



**ACTION DUE BY: September 14, 2018
October 12, 2018**

Office of School Support and Improvement
Office of the General Counsel
MONTGOMERY COUNTY PUBLIC SCHOOLS
Rockville, Maryland

June 28, 2018

MEMORANDUM

To: All Principals

From: Kimberly A. Statham, Deputy Superintendent of School Support and Improvement
Joshua I. Civin, General Counsel  

Subject: ACTION—Annual Notification of *Family Educational Rights and Privacy Act* and *Protection of Pupil Rights Amendment* and Directory Information

Summary

- Each year, we are required by law to inform parents/guardians and eligible students of the *Family Educational Rights and Privacy Act*, P.L. 93-380, and its implementing regulations (FERPA), as well as their rights under the *Protection of Pupil Rights Amendment*, 20 U.S.C. 1232h and its implementing regulations 34 C.F.R. Part 98 (PPRA).
- PPRA requires educational institutions to notify parents/guardians and eligible students of their rights concerning the district's conduct of surveys, collection and use of information for marketing purposes, and certain physical exams. The PPRA notice (Attachment A) for distribution to parents/guardians can be found on the [Montgomery County Public Schools \(MCPS\) website](#), and is available in English, Spanish, French, Chinese, Korean, Vietnamese, and Amharic.
- FERPA requires MCPS to give parents/guardians and eligible students the opportunity to request that *directory information* be withheld. [MCPS Form 281-13, Annual Notice for Directory Information and Student Privacy](#), (Attachment B) contains the appropriate information, and also is available in English, Spanish, French, Chinese, Korean, Vietnamese, and Amharic.
- The definition of *directory information* is based on categories suggested by the federal government and includes the student's and/or parent's name, address, e-mail address, and telephone number; student's date and place of birth; major field of study; participation in

- officially recognized activities and sports; degrees and awards received (including honor roll); most recent school attended; dates of attendance; photograph or other likeness; the weight and height of members of athletic teams; and other similar information.
- Parents/guardians and eligible students may direct the principal not to release any or a specific part of this *directory information* if they act by September 14, 2018, by returning the signed Form 281-13 to the school. If a parent/guardian or eligible student chooses to change their decision at a later date, they need to contact the school directly.
- Parents/guardians, eligible students, and school staff must understand that if they withhold *directory information*, the decision affects all lists of or references to students distributed or used outside MCPS, whether prepared by the school, the Parent Teacher Association (PTA), central services, or other school organizations.

Action

The following actions by principals are needed to ensure that MCPS carries out the intent of FERPA and Maryland law.

- Review [MCPS Regulation JOA-RA, Student Records](#), the PPRA notice, and MCPS Form 281-13, *Annual Notice for Directory Information and Student Privacy*, with the leadership of your school.
- Send the PPRA notice and MCPS Form 281-13, *Annual Notice for Directory Information and Student Privacy*, (samples attached) home to parents/guardians before or during the first week of school with a return date of **September 14, 2018**. Spanish, French, Vietnamese, Korean, Chinese, and Amharic translations for both documents are available on the MCPS website, <http://www.montgomeryschoolsmd.org/>, search Student Privacy.
- Each school must enter into the Online Administrative Student Information System (OASIS) the information contained in returned responses on MCPS Form 281-13 on the student's "Request to Withhold Directory Information" screen by **October 12, 2018**. Please maintain a file of all FERPA forms (MCPS Form 281-13, *Annual Notice for Directory Information and Student Privacy*) received from parents/guardians/eligible students for the current school year.
- Schools should provide a copy of the PPRA notice and MCPS Form 281-13 to parents/guardians of new students who enroll after the notice and form have been distributed. These responses should be entered into OASIS at the time they are received.
- Students for whom no *directory information* is to be released should not appear on any school lists, athletic programs, PTA/PTSA directories, or other school publications that are distributed/available to the public.

- Requests for *directory information* and/or names, addresses, and phone numbers of students by the PTA or other organizations of parents, teachers, and students can be completed after September 14, 2018. Principals must verify, before release, that the lists only include students whose names, addresses, and phone numbers can be released. The PTA and other organizations of parents, teachers, and students must be advised that the information provided is for the sole use of that organization.
- Home addresses and phone numbers are designated by MCPS as directory information and may be released to organizations of any combination of parents/guardians, teachers, and students of a school; a branch of the military (the parent/guardian/eligible student completes the Student Emergency Information section on the myMCPS Parent Portal, or completes [MCPS Form 565-1, Student Emergency Information](#), the “yellow card,” to opt out of releasing contact information to military recruiters); a person engaged by a school or board of education to confirm a home address or home phone number; a Maryland community college; or the Maryland Higher Education Commission, unless specifically prohibited by the parent/guardian or eligible student. Release of a student’s address or phone number to any other person or entity is not permitted unless: (a) the procedures in Section VII of [MCPS Regulation JOA-RA, Student Records](#), are followed, or (b) the release of the directory information is otherwise consistent with applicable law and aligned with the educational mission of the district, as determined by the superintendent of schools or designee.
- Other than PTA or other organizations of any combination of parents/guardians, teachers, and students, requests from outside individuals, groups, or agencies for students’ *directory information* must be made to the department of records and reporting in the Office of Shared Accountability. *Directory information* for students who have requested that no information be released will be removed before distribution. Other requests for information, research, and/or data acquisition activities also should be directed to the Office of Shared Accountability. These requests are subject to approval under MCPS [Regulation AFA-RA, Research and Other Data Collection Activities in Montgomery County Public Schools](#)

Questions

- If you have any questions, please contact your director of learning, achievement, and administration (DLAA), in the Office of School Support and Improvement (OSSI), or Mrs. Stephanie Williams, associate general counsel, in the Office of the General Counsel.

Thank you for your cooperation.

KAS/JIC:mm

Attachments

Copy to: Executive Staff
DLAAs, OSSI
Mr. Lloyd

School Administrative Secretaries
Mr. Koutsos
Mrs. S. Williams
Dr. Wilson

Notification of Rights Under the Protection of Pupil Rights Amendment (PPRA)

This notice informs parents/guardians and eligible students (emancipated minors or those 18 and older) of their rights regarding conduct of surveys, collection and use of information for marketing purposes, and certain physical exams. These rights are spelled out in the *Protection of Pupil Rights Amendment* (20 U.S.C. § 1232h; 34 CFR Part 98). The law and regulations require educational institutions, such as Montgomery County Public Schools (MCPS) to notify parents/guardians and eligible students of their right to—

1. *Consent* before students are required to submit to a survey that concerns one or more of the following protected areas (“protected information survey”) if the survey is funded in whole or in part by a program of the U.S. Department of Education (USDE):
 - Political affiliations or beliefs of the student or student’s parent/guardian
 - Mental or psychological problems of the student or student’s family
 - Sexual behavior or attitudes
 - Illegal, antisocial, self-incriminating, or demeaning behavior
 - Critical appraisals of others with whom respondents have close family relationships
 - Legally recognized privileged relationships, such as with lawyers, doctors, or ministers
 - Religious practices, affiliations, or beliefs of the student or parents/guardians
 - Income, other than as required by law to determine program eligibility

2. *Receive notice and an opportunity to inspect* any third party survey, protected information survey, instrument collecting student information for the purposes of marketing or selling such information, or instructional material used as part of the student’s educational curriculum.

3. *Receive notice and an opportunity to opt a student out of—*
 - **any other protected information survey, regardless of funding;**
 - **any nonemergency, invasive physical exam or screening required as a condition of attendance administered by the school or its agent and not necessary to protect the immediate health and safety of a student, except for lead, hearing, or vision screening, or any physical exam or screening permitted or required under state law; and**
 - **any activities involving collection, disclosure, or use of personal information obtained from students for marketing or to sell or otherwise distribute the information to others.**

MCPS developed and adopted policies regarding these rights, as well as arrangements to protect student privacy in the administration of protected surveys and the collection, disclosure, or use of personal information for marketing, sales, or other distribution purposes. MCPS will directly notify parents/guardians and eligible students of these policies at least annually at the start of each school year and after any substantive changes.

MCPS also will directly notify parents/guardians and eligible students, by U.S. mail or e-mail, at least annually at the start of each school year, of the specific or approximate dates of the following activities and provide an opportunity to opt a student out of participating in—

- collection, disclosure, or use of personal information for marketing, sales, or other distribution;
- administration of any protected information survey not funded in whole or in part by USDE; and
- any nonemergency, invasive physical examination or screening as described above.

Parents/guardians and eligible students who believe their rights have been violated may file a complaint with the—

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202-4605
Phone: 1-800-USA-LEARN (1-800-872-5327)



Annual Notice for Directory Information and Student Privacy

Office of the General Counsel
MONTGOMERY COUNTY PUBLIC SCHOOLS
Rockville, Maryland 20850
MCPS Regulation JOA-RA, *Student Records*

MCPS Form 281-13
July 2018
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See Reverse Side for Annual Notification of Your Rights under the Family Educational Rights and Privacy Act (FERPA), (20 U.S.C. §1232g; 34 CFR Part 99)

DIRECTORY INFORMATION

Schools provide *directory information* for public listings such as honor roll, awards, and other notices in the newspaper or on the Montgomery County Public Schools (MCPS) website. A student's name, address, and telephone number may also be released to Parent/Teacher Associations (PTA). **Unless you tell them not to**, schools can release the information without your prior consent.

Directory Information includes the following items: student's and/or parent's name, address, e-mail address, and telephone number; student's date and place of birth; major field of study; grade level; participation in officially recognized activities and sports; degrees and awards received (including honor roll); most recent school attended; dates of attendance; photograph, or other likeness; the weight and height of members of athletic teams; and other similar information.

If you do not want your school to release your *directory information*, complete the information below and return this notice to your school **by September 14, 2018**. Additional copies of this notice can be found on the [MCPS website](#), and are available in Spanish, French, Vietnamese, Chinese, Korean and Amharic.

This form must be completed every year.

Your school **will assume you agree** to the release of the directory information, unless this form is returned by Friday, **September 14, 2018**.

If you need to change your decision at a later date, just contact your school directly.

If you enroll after September 14, 2018, you can complete this form at the time of enrollment.

Montgomery County Public Schools

Request to Withhold Directory Information for the 2018–2019 School Year

Choose ONE of the following categories:

- Please **do not** release any directory information. (See definition above)
- Please **do not** release the following **part or parts** of directory information. (check all that apply)
- Name Phone number(s) Photograph Address Date of Birth
- Place of Birth E-mail address(es) Parent/Guardian names Grade Level

EXCEPTIONS TO WITHHOLD REQUEST MARKED ABOVE:

- Release for the PTA Directory Release for Honor Roll publication Release photo for yearbook

Student's Name _____ Grade _____ ID# _____

School _____

Parent/Guardian/Eligible Student Signature _____ Date ____/____/____

If you do not restrict the release of certain information about your child, you are giving the school system and local schools the ability to perform daily operations and routine tasks without obtaining parental permission to release each piece of directory information every time it is released.

Annual Notification of Your Rights under FERPA*

As a parent/guardian of a MCPS student, you have certain rights regarding your child's education records under the *Family Educational Rights and Privacy Act* (FERPA), applicable federal regulations, and the *Code of Maryland Regulations* (COMAR) 13A.08.02. These rights are summarized below and described in more detail in Montgomery County Public Schools (MCPS) [Regulation JOA-RA](#), [Student Records](#), www.montgomeryschoolsmd.org/departments/policy/pdf/joara.pdf.

- 1. Review of Student Records.** You have the right to inspect and review your child's education records no later than 45 days after the school receives your written request. It is the goal of MCPS that schools should comply, whenever practicable, within 10 days after receiving a written request and prior to any hearing relating to the identification, evaluation, or placement of the student. The school will make arrangements for access and notify you of the time and place where your child's records may be inspected. The principal/designee will be present during this review.
- 2. Amendment of Student Records.** If you believe your child's records are inaccurate, misleading, or in violation of your child's privacy rights, you have a right to make a written request for the school to amend the records. MCPS Regulation JOA-RA, [Student Records](#), outlines procedures for addressing these requests including hearings, as appropriate. Grades are not subject to challenge under this provision.
- 3. Disclosure of Student Records.** You have the right to provide written consent before MCPS discloses personally identifiable information from your child's education records, unless federal law or state law specifically authorizes disclosure without consent. Guidelines for release of directory information, as well as the opportunity to opt-out from this release, are referenced on the other side of this form. In addition, please note that consent is not required for disclosures to school officials with legitimate educational interests,** including administrators, teachers, or other staff employed by MCPS, as well as others acting on behalf of MCPS who need access to fulfill their job responsibilities, such as: School Health Services Staff and other health professionals who work with schools; school security personnel; a Montgomery County Board of Education member; a person, organization, or company under contract with MCPS to perform a service or function for which MCPS would otherwise use its own employees (such as attorneys or auditors); or a parent/guardian or other volunteer serving on a MCPS committee or helping other school officials perform their tasks.
 - Upon request, MCPS also discloses education records without consent to officials of other schools, school districts, or institutions of postsecondary education, if the disclosure is for purposes of the student's enrollment in or transfer to that school, school district, or institution of postsecondary education. In addition, MCPS may lawfully disclose personally identifiable information from student records, without your prior written consent, for other reasons authorized by FERPA, including to specified governmental agencies, for approved research projects, in compliance with a judicial order or a lawfully issued subpoena, or in a health or safety emergency.
 - Additional information may be found in [MCPS Regulation JOA-RA](#), [Student Records](#), available on the MCPS website or at your local school.
- 4. Complaint to the U.S. Department of Education.** If you believe your rights under FERPA have been violated and efforts to resolve the situation through MCPS appeals channels have not proved satisfactory, you have the right to file a complaint with the Family Policy Compliance Office in the U.S. Department of Education, 400 Maryland Avenue, SW, Washington, DC 20202-5920 or call 1-800-USA-LEARN (1-800-872-5327).

* Rights of Eligible Students. The rights described above transfer to a student who is 18 years old or is attending a postsecondary education institution; parents/guardians of dependent eligible students, however, may access their child's records without prior consent of the eligible student.

** School officials have a legitimate educational interest if the officials need to review an education record in order to fulfill their professional responsibility.