



SD School for the Blind and Visually Impaired

APPENDIX III: CONFIDENTIALITY

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CONFIDENTIALITY POLICY: EMPLOYEES, STUDENT TEACHERS/INTERNS & VOLUNTEERS

We have both a legal and moral responsibility to respect the privacy of the students we serve and their families. As someone working at the South Dakota School for the Blind and Visually Impaired you will have access to information about students and sometimes their families. It is important that you understand and agree to adhere to school policies regarding sharing of confidential information. The family's right to privacy is guaranteed under the Family Rights and Privacy Act.

Under SDSBVI policy students have a right to privacy in their dorm rooms and bath rooms (see specific dorm privacy guidelines). Families also have rights under the Family Rights and Privacy Act (FERPA).

The first general principle is "need to know." You need to consider whether sharing information with a third party is necessary and in the child's best interest.

- Do notify the Student Services Director/School Counselor if you have concerns about the child's welfare or safety (abuse/neglect).
- Do notify the Student Services Director/School Counselor if a child speaks of suicide or violence.
- Don't pass along personal information a child had confided to you.
- Don't discuss the child by name with others outside the school unless you are acting in an official capacity.
- Any discussions regarding a child's behavior or other personal issues should take place in a setting that is conducive to maintaining personal privacy.

The second area of concern is Student Records.

- Access to student records is limited to identified staff members.
- Student files should never be left in public areas.
- Parents have access to information in their child's records; direct any requests to the Student Services Director.
- No records may be sent to a third party without proper written consent. Direct any requests to the Student Services Director.

A third important area is photographs and media coverage.

- Families have the option of signing a media release.
- Students who do not have a current signed release may not be photographed.
- Any stories or photographs released to the media which contain information about specific students must be approved prior to release by the superintendent, principal or director of student services.

I understand the policies explained above and agree to respect the privacy of the students at the South Dakota School for the Blind and Visually Impaired, while I am at the school and after I leave.

DORMITORY PRIVACY GUIDELINES

Entry into a student's bedroom can be made only after knocking or signaling in a manner that the student can detect. The student must give affirmative indication before the room is entered. After three (3) attempts without an affirmative reply, the person seeking entry must leave the area for at least five (5) minutes before trying again. This guideline applies to all staff, other students and to all visitors.

No one can enter a student's bedroom unless the student is physically present. Exceptions to this are dorm staff on duty, Daily Living Skills Instructor, Dormitory Supervisor or Student Services Director. These people may walk through any bedroom or bathroom while engaged in a search for a missing student or to identify health and safety hazards. The nurse on duty may need to get something for a student who is in the Infirmary.

Janitorial and maintenance staff will enter students' bedrooms only to the extent necessary to perform assigned duties. Students will be provided with advance notification and a description of any work to be done, other than routine cleaning or in the event of emergency repairs.

If there is reason to believe the student has violated the law or institutional regulations, the Superintendent, Student Services Director and/or Dorm Supervisor are to be notified. They will then investigate the situation, including possible entry into the student's room. At least two (2) of these people must go into the room together.

Personal things may not be opened, looked into, removed or replaced in the dorm rooms without the permission of the student. This includes closets, drawers, luggage, etc. Any action must be approved by the student and s/he must be physically present. It is always preferable for a second staff person to be present for any such action that is not part of a regular instructional activity.

A staff person may enter a student's bathroom or shower area only if it is within their assigned area of responsibility at the time. In doing so, the staff member shall make every reasonable attempt to alert any present student and gain affirmative indication that it is all right to enter. Interaction with a student in these areas shall occur only as part of a regular training program.

A staff person may view or interact with a student who is partially undressed only during the time when it is within their area of direct responsibility. When doing so, the staff person shall make every reasonable attempt to preserve the student's privacy.

A staff person may touch a student's body only when the student is under their direct responsibility and as part of an ongoing one-on-one training program. Parts of the student's body that are being touched shall be only those appropriate to touch in the present situation. The staff person shall make every reasonable attempt to keep the extent of such touching to a minimum. Students have no reason to touch one another except as part of a normal greeting, expression of comfort or affection, etc. Staff shall be responsible for monitoring the nature and frequency of such interactions and recommending or providing guidance as necessary.

Visitors have no reason to touch students, except as part of an introduction or if well known to the student, i.e., friend or family member. The guideline of mutual desirability shall always prevail.

All persons in the dormitory are responsible at all times to assure that these guidelines are strictly followed. Every effort should be made to teach students the important elements of their personal right to the privacy of their bodies, belongings and personal space.

Written exceptions to these guidelines including wake up routines may be developed and approved by the student's case management team. All exceptions shall be included in the student's residential binder.

EXCEPTIONS MAY BE MADE TO THESE GUIDELINES IN THE CASE OF CLEAR AND PRESENT DANGER TO THE STUDENT. FIRE DRILLS ARE ALSO AN EXCEPTION TO THESE GUIDELINES. ANY EXCEPTIONAL ENTRANCE MUST BE NOTED IN THE DORM LOG.

CONFIDENTIALITY POLICY

The SDSBVI has developed and implemented policies and procedures on the confidentiality of information consistent with Part B of the Individuals with Disabilities Education Act (IDEA) and the Family Education Rights and Privacy Act (FERPA).

The Superintendent of the SDSBVI assumes responsibility for ensuring the confidentiality of personally identifiable materials. It is the responsibility of the Superintendent to ensure that all persons collecting or using personally identifiable information receive training or instruction regarding the provisions of this section concerning personally identifiable information.

All rights, including those related to student records, automatically are extended to the student at age 18, unless legal guardianship has been established.

The parents of children enrolled at the SDSBVI and eligible students will be notified annually of their rights under this act. These rights are written in the Parent/Student Handbook distributed to all parents/students upon enrollment and again at the beginning of each school year.

The notice will include a statement that the parent/guardian has a right to inspect and review the child's records, request amendment, consent to disclosure, file a complaint, and obtain a copy of the SDSBVI policy. The notice will indicate the location where copies of the SDSBVI policy is located. The SDSBVI will provide this notice by any means that are likely to inform the parents and eligible students of their rights and that will effectively notify parents of students who have a primary or home language other than English.

The SDSBVI presumes that both parents have authority to inspect and review records relating to his/her child unless notified in writing that a parent does not have the authority under applicable state law governing such matters as guardianship, separation, divorce or custody.

The Confidentiality Policy of the South Dakota School for the Blind and Visually Impaired guarantees:

1. The complete privacy of school records of every enrolled student or former enrolled student from unwarranted inspection by or communication to any unauthorized individual or agency.
2. Upon request, the right of the parents or legal guardians of every student and the similar right of every eligible student to read or to have read, explained and interpreted to them each and every portion of the record in the primary language of the home.
3. All parents, even those not having custody of their children, have access to each record kept on a child, unless barred by the court.

4. Parents have rights under the Family Education Rights and Privacy Act (FERPA) and also under the Individuals with Disabilities Education Act (IDEA) and will receive annual notification of those rights in the Student/Parent Handbook.
5. Copies of SDSBVI policies on confidentiality and retention and destruction of records are available in the main office during regular business hours.
6. The SDSBVI will not release records to any other party or agency without the prior written consent of the parent, guardian, or eligible student. Consent from either parent is sufficient, unless a court order specifies both parents must sign. Parents and adult students have the right to revoke consent in writing at any time.
7. The Student Services Director is responsible for copying any documents, securing the appropriate releases, and maintaining a log of any such actions.
8. The SDSBVI may disclose information to officials of the local school district collecting or using the information. Information will not be released to participating agencies without parental consent except as follows:
 - a. The SDSBVI may disclose personally identifiable information from the educational records of a student without the written consent of the parent or eligible student if the disclosure is to other school officials, including teachers, within the educational institution or local educational agency who have been determined by the agency or institution to have legitimate educational interests or to the officials of another school or school system in which the student seeks or intends to enroll; subject to the requirements set forth in "b." of this section.
 - b. The SDSBVI shall make reasonable attempt to notify the parent or eligible student except when disclosure is initiated by the parent or eligible student. It is SDSBVI policy to forward educational records upon request to a school in which a student seeks enrollment.

The SDSBVI upon receiving personally identifiable information from another educational agency or institution may make further disclosure of the information on behalf of the agency without prior written consent if the conditions in "a." and "b." of this section are met and if the SDSBVI informs the party to whom disclosure is made of these requirements.

If a parent refuses consent for the release of information to a third party, the party may proceed with the due process hearing procedures.
 - c. The SDSBVI may legally submit any designated portion of a student's record when authorized by judicial subpoena issued by the probate or other duly constituted court without consent, but with prior notification given to parents, legal guardians, and eligible students of the data transmitted.
9. When disclosure of records is made to a third party, it is on the condition that the records not be further disclosed without written parental consent.

10. It is the responsibility of the Superintendent to ensure the confidentiality of records at the SDSBVI and to provide appropriate training or instruction to persons collecting or maintaining personally identifiable data.

Confidentiality is the shared responsibility of every staff member who works with the students at the SDSBVI. Every student's rights to privacy must be protected at all times. Those individuals who have access to the file in the central office are listed on the file cabinet. They are: Administrative Assistant, Business Manager, Case Managers, Dorm Supervisor, Educational Secretary, Instructional Assistants, Instructors, Liaison for Services, Low Vision Specialist, Nurses, Principal, Student Services Director, Superintendent, Technology Specialist, and Transition Specialist.

Files kept in the dormitories are available to the Residential Supervisor, Dormitory Staff, Student Services Director, Risk Manager, Superintendent, and Principal. Files kept in the Student Services Director's Office and in the Infirmary are not available to any other staff other than the Superintendent and Principal. Requests for information should be made to the Student Services Director.

EMPLOYEE ACCESS - Current confidentiality regulations limit access to student files to specific personnel, who have a legitimate educational interest in the individual child. Records may be reviewed by authorized individuals between 8:00 am and 4:30 pm, Monday through Friday and at other times and days as circumstances permit. Access by authorized SDSBVI employees is not recorded on the Records Access Monitor. If a student file is to be removed from the office area, a record consisting of the name of student, date, and name of person using file must be entered on the form provided.

PARENT/STUDENT ACCESS - Parents, legal guardians, or eligible students have the right to inspect and review any educational records collected and maintained by the SDSBVI. Access by parents is not recorded on the Records Access Monitor. The school shall comply with a written request without unnecessary delay and within forty-five (45) calendar days after a request is received. Parents, legal guardians or eligible students requesting records for use at an Individualized Educational Planning Committee meeting, a hearing, or a hearing appeal shall be given immediate access to the requested records.

ACCESS RESTRICTIONS - Parents, legal guardians, and eligible students may at no time inspect the records of other students. If an educational record contains information on more than one child, the parents of those children may inspect only the information relating to their child or be informed of that specific information.

Professional workers undertaking educational research may be provided access to educational records without written consent when personally identifiable information has been deleted.

Parents have a right to know who has seen their child's educational records, the Records Access Monitor kept with each file must be signed by all individuals who have requested or obtained access to records. The record will show who accessed the file, when, and the purpose. Those who may view the educational file without prior parental consent include representatives of Federal or State Educational Agencies, Testing Organizations (if anonymous), accrediting organizations, parents of a dependent student (even if the student has reached the age of majority), or others to protect the health and safety of the student or others in an emergency.

TOURING GROUPS, CONFIDENTIALITY POLICY

If you are giving a tour of the school, whether it be to a group of students, school personnel, parents, or your own family, please share the following with them.

We have both a legal and moral responsibility to respect the privacy of the students we serve and their families. As someone touring the South Dakota School for the Blind and Visually Impaired, it is important that you understand and agree to respect the rights of our students and their families.

Please note:

- *We cannot allow you to take photographs of students.*
- *We cannot answer questions of a personal or medical nature.*

We hope you enjoy your visit to the South Dakota School for the Blind and Visually Impaired. We appreciate your cooperation.

RETENTION AND DESTRUCTION POLICIES FOR STUDENT RECORDS

The South Dakota School for the Blind and Visually Impaired maintains educational records on students enrolled at the school as well as those who receive services through our outreach program. Parents and local school districts are provided with copies of IEPs, evaluation and progress reports at the time of their original development.

The SDSBVI is governed by the Family Education Rights and Privacy Act (FERPA), the Individuals with Disabilities Education Improvement Act (IDEIA), Education Department General Administrative Regulations (EDGAR) and applicable state rules. Copies of the SDSBVI confidentiality policies can be found in the SDSBVI Handbook and Student/Parent Handbook.

All student records must be kept in limited access areas to prevent unauthorized use. Personally identifiable information will only be used for the purposes for which it was collected. When it is no longer needed to provide an educational program it will be destroyed. Parents and/or eligible students will be afforded an opportunity to have the records marked for destruction.

The South Dakota School for the Blind and Visually Impaired submits required information on each student to the Department of Education electronically. The Student Information Management System is handled by the Department of Education and they are responsible for its use and security.

The SDSBVI follows the Records Retention and Destruction Schedule developed for the school by the Bureau of Administration Records Management Program and reviewed by the South Dakota Board of Regents. This schedule identifies various records kept by the school and specifies how long they must be retained.

I. DEFINITIONS

The following definitions will be used throughout this policy:

- A. Destruction: Physical destruction of educational records or removal of personal identifiers.
- B. Duplicates: Additional copies of IEPs, reports and other written information that has been duplicated for use by various SDSBVI departments.
- C. Cull: Removal of material that has been superseded and is no longer relevant to the provision of an educational program.
- D. Educational Record: Those records, files and other materials that contain information directly related to a student and are maintained by the school or by a person acting for the school. An educational record includes IEPs/ITPs, evaluation reports, progress reports as well as medical evaluations and decisions of hearing officers. [It does not include informal notes or other records made for personal use by teachers, counselor, administrators or support staff as long as they remain in sole possession and are not shared with any person except a substitute.]
- E. Master File: The main file on each student, which is kept in individual three ring binders in the Staff Work Area.
- F. Original Documents: IEPs, evaluations, transcripts, reports and correspondence and other materials, which were written by the SDSBVI staff and/or produced at the school.
- G. Secondary Documents: Materials written or produced by local school districts or other individuals or agencies and have been added to the SDSBVI student files.
- H. Superseded Materials: Materials which are replaced by subsequent documents, such as parental release forms, last year's student account information, etc.
- I. Working Files: Student files which are used by the Counselor, Nurse, Residential Staff and Liaison in the course of providing educational services to students. They contain duplicate materials and/or information pertinent to only a single department.

II. LOCATION

Student files are maintained in several locations to provide ready access for staff working with students. In each case, the department supervisor is responsible for maintaining the integrity and security of the files. Files are located in the following areas.

- A. Master Files: Located in the Staff Work Area. These files contain student and family identification, admissions forms, all current educational records, test results, eye reports, medical information, official correspondence, and release forms.
- B. Counselor's Files: Located in the Counselor's Office. These files contain test protocols, behavior programs and collected data and confidential notes on counseling.
- C. Nurses' Files: Located in the Nurse's Office. These files contain complete vision and medical records, Title or insurance information, release forms, and record of treatment or services provided.

- D. Dormitory Files: Located in the staff office in each dorm. These files contain copies of the IEP, student schedules and activities, as well as behavior programs and collected data.
- E. Liaison for Service's Files: Located in the Liaison's Office. These are files on students who have been served or seek outreach services. This does not include files of students on the Outreach Vision Consultant's active caseload.
- F. Outreach Vision Consultants' and Transition Specialist's Files: Located in the offices of the individual Consultants/Specialist (Aberdeen, Mitchell and Rapid City). These files contain copies of the IEPs, vision and medical information, educational records, and test results. Original material includes contact reports and correspondence for students on the current caseload.
- G. Overflow Files: Located in the Staff Work Area. These files contain past educational and medical records and correspondence for students currently enrolled.
- H. Former Student Files: Located in the office storage room. These files contain records of students over age 21.

III. RETENTION

Student records are maintained to document the student's eligibility for services, individual needs, program provided, and progress made toward established goals. In addition, pertinent medical information and correspondence with parents, school district personnel and others are retained in the files.

Files will be culled annually to remove materials that have been superseded. This applies to routine correspondence and other records that have no value beyond the year in which they were originated.

Release forms will be retained for three years in the overflow file unless a notice of claim has been filed, in which case they would be retained until the student reaches age 25.

The educational records retained by the SDSBVI will vary, dependent on the type of service received from the SDSBVI and the age of the student. The SDSBVI will maintain original records and dispose of secondary records when a student turns 21 and is no longer eligible for services. When an original record is to be destroyed, parent or eligible student will be notified and offered an opportunity to have the material from the files.

The following procedures will be in effect:

- A. STUDENTS CURRENTLY ENROLLED AT THE SDSBVI OR ACTIVE OUTREACH: This applies to both full-time and part-time students on the SDSBVI campus. The same records are kept by the Outreach Vision Consultants for the students on their active caseloads.
1. The Master File will contain all current information on the student. This file should be culled annually to remove superseded materials.
 2. Only the current IEP and previous year's IEP along with report cards and related progress reports are kept in the Master File; those for prior years are placed in the Overflow File.
 3. Current and most previous test results are maintained. Other test results are to be culled as they are superseded and no longer relevant.
 4. Summer School reports for most recent session.
 5. Working files kept on current students are to be culled annually, removing all superseded material.
 6. When a student transfers or ceases to be on the active caseload, the file is culled of duplicate material and any original records are added to the Master File. The file becomes "Inactive" and is transferred to the Liaison for Services by September of next school year.
- B. FORMER STUDENTS UNDER 25: This applies to students no longer enrolled at SDSBVI. The following information will be kept on file.
1. IEPs and related progress reports
 2. Information relating to accident or injury
 3. Last professional eye report
 4. Grades/Transcript
 5. Enrollment Application or Request for Services
 6. Current and most previous test results and multidisciplinary evaluation
 7. Medical records
 8. Correspondence pertaining to the educational program
- C. FORMER STUDENTS BEYOND AGE 25: Secondary records and any superceded materials will be removed from the file. The individual is notified at their last known address of the intent to destroy records. The following records will be maintained indefinitely.
1. Student's name, address, telephone number and birth date
 2. Enrollment Application or Request for Services
 3. Last IEP and related progress reports
 4. Services received
 5. Grade level completed
 6. Year completed
 7. Classes, grades, transcripts