

# Education Records and Student Information Policy Federal Educational Rights and Privacy Act (FERPA)

## Lake View Charter School

BP 5125

Adopted: 04/15/20

Revised: \_\_/\_\_/23 v3

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Lake View Charter School is committed to protecting student privacy in accordance with the Family Educational Rights and Privacy Act or “FERPA” and the California Constitution.

The purpose of the Lake View Charter School Governing Board approval of this Education Records and Student Information Policy is to accomplish the following:

1. Define Education Records
2. Establish the Procedures for Requesting Copies of Education Records
3. Establish the Procedures for Requesting to Review Education Records
4. Establish the Procedures for Requesting for Amendment to Education Records
5. Outline the Procedures for Challenging the Education Record
6. Outline the Procedures to Update and Reissue of Pupil Records
7. Outlines Access Rights to the Records of Foster Children
8. Outline the Disclosure of Education Records and Directory Information
9. Outlines Notice Requirements in Specific Disclosure Situations
10. Outline the Process of Record Keeping
11. Outline Parental and Eligible Student Right to File a Complaint with U.S Department of Education.

**1. Education Record:** An education record is any written or computerized document, file, entry, or record containing information directly relating to a student that is compiled and maintained by the Charter School. Such information includes but is not limited to:

- Date and place of birth, parent and/or guardian’s address, and where the parties may be contacted for emergency purposes;
- Grades, test scores, courses taken, academic specializations and school activities;
- Special education records;
- Disciplinary records;
- Medical and health records;
- Attendance records and records of past schools attended;
- Personal information such as, but not limited to, student identification numbers, social security numbers, photographs, or any other type of information that aids in identification of a student. Please note that, as of January 1, 2017, the Charter School shall not collect or solicit social security numbers or the last four digits of social security numbers from students or their parents/guardians, unless otherwise required to do so by state or federal law.
- All 18 year olds are dependent on taxes allowing parental access to education records unless notified otherwise in writing

The Charter School shall not use any school resources or data to be used to create a registry based on race, gender, sexual orientation, religion, ethnicity or national origin. An education record does not

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include any of the following:

- Records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to another person except a temporary substitute for the maker of the record;
- Records maintained by a law enforcement unit of the Charter School that were created by that law enforcement unit for the purpose of law enforcement;
- Records relating to a Charter School employee that are made and maintained in the normal course of business, relate exclusively to the individual in that individual's capacity as an employee; and are not available for use for any other purpose;
- Records on a student who is 18 years of age or older, or is attending an institution of postsecondary education, that are: a) made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional capacity or assisting in a paraprofessional capacity; b) made, maintained, or used only in connection with 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 Charter School.
- Records that only contain information about an individual after he or she is no longer a student at the Charter School.
- Grades on peer-graded papers before they are collected and recorded by a teacher.

Parents and eligible students 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 FERPA and the Code of Federal Regulations authorize disclosure without consent;
- File with the Department of Education a complaint concerning alleged failures by the Charter School to comply with the requirements of FERPA and its promulgated regulations.
- Request that the Charter School not release student names, addresses and telephone listings to military recruiters or institutions of higher education without prior written parental consent.

**2. Requesting to Review Education Records:** Parents and eligible students have the right to review the student's education records. In order to do so, parents and eligible students shall submit a request to review education records in writing to the Director of Records Within forty-five (45) days, the Charter School shall comply with the request.

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If circumstances effectively prevent the parent or eligible student from exercising the right to inspect and review the education records, the Charter School will provide the parent or eligible student with a copy of the requested records or make other arrangements for inspection and review of the requested records.

- 3. Requesting Copies of Education Records:** The Charter School will provide copies of requested documents within ten (10) days of a request for copies. The Charter School will charge reasonable fees for copies it provides to parents or eligible students, unless it effectively prevents a parent or eligible student from exercising the right to inspect and review the education records. The charge will not include a fee to search for or to retrieve the education records.
- 4. Requesting for Amendment to Education Records:** If upon review, a parent or eligible student discovers any information or notation that is factually an unsubstantiated personal conclusion or inference, a conclusion or inference outside of the observer's area of competence, not based on the personal observation of a named person with the time and place of the observation noted, or misleading or in violation of the student's right of privacy, he or she may request, in writing, that the Charter School amend the record. The request must be submitted within thirty (30) days of the discovery of the inaccurate or misleading information or a violation of the student's right of privacy. The Charter School will respond within ten (10) days of the receipt of the request to amend. The Charter School's response will be in writing and if the request for amendment is denied, the Charter School will set forth the reason for the denial and inform the parent or eligible student of his or her right to a hearing challenging the content of the education record.
- 5. Challenging the Education Record:** If the Charter School denies a parent or eligible student's request to amend an education record, the parent or eligible student may request in writing that he/she be given the opportunity for a hearing to challenge the content of the student's education records on the grounds that the information contained in the education records is inaccurate, misleading or in violation of the privacy rights of the student.

The hearing to challenge the education record shall be held within thirty (30) days of the date of the request for a hearing, notice of the date, time and place of the hearing will be sent by the Charter School to the parent or eligible student no later than twenty (20) days before the hearing.

The hearing will be conducted by the Dean of Academics. The parent or eligible student will be given a full and fair opportunity to present evidence relevant to the issues relating to the challenge to the education record. The parent or eligible student may also, at his/her own expense, be assisted or represented by one or more individuals of his/her choice, including an attorney. The Dean of

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Academic's decision will be based solely on the evidence presented at the hearing. Within thirty 30 days of the conclusion of the hearing, the Charter School's decision regarding the challenge will be made in writing and will include a summary of the evidence and the reasons for the decision.

If, as a result of the hearing, the Charter School decides that the information is inaccurate, misleading or otherwise in violation of the privacy rights of the student, it will amend the record accordingly and inform the parent or eligible student of the amendment in writing.

If, as a result of the hearing, the Charter School decides that the information in the education record is not inaccurate, misleading or otherwise in violation of the privacy rights of the student, it shall inform the parent or eligible student of the right to place a statement in the record commenting on the contested information in the record or stating why he/she disagrees with the decision of the Charter School, or both. If the Charter School places a statement by the parent or eligible student in the education records of a student, it will maintain the statement with the contested part of the record for as long as the record is maintained and disclose the statement whenever it discloses the portion of the record to which the statement relates.

**6. Update and Reissuance of Pupil Records:** A former pupil of the School may request that former pupil's records to be updated to reflect the former pupil's changed legal name or gender by submitting government-issued documentation in the form of one of the following: State-issued driver's license, birth certificate, passport, social security card, court order indicating a name change or a gender change, or both. Upon the request of the former pupil, the School shall reissue the pupil records, including, but not limited to a transcript, a high school diploma, a high school equivalency certificate or other similar documents conferred on the former pupil. The School is not required to modify records that the former pupil has not required for modification or reissuance.

If a former pupil requests that their name or gender is changed and records are reissued, the School shall add a new document to the former pupil's file that includes all of the following: 1) The date of the request; 2) The date the requested records were reissued to the former pupil; 3) A list of records that were requested by, and reissued to, the former pupil; 4) The type of documentation provided by the former pupil in order to demonstrate the legal name or gender change; 5) The name of the School staff person who completed the request; 6) The current and former name or gender of the former pupil.

Former pupils who are unable to provide the government-issued documentation described above may request a name or gender change, or both, to the former pupil's records through the process described below in section C.

**7. Records of Foster Children:** A foster family agency with jurisdiction over a currently enrolled or

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former pupil, a short-term residential treatment program staff responsible for the education or case management of a pupil, and a caregiver who has direct responsibility for the care of the pupil, including a certified or licensed foster parent, an approved relative or non related extended family member, or a resource family (as defined below), may access the current or most recent records of grades, transcripts, attendance, discipline, and online communication on platforms established by schools for pupils and parents, and any individualized education programs (IEPs) that may have been developed, or any plan adopted pursuant to Section 504 of the federal Rehabilitation Act of 1973 of a currently enrolled or former foster pupil.

A foster family agency, short-term residential treatment program, or caregiver may review and receive pupil records pursuant to subdivision (a) for purposes of monitoring the pupil's educational progress, updating and maintaining the pupil's education records as required by [Section 16010 of the Welfare and Institutions Code](#), and ensuring the pupil has access to educational services, supports, and activities. These purposes include, but are not limited to, enrolling the pupil in school, assisting the pupil with homework, class assignments, and college and scholarship applications, and enrolling the pupil in extracurricular activities, tutoring, and other afterschool and summer enrichment programs.

- 8. Disclosure of Education Records and Directory Information:** With the exceptions listed below, the Charter School will not release educational records to any person or entity outside the Charter School without the written consent of a parent or eligible student. The written permission must specify the records that may be disclosed, the purpose of the disclosure and the party or class of parties to whom the disclosure may be made. When disclosure is made pursuant to written permission, the parent or eligible student may request a copy of the disclosed records. Signed and dated written consent may include a record and signature in electronic form if it identifies and authenticates a particular person as the source of the electronic consent and indicates such person's approval of the information contained in the electronic consent. The Charter School shall permanently keep the consent notice with the record file. A parent, guardian or eligible student is not required to sign the consent form. If the parent, guardian or eligible student refuses to provide written consent for the release of student information that is not otherwise subject to release, the Charter School shall not release the information.

The Charter School shall avoid the disclosure of information that might indicate a student's or family's citizenship or immigration status if the disclosure is not authorized by FERPA. No student information shall be disclosed to immigration authorities for immigration-enforcement purposes without a court order or judicial subpoena. Immigration-enforcement agencies do not have a legitimate educational interest in a student's or family's citizenship or immigration status. A student's or family's citizenship or immigration status is not considered to be directory information.

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Except for investigations of child abuse, child neglect, or child dependency, or when the subpoena served on the Charter School prohibits disclosure, the Charter School shall provide parental or guardian notification of any court orders, warrants, or subpoenas before responding to such requests. The Charter School will only disclose personally identifiable information on the condition that the receiving party not disclose the information to any party without the prior consent of the parent or eligible student and that the receiving party use it for the purposes for which the disclosure was made. This restriction does not apply to disclosures that fall within the disclosure exceptions listed below, and the Charter School maintains the appropriate records, as described below. Except for disclosures pursuant to a judicial order or lawfully issued subpoena, of directory information or to parents or eligible students, the Charter School will inform a receiving party of the requirement that the party not disclose the information to any other party without the prior written consent of the parent or eligible student and that the receiving party use it for the purpose for which the disclosure was made.

If the Charter School receives an information request related to a student's or family's immigration or citizenship status, the Charter School personnel shall take the following action steps:

- Notify the Executive Director or Associate Executive Director about the information request;
- Provide students and families with appropriate notice and a description for the immigration officer's request;
- Document any verbal or written request for information by immigration authorities;
- Unless prohibited, provide students and parents/guardians with any documents issued by the immigration-enforcement officer.

The Charter School will train its personnel regarding gathering and handling sensitive student information as identified in this policy.

The Charter School will disclose education records, without consent, to the following parties:

- Charter School employees who have a legitimate educational interest as defined by 34 C.F.R. Part 99;
- Contractors, consultants, volunteers or other parties to whom the Charter School has outsourced institutional services or functions may be considered a Charter School official provided that the outside party performs an institutional service or function for which the Charter School would otherwise use employees, is under the direct control of the Charter School with respect to the use and maintenance of records, and is subject to the requirements of 34 C.F.R. § 99.33(a) governing the use and redisclosure of personally identifiable information;

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- Other schools to which a student seeks or intends to enroll;
- Certain government officials listed in 20 U.S.C. § 1232g(b)(1) in order to carry out lawful functions;
- Appropriate parties in connection with a student's application for, or receipt of, financial aid to a student if it is necessary to determine eligibility, amount of aid, conditions for aid or enforcing the terms and conditions of the aid;
- Organizations conducting certain studies for the Charter School in accordance with 20 U.S.C. § 1232g(b)(1)(F);
- Accrediting organizations in order to carry out their accrediting functions;
- Parents of a dependent student as defined in section 152 of the Internal Revenue Code of 1986;
- Individuals who have obtained lawful court orders or subpoenas, with prior notice to parents or eligible students with some exceptions;
- Persons who need to know in cases of health and safety emergencies;
- State and local authorities, within a juvenile justice system, pursuant to specific State law;
- A victim of an alleged perpetrator of a crime of violence or a non-forcible sex offense. The disclosure may only include final results of the disciplinary proceedings conducted by the Charter School with respect to that alleged crime or offense. The Charter School may disclose the final results of the disciplinary proceeding, regardless of whether the Charter School concluded a violation was committed.
- An agency caseworker or other representative of a State or local child welfare agency or tribal organization who has the right to access a student's case plan, when such agency or organization is legally responsible, in accordance with State law, for the care and protection of the student, provided those records will not be disclosed by such agency or organization, except as required by law;
- Other disclosures as provided by applicable law.

**9. Requirements in Specific Disclosure Situations:** If the School discloses education records without parental or eligible student consent to officials of another school, school system or institution of postsecondary education where the student seeks or intends to enroll, the School will make a reasonable attempt to notify the parent or eligible student at his/her last known address, unless the disclosure is initiated by the parent or eligible student. Additionally, the School will give the parent or eligible student, upon request, a copy of the record that was disclosed and give the parent or eligible student, upon request, an opportunity for hearing as outlined above.

**10. Record Keeping:** The Charter School will maintain a record of each request for access to and each disclosure of personally identifiable information from the education records of each student for as long as the records are maintained. For each request, the record will include the following

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information: the parties who have requested or received the information and the legitimate interests the parties had in requesting or obtaining the information.

For disclosures of personally identifiable information to institutions that make disclosures of the information on behalf of the Charter School in accordance with 34 C.F.R. 99.33(b), the record will include the names of the additional parties to which the receiving party may disclose the information on behalf of the Charter School and the legitimate interests that each of the additional parties has in requesting or obtaining the information.

These record keeping requirements do not apply to requests from or disclosure to parents and eligible students, the Charter School officials with a legitimate purpose of inspecting the records, a party with written consent from the parent or eligible student, a party seeking directory information, or a party seeking or receiving the records as directed by a court order or subpoena.

The records relating to disclosures of personally identifiable student information may be inspected by parents and eligible students, the Charter School officials (or their assistants) responsible for the custody of the records, and parties authorized by regulations for the purpose of auditing the recordkeeping procedures of the Charter School.

- 11. Complaints:** Parents and eligible students have the right to file a complaint with the U.S. Department of Education concerning alleged failures by the Charter School to comply with the requirements of FERPA. The name and address of the Office that administers FERPA is:

**Family Policy Compliance Office**

**U.S. Department of Education  
400 Maryland Avenue, S.W.  
Washington, D.C. 20202**