

**Russell Byers Charter School
1911 Arch Street
Philadelphia, PA 19103**

Board of Trustees Policy

STUDENT EDUCATIONAL RECORDS POLICY

The Board of Trustees (“Board”) of the Russell Byers Charter School (“Charter School”) recognizes the need to protect the privacy rights of students and their parents. Charter School will adhere to the provisions of state and federal law pertaining to those privacy rights, including but not limited to the Family Educational Rights and Privacy Act of 1974 (“FERPA”), as amended, and its accompanying regulations; the Individuals with Disabilities Education Act (“IDEA”), as amended, and its implementing regulations; the Pennsylvania Public School Code of 1949, and Chapter 12 of the Pennsylvania Administrative Code containing the regulations of the Pennsylvania State Board of Education. The Chief Executive Officer (“CEO”) of the Charter School is designated as the Administrator responsible for the maintenance, access and release of student records and the maintenance, access and release of academic records.

The CEO shall be responsible for the implementation of this policy.

I. DEFINITION OF TERMS (20 U.S.C. §1232g unless otherwise noted)

- A. The term “**applicable law**” shall mean all statutes and regulations applicable to the student records that are in effect when any action is taken or is to be taken and shall include, but not necessarily be limited to, the Family Education Rights and Privacy Act, the Code of Federal Regulations, Title 34 Part 99, the United States Code § 1232 and the regulations of the Pennsylvania State Board of Education at 22 Pa. Code §§ 12.31 *et seq.*
- B. The term “**attendance**” means in person or by paper correspondence, videoconference, satellite, Internet or other electronic information and telecommunications technologies for students who are not physically present in the classroom; and the period during which a person is working under a work-study program.
- C. The term “**biometric record**” as used in the definition of “personally identifiable information” means a record of one or more measurable biological or behavioral characteristics that can be used for automated recognition of an individual. Examples include fingerprints; retina and iris

patterns; voiceprints; DNA sequence; facial characteristics; and handwriting. (National Security Presidential Directive 59 and Homeland Security Presidential Directive 24).

- D. The term “**dates of attendance**” means the period of time during which a student attends or attended an educational agency or institution. Examples include an academic year, a spring semester or first quarter. The term does not include specific daily records of a student’s attendance at the Charter School.
- E. The term “**destruction**” or “**destroy**” means the physical destruction, obliteration or permanent removal of all or any portion of the information in a student record. Permanent removal of a record from the custody, care and control of the Charter School shall constitute destruction of that record even if the information contained therein is maintained by another agency or entity.
- F. The term "**directory information**" means any of the following personally identifiable information when, in the judgment of the responsible administrator, the release of such information would not be harmful to or constitute an invasion of privacy for the student or his or her family. This information includes: the student's name, address, telephone number, date and place of birth, dates of attendance or participation in Charter School’s’ program, electronic mail address, photograph, major field of study, grade level, degrees, honors and awards received, date of graduation, and similar information. 20 U.S.C. § 1232g(a)(5)(A).
- (1) Directory information does not include:
- Student social security number; or
 - Student identification (ID) number that does not require a password or PIN number to gain access to other student information. It is directory information if the student ID number, user ID, or other unique personal identifier is used by the student for purposes of accessing or communicating in electronic systems, but only if the personal identifier cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user's identity, such as a personal identification number (PIN), password, or other factor known or possessed only by the authorized user. 20 U.S.C. 1232g(a)(5)(A).
- G. The term "**disclosure**" means permitting access to or the release, transfer or other communication of personally identifiable information contained in education records to any party, by any means, including oral, written, or

electronic means to any party except the party identified as the party that provided or created the record. 20 U.S.C. 1232g(b)(1); 34 C.F.R. § 99.3.

- H. The term "**educational agency or institution**" means any public or private agency or institution which is the recipient of funds under any federal program referenced in applicable law. The term refers to the agency or institution recipient as a whole, including all of its component parts. 20 U.S.C. § 1232g(a)(3).
- I. The term "**education records**" means those records that are directly related to a student and maintained by an educational agency or institution or by a party acting for the agency or institution. The record can be recorded in any form, including but not limited to, handwriting, print computer media, electronic files, electronic mail, video or audio tape, film, microfilm and microfiche or digital medium. The term does not include:
1. Records that are kept in the sole possession of the maker of the record, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record. These records include instructional, supervisory and administrative personnel and education personnel ancillary to those persons, including, but not limited to: instructional support teachers, counselors, therapists and clinicians, school psychologists and psychiatrists, nurses and instructional aides.
 2. Records of the law enforcement unit of an educational agency or institution, subject to the provisions of 34 C.F.R. § 99.8;
 3. Records relating to an individual who is employed by an educational agency or institution that:
 - a. Are made and maintained in the normal course of business;
 - b. Relate exclusively to the individual in that the individual's capacity as an employee; and
 - c. Are not available for use for any other purpose.

However, records relating to an individual in attendance at the agency or institution who is employed because of his or her status as a student are education records and are not excluded under this provision.

4. Records on a student who is eighteen (18) years of age or older, or is attending an institution of post-secondary education that are:

- a. Made or maintained by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional acting in his/her professional capacity or assisting in a professional capacity;
 - b. Made, maintained or used in connection with the treatment of the student; and
 - c. Disclosed only to individuals providing the treatment. For the purpose of this definition, "treatment" does not include remedial educational activities or activities that are part of the program of instruction at the agency or institution.
5. Records that only contain information pertaining to time periods after the individual is no longer a student at the Charter School which are records about alumni of the Charter School, created after the individual is no longer in attendance and which are not related to that individual's attendance as a student. 20 U.S.C. § 1232g(a)(4).
 6. Grades and other forms of peer assessments or ratings before they are collected and recorded by a teacher.
 7. Other records specifically excluded from the definition of "education record" and FERPA and its implementing regulation.
- J. The term "**eligible student**" means a student who has attained eighteen (18) years of age, or is attending an institution of post-secondary education. Whenever a student has attained eighteen (18) years of age or is attending an institution of post-secondary education, the permission or consent shall be required of, and the right accorded to the student, except that the parent of an exceptional child or a disabled child as defined by state and federal law or a parent who claims the student as a dependent under Section 152 of the Internal Revenue Code of 1986 shall have the right of access to the student's records and information contained therein (as provided in Section IV.A.).
- K. The term "**emancipated minor**" means a student below age 21 who has chosen to establish a domicile apart from continued control and support of parents/guardian. The term includes a minor living with a spouse.
- L. The term "**maintain or maintained**" with regard to personally identifiable information on paper or stored on magnetic or video tape, means that it will be kept in a secure file or desk drawer or in the continuous and secure control

of a school official with a legitimate educational interest in the content thereof. In the case of personally identifiable digital information that is electronically-stored, including electronic mail and/or instant messaging mail, the term shall mean kept in a secure database located on a server or servers, disk partition, or other electronic storage system specifically designated by the CEO or her designee as a "student records maintenance site." Charter School's electronic mail server or servers, or directory or directories, and the files on local disk drives dedicated to the storage of sent or received electronic mail and/or instant messaging mail, shall not for any purpose constitute a "student records maintenance site" and any mail stored thereon shall either be deleted or moved to a "student records maintenance site" at least once annually.

- M. The term "**parent**" means a natural or lawfully-adoptive parent or legal guardian of a student, or a surrogate parent appointed in accordance with 34 C.F.R. § 300.515 of the regulations implementing Part B of the Individuals with Disabilities Act, or a person acting as a parent who is supporting a student gratis and has signed an affidavit assuming educational responsibility for the student in accordance with Section 1302 of the Public School Code, 24 P.S. § 13-1302. The Charter School shall afford to any person who qualifies as a "parent" under this section all of the rights afforded to parents by this policy or by any state or federal law, unless the responsible administrator receives and has reasonable opportunity to review a lawful custody order, divorce decree, separation agreement or similar document expressly terminating the right of that person to receive or have access to the student's records. 34 C.F.R. § 99.4. The Charter School does not assume responsibility for the discovery or location of such documentation.
- N. The term "**Charter School**" means the Charter School and its officers, employees and agents, individually or collectively. The term does not include any other public or private school or other educational agency, or any officer, employee or agency thereof, at which Charter School students are enrolled or from which Charter School students receive services. 24 P.S. § 17-1715A.
- O. The term "**personally identifiable information**" includes, but is not limited to:
- 1) Student's name;
 - 2) Name of the student's parent(s) or other family members;
 - 3) Address of the student or student's family;

- 4) A personal identifier, such as the student's social security number, student number or biometric record;
- 5) Other indirect identifiers, such as the student's date of birth, place of birth and mother's maiden name;
- 6) Other information, that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or
- 7) Information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates. 20 U.S.C. 1232(g).

P. The term "**record**" means any information recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, microfiche. 34 C.F.R. § 99.3.

Q. The term "**review panel**" shall mean a panel created by the Board of Trustees ("Board") and composed of qualified professional personnel to determine the validity of Category "C" data and to provide for parental challenges of such data on occasion where their transfer to Category "B" is held to be desirable. Panel members need not be limited to school employees. They may not have a direct interest in the outcome of the hearing.

R. The term "**school official with a legitimate educational interest**" means

1. Any person in one or more of the following positions:
 - a. the CEO and his or her specifically authorized designees;
 - b. the responsible administrator and his or her specifically-authorized designees;
 - c. the administrator of any program to which the student is assigned and any other administrators employed by the Charter School who are responsible for the administration of programs in which the student is enrolled or participating;
 - d. instructional staff, counselors, psychologists, social workers, educational diagnosticians, psychiatrists, program specialist, therapists, physicians, and nurses who are employed or contracted

by the Charter School and are involved in the provision of education or other services to the student;

e. attorneys or similar legal representatives of the Charter School, when the attorneys or legal representative is providing advice to the Charter School concerning the education or discipline of the student or where the records are relevant or thought to be relevant to the legal matter for which the attorney or legal representative is being consulted;

f. members of any Charter School student assistance program team to which the student is referred, including members who are not employed by the Charter School; and/or

g. special education due process hearing officers and administrative review officers designated by the Secretary of Education for the Commonwealth of Pennsylvania.

h. Board of Trustees of the Charter School when Board action concerning the student is required by law or when the education or treatment of the student is the subject of present or potential litigation or dispute.

2. A school official has a legitimate educational interest in personally identifiable information when access to that information is required for the effective, efficient or proper provision of education or other services to the student to whom the information pertains or with respect to required investigations, administrative or legal proceeding. The Charter School shall maintain for public inspection and for access under Section IV.A.4 of this policy a list of the names and positions of school officials who are entitled to disclosure under this paragraph. 20 U.S.C. § 1232g(b)(1)(A).
- S. The term "**secure file**" includes student or subject-specific compilation of information stored on paper, audio or visual tape, microfiche, microfilm, computer storage disk or removable drive, or similar medium that can be maintained in a physically segregated form that is maintained in a locked file drawer, cabinet, or desk or, if unlocked, in the immediate custody and control of the custodian thereof, or a student or subject-specific compilation maintained on a computer storage system to which access is limited by security software that conforms to current computer industry standards.
- T. The term "**student**" except as written otherwise in this policy, means any school-age person who is attending or has attended the Charter School and

with respect to whom the Charter School maintains education records. 20 U.S.C. § 1232g(a)(6).

II. MANAGEMENT OF STUDENT RECORDS

- A. **Collection and Maintenance of Information** – No information shall be collected from students and maintained by the Charter School without either prior “representational consent” of the Board or informed “individual consent” from the parent and/or students.

1. Representational Consent - Representational consent is hereby granted to the appropriately elected school representatives, in this case the Charter School Board of Trustees, and may satisfy the principle of consent for gathering of information which does not require individual consent by the parent or eligible student under state and federal law. 22 Pa. Code § 12.33.

In situations in which representational consent is sufficient, students and their parents shall be informed in advance, by school officials, on an annual basis, of the purposes and character of the information collection and shall be given reasonable opportunity by the Board to contest the necessity or desirability of the collection process or the proposed use of the information. The Board shall have the authority to grant consent for the collection of types of information listed in Section II.B., subparagraphs 1-5 and 9, as noted in bold type below.

2. Individual Consent - If individual consent by the parent of eligible student is required by state and federal law, prior to gathering such information, such consent shall be obtained in writing. 22 Pa. Code § 12.33.

Prior to the requesting of individual consent, parents shall be fully informed, in writing, as to the methods by which the information will be collected; the uses to which it will be put; the methods by which it will be retained; and the persons to whom it will be retained; the persons to whom it will be available, and under what conditions and if the above explanations are impossible or undesirable, the reasons shall be presented. Individual consent from parents and/or “eligible” students shall be required for the types of information listed below in Section II.B., subparagraphs 6-8 and 10, as noted in bold type below.

- B. **Types of Information** – the Charter School shall collect and maintain the types of records described below in subparagraphs 1-3 and may collect

and maintain records described below in subparagraphs 4-10. 22 Pa. Code §§12.31 and 12.32. The required form of consent is noted by each subparagraph in bold type below.

1. Core data, consisting of the name of the student; last known address and domicile of the parents/guardians of the student or, if the student is emancipated, of the student; the birth date of the student; the course, subject area, or project work completed by the student and the level of achievement attained; the last grade attended or the date of graduation and type of diploma issued; and attendance data. (**Requires Representational Consent**).

2. Discipline and law enforcement records, including the sworn statement or affirmation of suspension or expulsion required at registration and the record of incidents of violence maintained in a form prescribed by the Pennsylvania State Police as required under Section 1307-A of the Pennsylvania Public School Code, 24 P.S. § 13-1307-A; and, in a file maintained separately from other records concerning the student, information from the Office of Juvenile Probation concerning adjudications of delinquency. (**Requires Representational Consent unless collected through survey, analysis or evaluation - see Section II.C. below**). 24 P.S. Article XIII-A.

3. Health records, including immunization information, results of vision and hearing screenings, results of state-mandated physical examinations, in-school treatment and drug dispensing or administration orders or prescriptions from physicians, treatment and drug dispensing or administration logs, and health-related information provided by parents/guardians. (**Requires Representational Consent unless collected through survey, analysis or evaluation - see Section II. C. below**). 24 P.S. §§14-1402; 14-1409.

4. Student work samples and teacher grade books retained for purposes of ongoing assessment, instructional planning, or grade calculation; the results of School-wide group standardized or criterion-referenced testing and state-wide criterion-referenced assessments, if any, in which the student participated; and noncumulative report cards. (**Requires Representational Consent**). 22 Pa. Code §4.52.

5. Guidance department, psychologist, and student assistance team records, although personal records and notes maintained strictly in accordance with Section I.I.1 of this policy are not considered records subject to this policy. (**Requires Representational Consent unless**

collected through survey, analysis or evaluation – see Section II.C. below).

6. Results of vocational and career aptitude and interest surveys, or of surveys to assist in planning for and providing guidance, health, or drug and alcohol abuse prevention instruction or programs. **(Requires Individual Consent).**

7. Reports of and other information describing or summarizing the results of individual testing and assessment by instructional support, child study, multidisciplinary, or IEP teams, or by professional staff responsible for determining eligibility for Title I, ESL, and other remedial programs, or by agencies and individuals not employed by or working on behalf of the Charter School; instructional support or child study team action plans; IEPs; and service agreements or accommodation plans. **(Requires Individual Consent and in a form as prescribed in Section II.D.).**

8. Protocol sheets and booklets; scoring sheets; answer books; rating forms; observation notes; anecdotal logs; running record forms; and other forms of raw data gathered in the course of testing and assessment or progress monitoring and assessment. **(Requires Individual Consent and in a form required by applicable state or federal law per Section II.D. or in absence of applicable law, in form as prescribed in Section II. E.).**

9. Records of awards and distinctions earned by students for work or activities in school and in the community and of participation in School approved extracurricular activities. **(Requires Representational Consent).**

10. Other records required by law or deemed by instructional or supervisory staff to be both accurate and necessary to the provision of education, education-related services, or extracurricular activities or experiences. **(Requires Individual Consent and in a form required by applicable state or federal law per Section II.D. or in absence of applicable law, in form as prescribed in Section II.E.).**

C. Collection of Records and Information Through a Survey, Analysis or Evaluation. 20 U.S.C. §1232h; 22 Pa. Code §4.4.

When a survey, analysis, or evaluation is used to obtain such information, the Board shall obtain prior informed consent in writing and in a form consistent with Section VII of this policy. For purposes of this policy, the phrase **survey, analysis, or evaluation** shall be limited to a planned method of inquiry or information collection used on a group or individual basis. The phrase does not

apply to the ordinary give-and-take exchange that occurs in the course of the counselor-student, psychologist-student, teacher-student, or nurse-student relationship when the student initiates the contact or otherwise participates in it voluntarily. Consent otherwise required by this section is not required to investigate or substantiate a good faith suspicion of child abuse or neglect when the person from whom consent would be required is suspected of the abuse or neglect.

By adoption of this policy, the Board gives consent for the collection of records and information described at subparagraphs 2, 3, and 5 of Section II.B. of this policy, unless the collection of such records and information is accomplished by use of a survey, analysis, or evaluation that requires or encourages the student to reveal:

- a. Political affiliations or beliefs of the student or the student's family.
- b. Psychological problems potentially embarrassing to the student or the student's family.
- c. Sexual behavior or attitudes.
- d. Illegal, anti-social, self-incriminating, or demeaning behavior.
- e. Critical appraisals of persons with whom the student has close family relationships.
- f. Information protected by legal privilege.
- g. Income, unless income information is necessary to determine eligibility for participation in a program of assistance.
- h. Religious practices, affiliations, or beliefs of the student or the student's family.

D. Prior Informed Consent In a Form Required by State or Federal Law

To collect records and information described in Subsections 7 and 8 of Section II.B. of this policy, other than reports and other documents provided by parents/guardians, the Charter School shall obtain prior informed consent in writing and in a form required by applicable state or federal law or, in the absence of a specific applicable law, in a form consistent with Section E of this policy below.

For purposes of collecting information in the form of an instructional support action plan, an IEP or service agreement, a written invitation to parents, and if applicable, to the Student, to participate in the development of such document shall constitute an adequate means of obtaining consent to develop the document, even if the parents or student do not participate in the meeting at

which the content of the document is discussed. The description in an action plan, IEP, service agreement or accommodation plan of a means of data collection or ongoing progress monitoring or assessment shall suffice to allow such activities without need for additional written consent. 34 C.F.R. §300.300; §300.322.

E. Written Consent Form if No Specific Form Required by State or Federal Law

When state or federal law does not specifically prescribe the form for obtaining prior written consent as required by this policy, such consent shall be obtained by mailing to the residence of record, as established in accordance with Section VIII of this policy, or by hand delivery to the parent/guardian or emancipated minor, a written consent form that complies with the following requirements and is received a reasonable time prior to the information collection activity for which consent is sought:

- a. The form shall use language that a layperson can readily understand and shall be written in the native language of the parent/guardian or emancipated minor from whom consent is sought.
- b. The form shall contain an explanation of the type of information sought, the purpose for which the information is sought, and the specific types of testing, assessment, or data collection to be used to obtain the information.
- c. The form shall make clear to the parent/guardian or emancipated minor that consent is required to proceed with the information collection activity or activities proposed, shall contain an assurance that such activity or activities will not proceed without consent, and shall contain a clear explanation of the time and place for responding to the form.
- d. The form shall contain the name and number of a contact person whom the parents/guardians or emancipated minor can contact to obtain additional information about or seek clarification concerning the proposed activity.
- e. The form shall provide a space for the parent/guardian or emancipated minor to elect whether to grant or withhold consent by marking one (1) of two (2) clearly-worded options and by signing his/her name.

F. Transfer of Student to the Charter School

When a student who has attended another Pennsylvania public or private school registers to attend the Charter School, an immediate request, in writing, by the Charter School shall be made for a certified copy of the student's disciplinary

record and a copy of the student's health record from the public or private school the student last attended. The Charter School shall also request all other current school records, including special education, necessary to ensure that the Student is placed in appropriate classes at the appropriate grade level and that the Charter School is able to meet all obligations under state and federal law. 24 P.S. §§13-1305-A; 14-1409.

G. Special Situations - where the principle of informed consent cannot be met, as for example in the course of interviews by Charter School personnel, the following procedures will be followed:

- a. The Charter School will inform the student as fully as possible about the data that is likely to be obtained;
- b. The Charter School will stress the voluntary nature of the student's participation;
- c. Where reasonable doubts exist as to the capacity of the student to understand the implications of the situation, either because of the student's age or other circumstances, parental permission will be sought before proceeding. In addition, where a student clearly in need of intervention declines to participate, the professional involved will seek parental consent; and
- d. In either case, if parental consent cannot be obtained or is not given, further steps to provide assistance will be initiated only if:
 1. The guidance counselor or designated Charter School official is entirely convinced, giving full attention to the privacy interests involved, that intervention is imperative;
 2. Both the student and parents have been fully informed to the extent that is possible; and
 3. Appropriate school authorities such as Charter School's review panel has consented.

H. Information Collected for Non-School Purposes

1. Where either the information and/or data to be collected are for non-school purposes, by Charter School personnel or by outsiders

then the above recommendations shall be fully applied with the further provision that prior informed consent must be obtained from the responsible school authorities.

2. In cases where the information is to be collected under conditions of anonymity, the collecting agency must still obtain the appropriate form of consent. Charter School authorities shall establish procedures for regulating the collection of such information, including the following:
 - a. Notification to the students and parents that their participation is voluntary.
 - b. Careful review of the instruments and procedures to be used for any such information collection to determine whether the methods and/or inquiries constitute a significant potential invasion of privacy, even though the information is to be collected under conditions of anonymity.

I. Notification of Rights

1. Parents and eligible students shall be notified annually of their rights under the Family Educational Rights and Privacy Act of 1974 ("FERPA"). The notice must inform parents of students currently in attendance, or eligible students currently in attendance, of their rights under the Act and this part.
 - The notice must inform parents or eligible student that they have the right to:
 - Inspect and review the student's education records;
 - Seek amendment of the student's education records that the parent or eligible student believes to be inaccurate, misleading or otherwise in violation of the student's privacy rights;
 - Consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that the Act and §99.31 authorize disclosure without consent; and
 - The procedure to file complaints for non-compliance concerns.

- The parent or eligible student who wishes to file a complaint with regard to compliance of this policy may do so by contacting the Chief Executive Officer.
- If further appeal is necessary, the parent or eligible student may contact:

**Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, S.W.
Washington, D.C. 20202-5920**

The notice must include all of the following:

- The procedure for exercising the right to inspect and review education records.
 - The procedure for requesting amendment of records under §99.20.
 - A specification of criteria for determining who constitutes a school official and what constitutes a legitimate educational interest since the Charter School has a policy of disclosing educational records without prior consent as set forth above.
2. A listing of the types, content, and location of education records maintained by the Charter School shall be made available annually to include the names, titles, and addresses of Charter School officials responsible for such records.
3. The annual notification shall be accomplished by publication in the local newspaper and distributed to parents of currently attending students. It shall effectively notify parents who have a primary or home language other than English and parents and eligible students who are disabled.

IV. MAINTENANCE OF RECORDS -TIMING

A. Maintenance: All student information shall be retained and maintained by the Charter School in accordance with procedures identified with the classification of the material.

1. Core data of the kind described in Section II.B.1 of this policy shall be maintained for a period of **six (6) years** beyond the school year during which the student to whom such data pertains attains age twenty-one (21).

2. The following records, per Section II.B.7 shall also be maintained as core data for a period of **six (6) years** beyond the school year during which the student to whom such data pertains attains age twenty-one (21).:
 - a. For students with disabilities, copies of the first and last evaluation reports of the multidisciplinary team, the notice of recommended assignment or educational placement, or similar document by which the parents of the student initially consented to the provision of special education services, and the first and last IEP, last notice of recommended assignment or educational placement, and the summary of performance developed for the student.
 - b. For students receiving accommodations or modifications to instruction or other activities under a Section 504 service agreement or accommodation plan, copies of the first and last such plan and the notice by which the parents of the student initially consented to the provision of accommodations or modifications.
 - c. For students evaluated to determine eligibility either for special education services in accordance with state and federal law or for accommodations or modifications in accordance with Section 504 of the Rehabilitation Act, and who were determined to be ineligible, copies of all evaluation reports supporting the determination of ineligibility and of all notices by which the parents of the student indicated agreement with such determination. 29 U.S.C. Sec. 794

B. Other Types of Records:

1. Health records of the sort described in Section II.B. 3 of this policy shall be maintained for a period of at least **two (2) years** beyond the date on which the student ceases to be enrolled in the Charter School.
2. All other education records described in Section II.B. 8-10 of this policy shall be maintained as long as the information contained therein remains relevant to the education of the particular student or to the design and provision of educational programs in general or as long as such information remains essential to the protection of the legal interests of the Charter School. The Charter School alone shall determine whether education records remain relevant to education or essential to the protection of legal interests.

C. Destruction of Records: A record is destroyed for purposes of this policy when, at a minimum, all personally identifiable information is removed from it

or is otherwise obscured or obliterated. Nothing in this policy shall require the destruction of an education record except under the conditions described in subsection (2) below.

1. An education record shall not be destroyed by the Charter School if there is an outstanding request to inspect and review it by the parent or eligible student. 34 C.F.R. § 99.10(e).
2. The Charter School maintains the right to destroy some records that are considered invalid because of age and content matter. Student education records shall be maintained in accordance with Sections A. and B. above, and shall be destroyed in such time as provided.
3. Before any such destruction of student special education records the parent or eligible student shall be given advance notice, in writing, of the date after which the records will be destroyed and the opportunity to obtain copies of records prior to the specified date. The written notice shall be in the native language of the parents/guardians or the eligible student shall be mailed to the last known address of the parent/guardian or the eligible student and shall:
 - a. Identify the specific records or categories of record that are no longer relevant.
 - b. Contain an explanation that the Charter School shall destroy the records thus identified if a parent/guardian or the eligible student so requests, and that the Charter School may destroy such records without a request if no further need for the records exists.
 - c. Contain the name and number of a contact person at the Charter School whom the parents/guardians or eligible student can contact to obtain additional information about or seek clarification concerning the records thus identified. 34 CFR §300.624.

V. MAINTENANCE - LOCATION

- A. **Person(s) Responsible** - The CEO or designee shall be responsible for record maintenance, access, and release of records. Staff training programs will be conducted for the professional staff on the record policy, with emphasis placed on security and the privacy rights of students and parents.

- B. **Location** – During any given school year, student records, whether on paper, audio or visual tape, microfiche, microfilm, computer storage disc or removable drive, or any medium that can be maintained in a physically segregated form, will be kept in locked filing cabinets or similar storage space at all times under the supervision of designated personnel, e.g., the CEO of the Charter School or his/her designee. If student records are maintained on a computer storage system, access must be limited by security software that conforms to current computer industry standards. Charter School’s Student Information System permits only authorized Charter School users to remotely access student records and various remote levels of access are permitted depending on the reason for review and level of authority of the authorized user.

Education records essential to the daily provision of education, education-related services or extracurricular activities during a given school year, may be maintained in a secure file in the personal possession, office or classroom of Charter School personnel with a legitimate educational interest therein.

C. Other Educational Records

1. Health Records shall be maintained in a secure file in the nurse’s office or health suite in the Charter School.
2. Office of Juvenile Probation records shall be maintained in a secure file, separate from other records concerning the student.
3. Special Education records shall be maintained in a separate secure file at the Charter School or in secure possession of staff working with student in the home or in a nonpublic school site.

D. Confidentiality Notice – The Charter School shall protect the confidentiality of personally identifiable information including at the collection, storage, disclosure, and destruction stages of that information. The Charter School will ensure that any records kept or transmitted electronically are subject to high standards of electronic security. The Charter School uses electronic firewalls and encryption systems, and monitors and tests the system regularly to ensure its stability and integrity. All Charter School electronic mail correspondence shall include the following notice:

CONFIDENTIALITY NOTICE

The information in this transmission is intended only for the individual or entity named above. It may be legally privileged and confidential. If you have received this

information in error, notify us immediately by calling the Charter School at **(215) 972-1700**. Send the original transmission to us by mail at the main office at **1911 Arch Street, Philadelphia, PA 19103**. Return postage is guaranteed. If the reader of this message is not the intended recipient, you are hereby notified that any disclosure, dissemination, distribution or copying of this communication or its contents is strictly prohibited.

E. Access to and Consequences of Unauthorized Access to Student Records -

1. Every file from which access might be had by, or disclosure might be made to, persons or agencies other than the parents or the eligible student, shall have as part thereof an access and disclosure log that shall be maintained for as long as the records in that file are maintained and that shall consist of the following:

(a) The identity of such person or agency to which access is granted to or disclosure made from the file.

(b) The purpose for which access was granted or disclosure made.

(c) The date of access or disclosure.

(d) The name or initials of the person granting access or making the disclosure.

(e) In the case of disclosures to persons who will make further disclosures or allow further access on behalf of the Intermediate Unit, the identity of the person or agency to whom or to which, and the specific purpose for which, such further disclosure or access will be made or allowed.

(f) Any record of further disclosures made by state or federal agencies that are permitted to do so under law.

2. Any Charter School employee, contractor, consultant or volunteer who accesses student records without proper authorization and/or consent, is subject to discipline in accordance with the Employee Handbook.

VI. ACCESS TO STUDENT EDUCATION RECORDS

A. Access to Records

1. The Charter School shall provide the parent or eligible student access to the educational records of the student. 34 C.F.R. § 99.10(a).
2. Access rights of the parent or eligible student shall consist of the right to:
 - a. Inspect and review the content of the education records;
 - b. Obtain copies of the education records at the expense of the parent or eligible student, at a cost not to exceed the actual cost of the Charter School reproducing such records. No parent or eligible student shall be refused copies if the financial obligation would prevent them from exercising their right to inspect and review the education records. 34 C.F.R. § 99.11;
 - c. A response from the Charter School to reasonable requests for explanation and interpretation of the education records. 34 C.F.R. § 99.10(c);
 - d. An opportunity for a hearing to challenge the content and validity of those records, as provided in Section VI of this policy;
 - e. Inspect and review only material or documents that relate to the student in question. 34 C.F.R. § 99.12(a).
3. Procedure for gaining access to records:
 - a. The parent or eligible student seeking access to education records shall make a written request of the CEO or his/her designee.
 - b. Access to the education records requested shall be granted as soon as possible, but no later than forty-five (45) days after the receipt of a written request. 34 C.F.R. § 99.10(b).
4. The Charter School shall maintain a current list of the names and positions of the professional employees who are authorized to have access to personally identifiable information. This list shall be available in Charter School's main office.

B. Record of Access

1. The Charter School shall maintain a record, kept with the education records of each student, which will indicate all parties, except for Charter School officials, including teachers, who have been determined by the Charter School to

have legitimate educational interests, who have requested or obtained access to a student's education record and which will indicate specifically the legitimate interest that each such party had in obtaining this information. 20 U.S.C. § 1232g(b)(4)(A).

2. Such record of access shall be available only to the parent or eligible student, to Charter School officials and their assistants who are responsible for the custody of such records, and to persons and organizations authorized to see such records. 20 U.S.C. § 1232g(b)(4)(A).

C. Transfer of Information by Those Gaining Access to Education Records.

the Charter School shall release personal information on a student only on the condition that the party to whom the information is being transferred will not permit any other party to have access to such information without the written consent of the parent or the eligible student.

VII. CHALLENGING THE VALIDITY OF INFORMATION

If the parent or student wishes to challenge any of the information in the student record because of the initial conference, and if the conflict cannot be resolved informally, the following formal procedures will be followed:

- A. The parent or student must submit a written request for amendment of the record of the student. The request will contain a brief statement that specifies the records to be amended and the reason that the amendment is requested. This request will be submitted to the CEO.
- B. The challenge will be reviewed by Charter School's review panel within a period not to exceed forty-five (45) days from the receipt of the written request.
 1. If the Charter School does decide to refuse to amend the information in accordance with the request of the parent, the Charter School shall inform the parent in writing of both the refusal and the specific reasons for the refusal and shall notify the parent in writing of the right to request and receive a hearing.
 2. The hearing shall be conducted according to the following provisions:
 - a. The hearing shall be held at a mutually agreed upon time and place within thirty (30) days after the Charter School received the request for a hearing from the parent.
 - b. The parent shall be notified in writing of the date, place, and time of the hearing, no later than five (5) days in advance of the hearing.
 - c. The hearing shall be conducted by the review panel that does not have direct interest in the outcome of the hearing. The duties of the review panel shall be the following:
 - to review challenges made by parents and/or students and render decisions as to the correction or deletion of inaccurate or misleading information;
 - to grant representative consent in situations where the intervention is judged to be imperative, parental consent cannot be obtained, and there is reasonable doubt as to the capacity of the student to understand the implications of the situation; and

- To grant representative consent to persons or agencies to conduct studies involving the Charter School population under the conditions of anonymity.
 - The party conducting the hearing may be a member of the Board of Trustees of the Charter School.
 - The parent shall be afforded a full and fair opportunity to present evidence relevant to information in the educational records that the parent believes is inaccurate, misleading, or violates the privacy or rights of the child.
 - The parent may, at the hearing, be assisted or represented by persons of his/her choice at his/her expense, and such persons may include legal counsel.
3. The Charter School shall render a written decision on the issues presented at the hearing and shall render such decision within thirty (30) days after the conclusion of the hearing. The decision shall be based solely upon evidence presented at the hearing and shall include a summary of the evidence and the reasons for the decision.
 4. If as a result of the hearing the review panel decides that the information is inaccurate, misleading or otherwise in violation of the privacy or rights of students, the Charter School shall amend the education records accordingly and so inform the parent in writing.
 5. If as a result of the hearing the review panel decides that the information is not inaccurate, misleading or otherwise in violation of the privacy or other rights of students, the review panel shall inform parent of his/her right to place in the educational records of the student a statement which sets forth the written comments of the parent in the educational records of reasons for disagreeing with the decision of the review panel or both written comments and reasons.
 6. The statement of the parent shall be appended by the Charter School to the educational records so long as the record or the contested portion thereof is maintained by the Charter School.
 7. If the education records of the student or the contested portion thereof are released by the Charter School to any party, the statement of the parent shall also be released to the party.

Nothing in this section on parent requests for amendment of records shall be interpreted to mean that the parent and the Charter School may not, by mutual agreement, meet prior to either a parent request for a hearing or the hearing itself in order to discuss the concerns of the parent regarding the accuracy or inaccuracy of the records of the student.

VIII. DISSEMINATION OF STUDENT INFORMATION

In situations in which the Charter School is asked by other agencies, institutions or individuals to transmit student information to those parties, stringent precautions are required to protect the rights of the student against infringement of privacy, misinterpretation of data and inappropriate use.

A. Release of Information to Educational Officials

The Charter School may, without the consent of parents or student, release appropriate information in a student's permanent record file, including those previously defined in Section II.B. to:

1. All Charter School personnel, other than those directly involved with the child (the child's teacher, the counselor, CEO, etc.) desiring access to pupil records shall be required to sign a written form which will be kept permanently on file, indicating specifically the "legitimate educational interest" that they have in seeking this information. Charter School officials include contractors, consultants, volunteers and other parties with whom the Charter School has outsourced institutional services or functions if this outside party performs such a service or function for which the Charter School would otherwise use a Charter School employee. This outside party must be under direct control of the Charter School with respect to use and maintenance of educational records and is subject to 34 CFR § 99.33(a) governing use and redisclosure of personally identifiable information from education records. 99.31(a)(1).
2. Charter School officials responsible for record maintenance. 99.31 (a) (1).
3. The Comptroller General of the U.S., Attorney General of the U.S., the Pennsylvania Secretary of Education and state and local educational

authorities as long as the intended use of the data is consistent with the Secretary's statutory powers and responsibilities. 99.31 (a)(3).

4. State and federal educational and other agencies for purposes of investigation and auditing, when those agencies are bound by the provisions of FERPA. 99.31 (a)(5).
5. Officials of other school systems in which the student intends to enroll.
 - a. The student's parents shall be notified of the transfer and shall receive a copy of the records, if desired.
 - b. The student's parents shall have an opportunity to challenge the record's content via a review panel as previously defined.

B. Release of Information to Other Than Educational Officials

1. The Charter School is permitted pursuant to 34 CFR § 99.31, to disclose information, without consent for the following purposes:

- a. Appropriate parties including student's parents, law enforcement and Charter School's legal counsel, in connection with a health or safety emergency when such disclosure is necessary to protect the health or safety of the student or others. This disclosure is not subject to the confidentiality restrictions of the ADA or Rehabilitation Act. Charter School's legal counsel may be consulted to determine if the threat is significant enough to warrant disclosure. A record of the significant threat and who received disclosure must be maintained by the Charter School. 99.32(a)(5) and 99.36(a)&(c).
- b. To persons seeking directory information when the Parents have received notification in the form of an Annual Publication of this Policy in a newspaper of general circulation or a school publication of the policy to disclose directory information without parental consent and the Parents or eligible student has not objected to the release of such information without consent in writing to the Charter School on or before the first day of the school term.
- c. To the student who is not an eligible student. 99.31(a)(12).
- d. To the Parents of an eligible student who remains a dependent student as defined in the Internal Revenue Code. 99.35(a).
- e. To accrediting organizations to carry out accrediting functions. 99.31(a)(7).
- f. To comply with a judicial order or lawfully issued subpoena only if the Charter School makes a reasonable effort to notify the parent or

eligible student of the order or subpoena in advance of compliance so that the parent or eligible student may seek protective action. However, the Charter School does not have to notify the parent or eligible student if notification is prohibited by the following:

- (i) A Federal grand jury subpoena and the court has ordered that the existence of the subpoena or information furnished shall not be disclosed.
 - (ii) Any other subpoena issued for a law enforcement purpose and the court or other issuing agency has ordered that the existence of the subpoena or information furnished shall not be disclosed.
 - (iii) An ex parte court order obtained by the US Attorney General for certain criminal investigations including those pursuant to the U.S. Patriot Act. Disclosures to the Department of Justice need not be recorded by the Charter School. 99.31(a)(9).
- g. To a court, without a subpoena or court order, if the Charter School initiates legal action against a student or parent or if a parent or eligible student initiates legal action against the Charter School for the Student's education records that are relevant for the Charter School to proceed with the legal action or to defend itself. 99.31(a)(9)(ii)(A-C).
- h. To comply with the Campus Sex Crimes Prevention Act, regarding education records of a student required to register as a sex offender. 99.31(a)(16).

Charter School personnel may not divulge, in any form to any persons other than the education officials listed above, any information contained in Charter School records except:

1. With written consent from the student's parents specifying records to be released and to whom a copy of the records to be released.
2. When a student reaches the age of eighteen (18), or is an emancipated minor, or is married (whether eighteen or not), his or her consent alone must be obtained unless Student remains a dependent Student as defined in Internal Revenue Code.
3. The Charter School may provide anonymous information from the records for outside research purposes without consent under conditions where the

likelihood of identifying any individual because of his/her unique characteristics is negligible.

E. Re-disclosure of Information

1. An educational agency or institution may disclose personally identifiable information from an education record only on the condition that the party to whom the information is disclosed will not disclose the information to any other party without the prior consent of the parent or eligible student. The officers, employees, and agents of a party that receives information under this paragraph may use the information, but only for the purposes for which the disclosure was made.

2. Paragraph (1) of this section does not prevent an educational agency or institution from disclosing personally identifiable information with the understanding that the party receiving the information may make further disclosures of the information on behalf of the educational agency or institution if:

- (a) The disclosures meet the requirements of 99.31; and
- (b) The educational agency or institution has complied with the requirements of 99.32(b).

3. Paragraph (1) of this section does not apply to disclosures made to parents of dependent students under 99.31(a)(8), to disclosures made pursuant to court orders, lawfully issued subpoenas, or litigation under 99.31(a)(9), to disclosures of directory information under 99.31(a)(11), to disclosures made to a parent or student under 99.31(a)(12), to disclosures made in connection with a disciplinary proceeding under 99.31(a)(14), or to disclosures made to parents under 99.31(a)(15).

4. Except for disclosures under 99.31(a) (9), (11), and (12), an educational agency or institution shall inform a party to whom disclosure is made of the requirements of this section.

5. If the Family Policy Compliance Office determines that a third party improperly re-discloses personally identifiable information from education records in violation of 99.33(a) of this section, the educational agency or institution may not allow that third party access to personally identifiable information from education records for at least five years. 20 U.S.C. §1232g(b)(4) (B).

F. Waiver

Rights of access may be waived for the Charter School's confidential references and/or recommendations submitted as part of the student's process of applying for admission to another educational institution.

TO THE EXTENT THAT ANYTHING IN THIS POLICY COULD BE CONSTRUED TO CONFLICT WITH APPLICABLE STATE AND/OR FEDERAL LAWS, THE APPLICABLE STATE AND/OR FEDERAL LAWS CONTROL.

ADOPTED this day 17th of November, 2016

Board President, Claire Robertson-Kraft

Board Secretary, Linda Gamble

References: PA Public School Code 24 P.S. §§1305-A, 1306-A, 1307-A, 1402, 1409, 1532, 1533; State Board of Education Regulations 22 PA Code §§4.4, 4.52, 12.31, 12.32, 14.101, 15.9; Adjudication of Juveniles 42 Pa. C.S.A. Sec. 6341; Military Affairs 51 P.S. Sec. 20221 et seq.; Family Educational Rights and Privacy Act 20 U.S.C. Sec. 1232g; Every Student Succeeds Act 20 U.S.C. Sec. 1232h; Individuals with Disabilities Education Act 20 U.S.C. Sec. 1400 et seq.; Section 504 of the Rehabilitation Act 29 U.S.C. Sec. 794; Student Rights in Research, Experimental Programs and Testing, Title 34; Code of Federal Regulations – 34 CFR Part 98 Family Educational Rights and Privacy; Title 34, Code of Federal Regulations – 34 CFR Part 99 Individuals with Disabilities Education; Title 34, Code of Federal Regulations 34 CFR Part 300; PDE Basic Education Circular 22 PA. Code Sec. 12.31 (Pa. Dept. Educ. Sept. 1, 1997); Owasso Indep. School District v. Falvo, 534 U.S. 426, 122 S.Ct. 934.