

Lane Education Service District Administrative Rule

Code: **JO-AR**
Adopted: 9/13/95
Revised/Readopted: 7/10/01, 8/27/02
Orig. Code(s): JO-AR(1)

Education Records Management

1. Student Education Record

Student education records are those records that are directly related to a student served by the ESD and maintained by the ESD, or by a party acting for the ESD.

Students, including home-schooled students, served by Lane ESD will be subject to ESD education records, policies and administrative rules.

2. The ESD shall provide a notification form to parents or guardians wishing to enroll a student in home-schooling and shall keep and maintain that notification form as a permanent record on each home-schooled student. The notification form shall include the following information:

- a. Full name of the child;
- b. Child's birth date;
- c. Name of parents/guardians;
- d. Address;
- e. Phone number;
- f. Resident school district;
- g. Whether or not the child is eligible for special education services;
- h. Name of school previously attended month and year the student was withdrawn.

The permanent record shall also include the following:

- i. Date of entry in home schooling;
- j. Date of withdrawal from home schooling;
- k. Test scores; and
- l. Such additional information as the district may prescribe.

Permanent records currently in use shall be maintained in a minimum one-hour fire-safe place in an ESD facility, or a duplicate copy of the permanent records shall be kept in a safe depository in another ESD location.

3. Education records for home schooled students will not include the following:

- a. Records of instructional, supervisory and administrative personnel and educational personnel ancillary to those persons that are kept in the sole possession of the maker of the record, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record;

- b. Records of a law enforcement unit of the ESD, but only if education records maintained by the ESD are not disclosed to the unit, and the law enforcement records are:
 - (1) Maintained separately from education records;
 - (2) Maintained solely for law enforcement purposes; and
 - (3) Disclosed only to law enforcement officials of the same jurisdiction.
- c. Records relating to an individual who is employed by the ESD that are made and maintained in the normal course of business, that relate exclusively to the individual in that individual's capacity as an employee and that are not available for use for any other purpose. Records relating to an individual in attendance at the ESD who is employed as a result of his/her status as a student are education records and are not excepted under this section;
- d. Records on a student who is 18 years of age or older or is attending an institution of postsecondary education, that are:
 - (1) Made or maintained by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional acting in his/her professional capacity or assisting in a paraprofessional capacity;
 - (2) Made, maintained or used only in connection with treatment of the student; and
 - (3) Disclosed only to individuals providing the treatment. For purposes of this definition, "treatment" does not include remedial educational activities or activities that are part of the program of instruction at the district.
- e. Records that only contain information relating to activities in which an individual engaged after he/she is no longer a student at the ESD;
- f. Medical or nursing records which are made or maintained separately and solely by a licensed health-care professional and which are not used for education purposes or planning.

4. Rights of Parents and Eligible Students

Parents or guardians of students served by Lane ESD and parents or guardians registering a child for home-schooling shall receive information which explains that the parent or eligible student has the right to:

- a. Inspect and review the student's education records;
- b. Request the amendment of the student's education record to ensure that it is not inaccurate, misleading or otherwise in violation of the student's privacy or other rights;
- c. Consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that the applicable state or federal law authorizes disclosure without consent;
- d. Pursuant to Oregon Administrative Rule 581-021-0305, file with the United States Department of Education a complaint under 34 CFR §99.64 concerning alleged failures by the ESD to comply with the requirements of federal law; and
- e. Obtain a copy of the ESD policy with regards to student education records.

The notification shall also indicate where copies of the ESD policy are located and how copies may be obtained.

If the eligible student or the student's parent(s) has a primary or home language other than English, the ESD shall provide effective notice.

These rights shall be given to either parent unless the ESD has been provided with specific written evidence that there is a court order, state statute or legally binding document relating to such matters as divorce, separation or custody that specifically revokes these rights.

When a student becomes an eligible student, which is defined as a student who has reached 18 years of age or is attending only an institution of postsecondary education and is not enrolled in a secondary school, the rights accorded to, and the consent required of, the parents transfer from the parents to the student. Nothing prevents the ESD from giving students rights in addition to those given to parents.

5. Parent's or Eligible Student's Right to Inspect and Review

The ESD shall permit an eligible student or student's parent(s) or a representative of a parent or eligible student, if authorized in writing by the eligible student or student's parent(s), to inspect and review the education records of the student, unless the education records of a student contain information on more than one student. In that case the eligible student or student's parent(s) may inspect, review or be informed of only the specific information about the student.

The parent(s) or eligible student shall comply with the following procedure to inspect and review a student's education record:

- a. Provide a written, dated request to inspect a student's education record; and
- b. State the specific reason for requesting the inspection.

The written request will be permanently added to the student's education record.

The ESD shall comply with a request for access to a student's education record within a reasonable period of time, but in no case more than 45 days after it has received the request.

The ESD shall respond to reasonable requests for explanations and interpretations of the student's education record.

The ESD shall not destroy any education records if there is an outstanding request to inspect and review the education record.

While the ESD is not required to give an eligible student or student's parent(s) access to treatment records under the definition of "education records" in OAR 581-021-0220 (5)(b)(D), the eligible

student or student's parent(s) may, at his/her expense, have those records reviewed by a physician or other appropriate professional of his/her choice.

If an eligible student or student's parent(s) so requests, the ESD shall give the eligible student or student's parent(s) a copy of the student's education record. The ESD may recover a fee for providing a copy of the record, but only for the actual costs of reproducing the record. The ESD shall not provide the eligible student or student's parent(s) with a copy of test protocols, test questions and answers and other documents described in ORS 192.501(4).

The ESD may deny a request for a copy or copies of the education record when the ESD believes that a legitimate cause exists for such a denial, including but not limited to, a request to copy the education record that would require the education record to be copied off district property or copied by an individual other than ESD personnel.

Fees for copies of education records may be charged. Any such fees will be established by the superintendent to reasonably reimburse the ESD for actual costs of making copies of the education records. However, the superintendent or designee may provide copies of education records without a fee, if requested by the parent or eligible student, and if the superintendent or designee determines that a failure to provide such copies would effectively prevent the person from exercising the right to inspect and review such records.

The ESD will maintain a list of the types and locations of education records maintained by the ESD and the titles and addresses of officials responsible for the records.

All student education records will be maintained at the school building or ESD program site at which the student is in attendance. The ESD program administrator or designee shall be the person responsible for maintaining and releasing the education records.

6. Release of Personally Identifiable Information

Personally identifiable information shall not be released without prior written consent of the parent or the eligible student except in the following cases:

- a. The disclosure is to other ESD officials, including teachers, within the ESD who have a legitimate educational interest.

As used in this section, "legitimate educational interest" means, a licensed staff member having the student in class, the student's counselor or other licensed staff due to special referral or participating in staffings, programming or case review of a specifically named student.

The ESD shall maintain, for public inspection, a listing of the names and positions of individuals within the ESD who have access to personally identifiable information with respect to students with disabilities.

- b. The disclosure is to officials of another program within the ESD, another school system or an institute of postsecondary education where the student seeks or intends to enroll;
- c. The disclosure is to authorized representatives of:
 - (1) The Comptroller General of the United States;
 - (2) The Secretary of the United States Department of Education; or
 - (3) State and local educational authorities.
- d. The disclosure is in connection with financial aid for which the student has applied or which the student has received, if the information is necessary for such purposes as to:
 - (1) Determining eligibility for the aid;
 - (2) Determining the amount of the aid;
 - (3) Determining the conditions for the aid; or
 - (4) Enforcing the terms and condition of the aid.

As used in this section “financial aid” means any payment of funds provided to an individual that is conditioned on the individual’s attendance at an educational agency or institution.

- e. The disclosure is to organizations conducting studies for, or on behalf of, the district to:
 - (1) Develop, validate or administer predictive tests;
 - (2) Administer student aid programs; or
 - (3) Improve instruction.

The ESD may disclose information under this section only if:

- (1) The study is conducted in a manner that does not permit personal identification of parents or students by individuals other than representatives of the organization; and
- (2) The information is destroyed when no longer needed for the purposes for which the study was conducted.

For purposes of this section, the term “organization” includes, but is not limited to, federal, state and local agencies, and independent organizations.

- f. The disclosure is to accrediting organizations to carry out their accrediting functions;
- g. The disclosure is to comply with a judicial order or lawfully issued subpoena. The ESD may disclose information under this section only if the ESD makes a reasonable effort to notify the eligible student or student’s parent(s) of the order or subpoena in advance of compliance;
- h. The disclosure is to parents of a dependent student, as defined in section 152 of the Internal Revenue Code of 1986;
- i. The disclosure is in connection with a health or safety emergency. The ESD shall disclose personally identifiable information from an education record to law enforcement, child protective services and health-care professionals, and other appropriate parties in connection

with a health and safety emergency if knowledge of the information is necessary to protect the health and safety of the student or other individuals.

As used in this section a “health or safety emergency” includes, but is not limited to, law enforcement efforts to locate a child who may be a victim of kidnap, abduction or custodial interference and law enforcement or child protective services efforts to respond to a report of child abuse or neglect pursuant to applicable state law.

- j. The disclosure is information the ESD has designated as “directory information”;
- k. The disclosure is to the parent of a student who is not an eligible student or to an eligible student;
- l. The disclosure is to an education service district, state regional program or an educational agency other than those requesting a transfer of the student’s education record as outlined in OAR 581-021-0250 (1)(1), if the student seeks or intends to enroll in or receives services from the educational agency. The term “receives services” includes, but is not limited to, an evaluation or reevaluation for purposes of determining whether a student has a disability;
- m. The disclosure is to Lane ESD’s Board of Directors during an executive session pursuant to ORS 332.061.

7. Record Keeping Requirements

Lane ESD shall maintain a record of each request for access to and each disclosure of personally identifiable information from the education records of each student. Exceptions to the record-keeping requirements shall include the parent, eligible student, school official or his/her assistant responsible for custody of the records and parties authorized by state and federal law for auditing purposes. The ESD shall maintain the record with the education records of the student as long as the records are maintained. For each request or disclosure the record must include:

- a. The party or parties who have requested or received personally identifiable information from the education records; and
- b. The legitimate interests the parties had in requesting or obtaining the information.

The following parties may inspect the record of request for access and disclosure to a student’s personally identifiable information:

- a. The parent or eligible student;
- b. The ESD program administrator or his/her assistants who are responsible for the custody of the records;
- c. Those parties authorized by state or federal law for purposes of auditing the record-keeping procedures of the ESD.

8. Request for Amendment of Student’s Education Record

If an eligible student or student’s parent(s) believes the education records relating to the student contain information that is inaccurate, misleading or in violation of the student’s rights of privacy or other rights, he/she may ask the appropriate ESD program administrator where the record is maintained to amend the record.

The appropriate ESD program administrator shall decide, after consulting with the necessary staff, whether to amend the record as requested within a reasonable time after the request to amend has been made.

The request to amend the student’s education record shall become a permanent part of the student’s education record.

If the appropriate ESD program administrator decides not to amend the record as requested, the eligible student or the student’s parent(s) shall be informed of the decision and of his/her right to appeal the decision by requesting a hearing.

9. Hearing Rights of Parents or Eligible Students

If the appropriate ESD program administrator decides not to amend the education record of a student as requested by the eligible student or the student’s parent(s), the eligible student or student’s parent(s) may request a formal hearing for the purpose of challenging information in the education record as inaccurate, misleading or in violation of the privacy or other rights of the student. The ESD shall appoint a hearings officer to conduct the formal hearing requested by the eligible student or student’s parent. The hearing may be conducted by any individual, including an official of the ESD, who does not have a direct interest in the outcome of the hearing. The hearings officer will establish a date, time and location for the hearing. The hearing will be held within 10 working days of receiving the written or verbal request for the hearing.

The hearings officer will convene and preside over a hearing panel consisting of:

- a. The appropriate ESD program administrator or designee;
- b. A member chosen by the eligible student or student’s parent(s); and
- c. A disinterested, qualified third party appointed by the superintendent.

The parent or eligible student may, at his/her own expense, be assisted or represented by one or more individuals of his/her own choice, including an attorney. The hearing shall be private. Persons other than the student, parent, witnesses and counsel shall not be admitted. The hearings officer shall preside over the panel. The panel will hear evidence from the school staff and the eligible student or student’s parent(s) to determine the point(s) of disagreement concerning the records. Confidential conversations between a licensed employee or ESD counselor and a student shall not be part of the records hearing procedure.

The eligible student or student's parent(s) has the right to insert written comments or explanations into the record regarding the disputed material. Such inserts shall remain in the education record as long as the education record or contested portion is maintained and exists. The panel shall make a determination after hearing the evidence and makes its recommendation in writing within 10 working days following the close of the hearing.

The panel will make a determination based solely on the evidence presented at the hearing and will include a summary of the evidence and the reason for the decision. The findings of the panel shall be rendered in writing not more than 10 working days following the close of the hearing and submitted to all parties.

If, as a result of the hearing, the panel decides that the information in the education record is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall inform the eligible student or student's parent(s) of the right to place a statement in the record commenting on the contested information in the record stating why he/she disagrees with the decision of the panel. If a statement is placed in an education record, the ESD will ensure that the statement:

- a. Is maintained as part of the student's records as long as the record or contested portion is maintained by the ESD; and
- b. Is disclosed by the ESD to any party to whom the student's records or the contested portion are disclosed.

If, as a result of the hearing, the panel decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall:

- a. Amend the record accordingly; and
- b. Inform the parent or the eligible student of the amendment in writing.

10. Transfer of Education Records

The ESD shall, subject to ORS 339.260, transfer originals of all requested student education records, relating to the particular student to the new educational agency when a request to transfer the education records is made to the ESD. The transfer shall be made no later than 10 days after receipt of the request. Readable copies of the following documents shall be retained:

- a. The student's permanent records, for one year;
- b. Such special education records as are necessary to document compliance with state and federal audits, or five years after the end of the school year in which the original was created. In the case of records documenting speech pathology and physical therapy services, until the student reaches age 21 or 5 years after last seen, whichever is longer.

LANE EDUCATION SERVICE DISTRICT
REQUEST TO FORWARD STUDENT RECORDS

Student's Full Name: _____

Student's Date of Birth: _____

School Year(s) Student was Enrolled in Home School: _____

Parent's/Guardian's Full Name: _____

Parent's/Guardian's Current Address: _____

Parent's/Guardian's Current Phone Number: _____

I am requesting that Lane ESD forward copies of my student's records to: _____

Parent's/Guardian's Signature: _____ Date: _____

**Lane Education Service District
Disclosure Statement**

Required for use in collecting personally identifiable information
related to social security numbers.

On any form that requests the social security number (SSN), the following statement shall appear just above the space for the SSN:

“Providing your social security number (SSN) is voluntary. If you provide it, Lane ESD will use your SSN for record keeping, research, and reporting purposes only. The ESD will not use your SSN to make any decision directly affecting you or any other person. Your SSN will not be given to the general public. If you choose not to provide your SSN, you will not be denied any rights as a student. Please read the statement on the back of this form that describes how your SSN will be used. Providing your SSN means that you consent to the use of your SSN in the manner described.”

On the back of the same form, or attached to it, the following statement shall appear:

OAR 581-021-0250 (1)(j) authorizes ESD’s and school districts to ask you to provide your social security number (SSN). The SSN will be used by the ESD for reporting, research and record keeping. Your SSN will also be provided to the Oregon Department of Education. The Oregon Department of Education gathers information about students and programs to meet state and federal statistical reporting requirements. It also helps ESD’s, school districts and the state research, plan and develop educational programs. This information supports the evaluation of educational programs and student success in the workplace.

The ESD and Oregon Department of Education may also match your SSN with records from other agencies as follows:

The Oregon Department of Education uses information gathered from the Oregon Employment Division to learn about education, training and job market trends. The information is also used for planning, research and program improvement.

State and private universities, colleges, community colleges and vocational schools use the information to find out how many students go on with their education and their level of success.

Other state agencies use the information to help state and local agencies plan educational and training services to help Oregon citizens get the best jobs available.

Your SSN will be used only for statistical purposes as listed above. State and federal law protects the privacy of your records.