

Ross Valley Charter School

Maintenance, Retention and

Destruction of Student Records Policy

Introduction

The subject of records is very broad and includes several functions. Records Retention is the holding (period) of records/documents for further use. A record may be any document containing information which is maintained by Ross Valley Charter School (RVC) and its employees.

Records Maintenance is a broader concept and fixes responsibility for and exercises controls over all records/documents, within an organization, from their creation to their final disposition.

Records Storage/Destruction is a function of Records Management, addressing the retention of original records or copies (whether photographed, micro-photographed, or otherwise reproduced on film or electronic media); and the development of a systematized storage plan and indexing with respect to preservation, easy retrieval for later use, or final destruction and disposal.

MAINTENANCE, RETENTION AND DESTRUCTION OF STUDENT RECORDS

Student records are any items of information other than directory information, gathered within or outside RVC, that are directly related to an identifiable student and maintained by the school or required to be maintained by an employee in the performance of his/her duties.

Any information maintained for the purpose of second-party review is considered a student record. A student record may be recorded in handwriting, print, computer media, video or audio tape, film, or by other means. Student records include the student's health record.

Student records do not include:

1. An informal note compiled by a school officer or employee which remains in the sole possession of the maker, is used only as a personal memory aid, and are not accessible or revealed to any other person except a substitute.
2. Records of the law enforcement unit of the district, subject to the provisions of 34 CFR 99.8
3. Documents that do not already exist.

Following are the federal and state definitions of "parent". Anyone who meets one of the definitions included in either list may serve as a parent in relation to schools records. According to federal regulations "parent" means:

- (1) A biological or adoptive parent of a child;

(2) A foster parent, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent;

(3) A guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child (but not the State if the child is a ward of the State);

(4) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or

(5) A surrogate parent who has been appointed in accordance with Section 300.519 or section 639(a)(5) of the Act.

(b)(1) Except as provided in paragraph (b)(2) of this section, the biological or adoptive parent, when attempting to act as the parent under this part and when more than one party is qualified under paragraph (a) of this section to act as a parent, must be presumed to be the parent for purposes of this section unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.(2) If a judicial decree or order identifies a specific person or persons under paragraphs (a)(1) through (4) of this section to act as the "parent" of a child or to make educational decisions on behalf of a child, then such person or persons shall be determined to be the "parent" for purposes of this section. (Authority: 20 U.S.C. 1401(23)) Title 34 Code of Federal Regulations Section 300.30 Parent

California Education Code defines "parent" as any of the following:

(1) A biological or adoptive parent of a child.

(2) A foster parent if the authority of the biological or adoptive parents to make educational decisions on the child's behalf specifically has been limited by court order in accordance with Section 300.30(b)(1) or (2) of Title 34 of the Code of Federal Regulations.

(3) A guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child, including a responsible adult appointed for the child in accordance with Sections 361 and 726 of the Welfare and Institutions Code.

(4) An individual acting in the place of a biological or adoptive parent, including a grandparent, stepparent, or other relative, with whom the child lives, or an individual who is legally responsible for the child's welfare.

(5) A surrogate parent who has been appointed pursuant to Section 7579.5 or 7579.6 of the Government Code, and in accordance with Section 300.519 of Title 34 of the Code of Federal Regulations and Section 1439(a)(5) of Title 20 of the United States Code.

(b)(1) Except as provided in paragraph (2), the biological or adoptive parent, when attempting to act as the parent under this part and when more than one party is qualified under subdivision (a) to act as a parent, shall be presumed to be the parent for purposes of this section unless the biological or adoptive parent does not have legal authority to make educational decisions for the child. (2) If a judicial decree or order identifies a specific person or persons under paragraphs (1) to (4), inclusive, of subdivision (a) to act as the "parent" of a child or to make educational decisions on behalf of a child, then that person or persons shall be determined to be the "parent" for purposes of this part, Article 1 (commencing with

Section 48200) of Chapter 2 of Part 27 of Division 4 of Title 2, and Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code, and Sections 361 and 726 of the Welfare and Institutions Code. (c) "Parent" does not include the state or any political subdivision of government. (d) "Parent" does not include a nonpublic, nonsectarian school or agency under contract with a local educational agency for the provision of special education or designated instruction and services for a child. Parent - California Education Code Section 56028

Type of Records

All pupil records are classified as Mandatory Permanent, Mandatory Interim or Permitted. Regulations governing access, transfer, and destruction of records vary according to their classification. **Special Education Pupil Records are classified as Mandatory Interim Records.** Therefore, school districts must protect the confidentiality of personally identifiable information at collection, storage, disclosure and destruction stages.

Mandatory permanent student records are those records which are maintained in perpetuity and which schools have been directed to compile by state law, regulation or administrative directive. (5 CCR 430)

Mandatory interim student records are those records which the schools are directed to compile and maintain for the stipulated periods of time and are then destroyed in accordance with state law, regulation or administrative directive. (5 CCR 430) **Special Education Pupil Records are classified as Mandatory Interim Records.**

Permitted student records are those records having clear importance only to the current educational process of the student. (5 CCR 430)

Safeguards

The custodian of record for Ross Valley Charter (RVC) shall be the School Director or designee.

Basic procedures for confidential information:

1. Maintain all records in a locked filing cabinet or room.
2. Files should not be left out unattended.
3. Individual files are to be checked out using an insert that identifies the student, the date, and person accessing the files.
4. Use initials or first name and last initial when possible.
5. Files moving between sites need to be clearly marked confidential and tracked as to when they were sent by whom and when received.
6. All records sent outside of RVC needs to have documentation as to sending and receiving information.
7. Files kept by educators with confidential information also need to be treated with the same process to protect the information.

Following are the procedural guidelines for Special Education:

Special Education information and material to be included in the student record file:

- Copies of IEPs
- Assessment plans, reports,

- Communication to and from parents, including all mandatory information,
- Transition plans (included as necessary),
- Behavior intervention plans (included as necessary), and
- Psycho-educational reports

Location of Pupil Records

- The custodian of records shall be responsible for the security of pupil records maintained by the district and shall devise procedures for assuring that access to such records is limited to authorized persons.
*Added to 5 CCR 433
- Records for each individual pupil shall be maintained in a central file at the school attended by the pupil.
- When records are maintained in different locations a notation in the central file as to where such other records may be found is required. (Education Code 49060; 5 CCR 433)

Transfers

Confidential records and/or information may be transferred between public schools and public school districts within the state of California without written permission by parent, guardian or student over 18 years of age. RVC will make an effort to ensure that the parent has requested any transfer.

Transfer of confidential records and/or information to a public school or district outside the state does require the written consent of parent, guardian or student over 18 years of age.

Transfer of confidential records and/or information to a private school or any private or public agency or other individual does require the written consent of parent, guardian or student over 18 years of age.

Notification of Parents/Guardians

Upon students' initial enrollment and at the beginning of each year thereafter, the Superintendent or designee shall notify parents/guardians and eligible students, in writing, of their rights related to student records. RVC provides this notification on our website for all parents to access. Insofar as practicable, the district shall provide these notices in the student's home language and shall effectively notify parents, guardians or eligible students who are disabled. (Education Code 49063; 34 CFR 99.7)

The notification shall include information about: (Education Code 49063; 34 CFR 99.7; 99.34)

1. The types of student records kept by the district and the information contained therein
2. The rules of the officials responsible for maintaining each type of record
3. The location of the log identifying those who request information from the records
4. District criteria for defining "school officials and employees" and for determining "legitimate educational interest"
5. District policies for reviewing and expunging student records
6. The right to inspect and review student records, and the procedures for doing so
7. The right to challenge, and the procedures for challenging, the content of a student record that the parent/guardian or student believes to be inaccurate, misleading, an unsubstantiated personal conclusion or reference, or otherwise in violation of the student's privacy rights
8. The cost, if any, charged for duplicating copies of records
9. The categories of information defined as directory information pursuant to Education Code 49073

10. The right to consent to disclosures of personally identifiable information contained in the student's records except when disclosure without consent is authorized by law

11. Any other rights and requirements set in Education Code 49060 - 49078 and the rights of parents/guardians to file a complaint with the United States or California Department of Education concerning an alleged failure by the district to comply.

12. The notification shall also include a statement that the district forwards education records to other agencies or institutions that have requested the records and in which the student seeks or intends to enroll.

ACCESS TO STUDENT RECORDS

Access means a personal inspection and review of a record, an accurate copy of a record or receipt of an accurate copy of a record, an oral description or communication of a record, and a request to release a copy of any record. (Education Code 49061)

Personally identifiable information includes but is not limited to the student's name, the name of the student's parent/guardian or other family member, the address of the student or student's family, a personal identifier such as the student's social security number or student number, biometric records such as fingerprints, DNA, or retinal scans, and a list of personal characteristics or other information that would make the student's identity easily traceable. (34 CFR 99.3)

Those granted access are prohibited from releasing information to another person or agency without written permission from the parent or legal guardian. (If the student is 18 or older, the right of consent belongs to the student unless a parent or guardian obtains conservatorship.) A parent's representative such as an attorney or advocate may access records if parents have signed a release.

State and federal laws permit access to records according to the following listings:

Procedure for Access

To inspect, review or obtain copies of student records, authorized persons shall submit a request to the custodian of records (School Director or designee.)

Authorized persons from outside the school whose access requires consent from the parent/guardian or adult student shall submit their request, together with any required authorization, to the custodian of records. (5 CCR 435)

Within five days following the date of request, an authorized person shall be granted access to inspect, review and obtain copies of student records during regular school hours. (Education Code 49069; 5 CCR 431)

Qualified certificated personal shall be available to interpret records when requested. (Education Code 49069)

Persons with Access to Student Records

Persons, agencies or organizations specifically granted access rights pursuant to law shall have access without written parental consent or judicial order. In addition, parental consent is not required when information is shared with other persons within educational institutions, agencies or organizations

obtaining access, as long as those persons have legitimate education interest in the information. (Education Code 49076)

The **following persons or agencies shall have absolute access** to any and all student records in accordance with law:

Absolute Access

1. Parents/guardians of students younger than age 18. (Education Code 49069)

Access to student records and information shall not be denied to a parent because he/she is not the child's custodial parent unless there is a court order denying such access. (Family Code 3025)

2. An adult student age 18 or older or a student under the age of 18 who attends a postsecondary institution, in which case the student alone shall exercise rights related to his/her student records and grant consent for the release of records. (34CFR 00.5)
3. Those so authorized in compliance with a court order or lawfully issued subpoena (Education Code 49077) For legal definition of "parent" see page 1.

In addition, the following persons or agencies shall have access to those particular records that are relevant to the *legitimate educational interests* of the requester: (Education Code 49076)

Legitimate Educational Interests Access

1. Parents or guardians, age 18 or older, of a dependent RVC student.
2. RVC Students 16 or older or who have completed the 10th grade.
3. RVC School officials and employees.
4. Members of a school attendance review board, and any volunteer aide age 18 or older who has been investigated, selected and trained by such a board to provide follow-up services to a referred student.
5. Officials and employees of other public schools or school systems where the student intends or is directed to enroll, including local, county or state correctional facilities where educational programs leading to high school graduation are provided.
6. Federal, state and local officials, as needed for program audits or compliance with law.
7. Any district attorney who is participating in or conducting a truancy mediation program or participating in the presentation of evidence in a truancy petition.
8. A prosecuting agency for consideration against a parent/guardian for failure to comply with compulsory education laws.
9. Any probation officer or district attorney for the purposes of conducting a criminal investigation or an investigation in regards to declaring a person a ward of the court or involving a violation of a condition of probation.

10. Any judge or probation officer for the purpose of conducting a truancy mediation program for a student, or for purposes of presenting evidence in a truancy petition pursuant to Welfare and Institutions Code 681.

11. Any county placing agency for the purpose of fulfilling educational case management responsibilities required by the juvenile court or by law pursuant to Welfare and Institutions Code 16010 and to assist with the school transfer or enrollment of a student.

12. Foster family agencies with jurisdiction over currently enrolled or former students may access those students' records of grades and transcripts, and any individualized education program (IEP) developed and maintained by the district with respect to such students. (Education Code 49069.3)

Information from student files will not be provided to individuals in whole or part (redacted) unless access is allowed under the above-mentioned circumstances. All publicly available records shall be provided in reports, and shall be compiled so as to not individually identify an individual student and his/her records.

LOG OF REQUEST FOR INFORMATION

All requests of individuals or agencies, with the exception of other school officials and parents, must be recorded in a record or log of requests for information. The log or record must be open to the inspection of a parent and the school officials. The log or record must contain the following information: the name of the requesting party and the legitimate interest of the party. The log should be kept with the student's educational records.

RECOMMENDED PROCEDURE

- Upon receipt of a written request for student records from a group authorized to receive it, check student folder for "objection to release" form. If Objection Form is present, refer to the School Director. If no objection form is present, supply the information.
- If the request is oral, verify the identity of requester by calling back. If there is any doubt as to the identity of the requester, require a written request, on official letterhead.
- Upon receipt of a written request for information, ascertain whether or not it falls into the authorized categories as defined in the section above. If it does, supply the information as explained above. If it does not, log the request and refer it to the School Director.

TRANSFER OF SPECIAL EDUCATION STUDENT RECORDS

Special Education student records are mandatory to:

- California Public Schools
- California Private Schools
- Out-of-state Public Schools
- Out-of-state Private Schools

A copy of the records should be retained when these transfers occur. A minimum recommendation for records that should be retained is:

- Parent permission for assessment
- Parent permission for placement
- Evaluations and written reports (i.e., medical, psychological, educational)
- Current individualized educational plan

CONSENT TO RELEASE STUDENT RECORDS

- District to district record transfer does not have to be in writing.
- Written consent must specify the records to be released, identify the party or class of parties to whom records may be released, state the purpose(s) of the disclosure and be signed and dated by the parent of eligible student. Electronic consent is allowed as long as it identifies and verifies a particular person as the source of the consent.
- The recipient of the records must be notified that the transmission of information to others without the written consent of the parent is prohibited; however, information may be shared with other persons within the educational institution obtaining access, as long as such persons have a legitimate interest in the information.
- Whenever a student reaches the age of 18 years or is attending an institution of post secondary education, the permission or consent of, and the rights afforded to, the parents or guardian of the student shall thereafter only be required of, and afforded to, the student unless a court of competent jurisdiction has granted another individual conservatorship over the student.

AMENDMENT OF RECORDS

Only a parent/guardian having legal custody of the student or an adult student may challenge the content of a record or offer a written response to a record. (Education Code 49070)

If parent, guardian or adult student desires to challenge the content of student records, they must establish that specific grounds exist and provide a written request to correct or remove the information. Assistance in writing the request will be provided if needed, and an electronic request will constitute a written request. Grounds may include:

- Inaccurate information.
- Information is unsubstantiated personal conclusion or inference. Information is a conclusion or inference outside the observer's area of competence.
- Information is not based on personal observation of a named person with the time and place of the observation.
- Misleading.
- In violation of the privacy or other rights of the pupil.

The agency must decide whether to amend the information within a reasonable time after receipt of the request to amend. If the agency refuses to amend the information, it must inform the parent(s) of the refusal and advise the parent(s) of their right to a hearing, as per district policy.

Security of Records Responsibility

The School Director or designee shall be responsible for the coordination of information security for student data.

Sensitive Records Defined

Sensitive records may be stored in either electronic or printed format. Records shall be defined as “sensitive” if they contain an individual’s first name or first initial and last name in combination with any one of the following data elements, when either the name or the elements are not encrypted or redacted:

- a. Social security number
- b. Driver’s license number
- c. Home address*
- d. Salary information
- e. Student attendance or grade data*
- f. Medical information
- g. Bank account or credit card account number
- h. Date of birth
- i. Cell/Home phone number*
- j. Maiden name *

* Student “directory information”, as defined by Education Code section 49061(c) that is released pursuant to law shall not be defined as “sensitive records” pursuant to this policy (Education Code section 49073).

Any document marked “Confidential”, “Sensitive” or otherwise similarly labeled shall be treated as a “sensitive record”.

Electronic Records

Sensitive records maintained electronically shall be encrypted when reasonably possible. Care shall be taken to properly erase sensitive records from electronic files when they are no longer needed or when computer hardware containing such records is discarded. Email messages may be considered student records under certain circumstances.

Paper Records

Sensitive records maintained on paper shall be stored in secure, locked areas and shall be shredded when no longer needed.

Destruction of Records

All school records in California are divided into three groups for the purpose of defining how long records are kept before they are destroyed:

1. Class I – Mandatory Permanent Must be kept indefinitely by the school district unless microfilmed per §106022©, Title 5. 13
2. Class II – Optional Mandatory Interim Must be kept for three years after their date of origin at which time may be reclassified as Permanent, Optional or Disposable.
3. Class III – disposable
The only disposable records are Class III and are to be destroyed by “foolproof methods” so as to maintain the confidentiality of the record. Whenever records are deemed Class III, parents are to be notified in writing. (see sample letter, attached)

Portable Data Storage Devices

Employees are urged not to maintain sensitive information on laptop computers or portable data storage devices unless absolutely necessary. When necessary to do so, it is the responsibility of the employee to be aware of what data is on the devices, and to properly secure those devices to protect them from theft or unauthorized use. Password protecting devices is essential.

Process of Retention and Destruction of Student Records

Mandatory Permanent student records shall be kept indefinitely. They include: (5 CCR 432, 437)

1. Legal name of student
2. Date and place of birth, and method of verifying birth date
3. Sex of student
4. Name and address of parent/guardian of minor student
5. Address of minor student if different from the above
6. Annual verification of parent/guardian's name and address and student's residence
7. Entrance and departure date of each school year and for any summer session or other extra session
8. Subjects taken during each year, half-year, summer session or quarter, and marks or credit given
9. Verification of or exemption from required immunizations

Mandatory Interim student records, unless forwarded to another district, shall be maintained subject to destruction during the third school year following a determination that their usefulness has ceased or the student has left the district. These records include: (5 CCR 432, 437)

1. Expulsion orders
2. A log identifying persons or agencies who request or received information from the student record
3. Health information, including Child Health and Disability Prevention Program verification and waiver
4. Information on participation in special education programs, including required tests, case studies, authorizations, and evidence for admission or discharge
5. Language training records
6. Progress slip notices required by Education Code 49055 and 49067
7. Parent restrictions/stipulations regarding access to directory of information
8. Parent/guardian or adult student rejoinders to challenged records and to disciplinary action
9. Parent/guardian authorization or denial of student participation in specific programs
10. Results of standardized tests administered with the past three years

Employees are encouraged to use due diligence in handling and protecting confidential files and written documents.

Procedures for Storing Student Records

Permanent Records for students who are no longer at RVC shall be kept stored in a locked closet. Should secure space on the school campus be unavailable, records may be stored in a secure storage facility.

Procedures for Relocation of Records

Whenever official records are relocated from one location to another, a Records Relocation Document shall be completed and signed by the supervisory/management person in charge of the

relocation records. Pre-approval of such relocation, as well as completion verification, shall be required by the School Director. A copy of the Records Relocation Document shall be retained for a period of three years.

Charges for Copies of Records

Parents may request copies of records and must receive them within five (5) business days. Parents may not be charged for copies of records if the fee would effectively prevent the parent from exercising the right to inspect and review the records. A charge may also not be levied for the time spent in searching or reviewing records. Districts should follow local practice regarding charges for requested copies of records.

SCHOOL CLOSURE

Should RVC permanently close, all permanent document disposition shall follow the procedures outlined in the authorizing Charter document.