except as provided by law. Such exceptions include, but are not limited to:
 - a. school officials who have a legitimate educational interest;
 - b. other schools to which the student is transferring, or where the student is already enrolled;
 - c. specified officials for audit or evaluation purposes;
 - d. appropriate parties in connection with financial aid to a student;
 - e. organizations conducting certain studies for or on behalf of the school;
 - f. accrediting organizations;
 - g. to comply with a judicial order or lawfully issued subpoena;

- h. appropriate officials in cases of health and safety emergencies;
 - i. state and local authorities, within a juvenile justice system, pursuant to specific state law, with the intent to improve educational outcomes; and
 - j. a state agency or organization that is legally responsible for the care and protection of the student, including the responsibility to investigate a report of educational neglect.
- 7. Schools will disclose education records without parent consent to officials of another school within the district or outside the district if the student is seeking to enroll or transfer, or if the student has already enrolled, if the disclosure is for purpose of effectuating the student's enrollment or transfer.
- 8. The District or school may disclose certain directory information for appropriate educational purposes subject to a parent's right to request that their student's directory information not be released by the District or school. Parents must make this request in writing to school administration. The District defines directory information narrowly and retains the right to withhold directory information in the interest of student safety and privacy. Directory information is limited to:
 - a. name, address, email, and telephone listing;
 - b. grade level enrollment status and dates of attendance;
 - c. participation in recognized activities and sports and relevant statistical information related to participation;
 - d. degrees, awards, and honors; and
 - e. grade-level photos and other images associate with participation in school activities.
- 9. Appropriate reasons for disclosure of directory information would include, but are not limited to newspapers for awards, student directories, honor roll lists, graduation lists, military recruiters, and higher education institutions.
- 10. Parents who believe their rights have been violated may contact the school's administration or file a complaint as outlined in this policy with:
Student Privacy Policy Office (SPPO)
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-5920
(202) 260-3887
Informal inquires may be sent to SPPO via the following email addresses: FERPA@ED.Gov and PPRA@ED.Gov. For additional information please visit the SPPO website at the following address: <https://studentprivacy.ed.gov/>

E. Student Data Privacy and Protection

1. In accordance with Utah Code Title 53E, Chapter 9 Student Privacy and Data Protection, the District shall:
 - a. maintain a Data Governance Plan structured to encourage the effective and appropriate use of educational data in conjunction with District policies;
 - b. maintain a Student Data Collection Notice to inform parents and students about the student data the District collects and how that information will be used, shared, and protected;
 - c. maintain a metadata dictionary outlining student data collected and how it is used; and
 - d. designate a student data manager to fulfill responsibilities as described in Utah Code §53E-9-308.

2. All education employees and volunteers shall maintain appropriate confidentiality pursuant to federal and state law and District policies with regard to student performance data and personal identifiable student information. All education employees and volunteers have a responsibility to protect confidential student information and access records only as necessary for their assignment(s), and shall:
 - a. maintain student records in a secure and appropriate place;
 - b. follow procedures for maintaining confidentiality of electronic records; and
 - c. refrain from sharing, disclosing, or disseminating passwords for electronic maintenance of student records.

3. Each teacher, administrator, administrative support staff member, and student support staff member is designated and authorized as an individual who has access to student education records. These employees shall receive annual training regarding the confidentiality of student data and shall annually sign a confidentiality agreement, both of which certify that the employee understands his/her legal and ethical obligation to protect confidential student information.

4. Consistent with state law, student records maintained by the District or school, may not be sold or used for marketing purposes or targeted advertising except with regard to authorized uses of directory information and/or for the exclusive purpose of developing, evaluating, or providing educational products or services for, or to, students or educational institutions, such as the following:
 - a. college or other postsecondary education recruitment, or military recruitment;

- b. book clubs, magazines, and programs providing access to low-cost literary products;
 - c. curriculum and instructional materials used by elementary schools and secondary schools;
 - d. tests and assessments used by elementary schools and secondary schools to provide cognitive, evaluative, diagnostic, clinical, aptitude, or achievement information about students (and the subsequent analysis and public release of the aggregate data from such tests and assessments);
 - e. the sale by students of products or services to raise funds for school-related or education-related activities; and
 - f. student recognition programs.
5. The District and its schools shall retain and dispose of student records in compliance with the Utah Division of Archives and Records Services retention schedule for student records. Student special education records shall be disposed of in accordance with provisions of Utah State Board of Education Special Education Rules. A parent or adult student may request; using the process outlined in section D.5. above to request the District to amend, expunge, or destroy, any record not subject to a retention schedule and/or believed to be inaccurate, misleading, or in violation of the privacy rights of the student.

F. Medical Examinations or Screenings and Biometric Data

1. In the event that any medical examination or screening shall be required of students, prior notice thereof shall be given to parents, to include the nature and purpose of the examination or screening, whether it is required by law, and any opt-out provisions that may be allowed by law.
2. Under federal law, a parent may opt-out his/her student from participating in any non-emergency, invasive physical examination or screening that is: (a) required as a condition of attendance; (b) administered by the District and scheduled in advance; and (c) not necessary to protect the immediate health and safety of the student or of other students. If a parent opts-out his/her student from such examination or screening, the District may require the parent to provide documentation of such examination or screening by the physician at the parent's expense and the results thereof. Any physical examination or screening that is permitted or required by applicable Utah law, including physical examinations or screenings permitted without parental notification, shall not be subject to this provision.

3. In general, the District does not collect students' biometric data without a purpose related to health or safety or as part of the curriculum. Student biometric data shall only be collected after receiving express written consent of parents to collect biometric information. Notice and consent to parents shall include a description of the biometric information to be collected, the purpose for the collection, and how the biometric information will be used and/or stored.

REFERENCES

20 U.S.C. § 1232g – Family Educational Rights and Privacy Act (FERPA)

20 U.S. C. § 1232h – Protection of Pupil Rights Amendment (PPRA)

20 U.S.C. § 7908 – Armed Forces recruiter access to students Recruiting Information

20 U.S.C. §7917 – Transfer of School Disciplinary Records

34 CFR Part 99 – Family Educational Rights and Privacy Act

Utah Code §53G-10-203 – Expressions of belief – Discretionary time

Utah Code §53E-9-201 *et seq.* – Student Privacy

Utah Code §53E-9-301 *et seq.* – Student Data Protection

Utah Administrative Code R277-487 – Public School Data Confidentiality and Disclosure

Granite School District Policy, Article VIII.A.24. Electronic Devices and Acceptable Use of Technology

Granite School District Policy, Article X.C.3. Educator and Student Communications and Social Media

Administrative Memorandum No. 73, Management of Student Records

Granite School District Technology Governance Plan – <https://academictechnology.graniteschools.org/documents/DataGovernancePlan.pdf>

Granite School District Registration Information – <https://www.graniteschools.org/studentlearning/school-registration/>