



EDUCATIONAL RECORDS AND STUDENT INFORMATION POLICY

The Board of Directors of East Bay Innovation Academy (“EBIA”), a California nonprofit public benefit corporation operating public charter schools, adopts this Educational Records and Student Information Policy to apply to all educational records and student information maintained by EBIA.

I. DEFINITIONS

1. Education Record

An education record is any information recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche that directly relates to a student and is maintained by EBIA or by a party acting for EBIA. Such information includes, but is not limited to:

- a. Date and place of birth; parent and/or guardian’s address, mother’s maiden name and where the parties may be contacted for emergency purposes;
- b. Grades, test scores, courses taken, academic specializations and school activities;
- c. Special education records;
- d. Disciplinary records;
- e. Medical and health records;
- f. Attendance records and records of past schools attended; and/or
- g. Personal information such as, but not limited to, a student’s name, the name of a student’s parent or other family member, student identification numbers, social security numbers, photographs, biometric record or any other type of information that aids in identification of a student.

An education record does not include any of the following:

- a. 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 any other person except a temporary substitute for the maker of the record;

- b. Records maintained by a law enforcement unit of EBIA that were created by that law enforcement unit for the purpose of law enforcement;
- c. In the case of a person who is employed by EBIA but not in attendance at EBIA, records 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 any other purpose;
- d. Records of 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 EBIA;
- e. Records that only contain information about an individual after he or she is no longer a student at EBIA; or
- f. Grades on peer-graded papers before they are collected and recorded by a teacher.

2. Personally Identifiable Information

Personally identifiable information is information about a student that is contained in his or her education records that cannot be disclosed without compliance with the requirements of Family Educational Rights and Privacy Act of 2001 ("FERPA"). Personally identifiable information includes, but is not limited to: a student's name; the name of a student's parent or other family member; the address of a student or student's family; a personal identifier, such as the student's Social Security number, student number or biometric record; other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name; other information that, alone or in combinations, 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 information requested by a person who EBIA reasonably believes knows the identity of the student to whom the education record relates.

3. Directory Information

EBIA may disclose the personally identifiable information that it has designated as directory information, consistent with the terms of the annual notice provided by EBIA pursuant to the FERPA (20 U.S.C. § 1232g). EBIA has designated the following information as directory information:

- Student's name
- Student's address
- Parent/guardian's address
- Telephone listing
- Student's electronic mail address
- Parent/guardian's electronic mail address
- Photograph
- Date and place of birth
- Dates of attendance
- Grade level
- Participation in officially recognized activities and sports
- Weight and height of members of athletic teams
- Degrees, honors, and awards received
- The most recent educational agency or institution attended
- Student ID number, user ID, or other unique personal identifier used to communicate in electronic systems that cannot be used to access education records without a PIN, password, etc. (A student's SSN, in whole or in part, cannot be used for this purpose.)

4. Parent

Parent means a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or a guardian.

5. Eligible Student

Eligible student means a student who has reached eighteen (18) years of age.

6. School Official

A school official is a person employed by EBIA as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel) or a person serving on the Board of Directors of EBIA. A school official also may include a volunteer for EBIA or an independent contractor of EBIA or other party who performs an institutional service or function for which EBIA would otherwise use its own employees and who is under the direct control of EBIA with respect to the use and maintenance of personally identifiable information from education records, such as an attorney, auditor, medical consultant, or therapist; a parent or student volunteering to serve on an official committee, such as a disciplinary or grievance committee; or a parent, student, or other volunteer assisting another school official in performing his or her tasks.

7. Legitimate Educational Interest

A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.

II. DISCLOSURE OF DIRECTORY INFORMATION

At the beginning of each school year, EBIA shall provide parents and eligible students with a notice containing the following information: 1) The type of personally identifiable information it designates as directory information; 2) The parent's or eligible student's right to require that EBIA not release "directory information" without obtaining prior written consent from the parent or eligible student; and 3) The period of time within which a parent or eligible student must notify EBIA in writing of the categories of "directory information" that it may not disclose without the parent's or eligible student's prior written consent. EBIA will continue to honor a valid request to opt out of the disclosure of a former student's directory information made while the former student was in attendance unless the student rescinds the opt out request.

III. ANNUAL NOTIFICATION TO PARENTS AND ELIGIBLE STUDENTS

At the beginning of each school year, in addition to the notice required for directory information, EBIA shall provide eligible students currently in attendance and parents of students currently in attendance

with a notice of their rights under the FERPA. The notice shall inform the parents and eligible students that they have the right to:

1. Inspect and review the student's education records;
2. 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;
3. Consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that disclosure is permitted without prior written consent pursuant to FERPA;
4. File with the U.S. Department of Education a complaint concerning alleged failures by EBIA to comply with the requirements of FERPA and its promulgated regulations; and
5. Request that EBIA not release student names, addresses and telephone listings to military recruiters or institutions of higher education without prior written parental consent.

The notice must also include the following:

1. The procedure for exercising the right to inspect and review educational records;
2. The procedure for requesting amendment of records;
3. A statement that EBIA forwards education records to other agencies or institutions that have requested the records and in which the student seeks or intends to enroll or is already enrolled so long as the disclosure is for purposes related to the student's enrollment or transfer; and
4. The criteria for determining who constitutes a school official and what constitutes a legitimate educational interest.

IV. PARENTAL AND ELIGIBLE STUDENT RIGHTS RELATING TO 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 Executive Director. Within five (5) business days, EBIA shall comply with the request.

1. Copies of Education Records

EBIA will provide copies of requested documents within five (5) business days of a written request for copies. EBIA may charge reasonable fees for copies it provides to parents or eligible students. However, no charge shall be made for furnishing (1) up to two transcripts of former pupils' records or (2) up to two verifications of various records of former pupils. The charge will not include a fee to search for or to retrieve the education records.

2. Request for Amendment to Education Records

Following the inspection and review of a student's education record, a parent or eligible student may file a written request with the Executive Director to correct or remove any information in the student's education record that is any of the following:

- (1) Inaccurate.
- (2) Misleading.
- (3) In violation of the privacy rights of the student.

EBIA will respond within thirty (30) days of the receipt of the request to amend. EBIA's response will be in writing and if the request for amendment is denied, EBIA 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.

If the Executive Director sustains any or all of the allegations, he or she must order the correction or the removal and destruction of the information. The Executive Director or designee must then inform the parent or eligible student of the amendment in writing.

3. Hearing to Challenge Education Record

If EBIA denies a parent or eligible student's request to amend an education record, the parent or eligible student may, within thirty (30) days of the denial, request in writing that he/she be given the opportunity for a hearing to challenge the content of the student's education record on the grounds that the information contained in the education record is: inaccurate, misleading, or in violation of the privacy rights of the student.

The Executive Director or the Board Chair may convene a hearing panel to assist in making determinations regarding educational record challenges provided that the parent has

given written consent to release information from the pupil's records to the members of the panel convened. The hearing panel shall consist of the following persons:

- (1) The Executive Director of a public school other than the public school at which the record is on file;
- (2) A certificated employee; and
- (3) A parent appointed by the Executive Director or by the Board of Directors, depending upon who convenes the panel.

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 EBIA to the parent or eligible student no later than twenty (20) days before the hearing.

The hearing will be conducted by the Executive Director or designee, who shall not be required to use formal rules of evidence or procedure. 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 decision of the Executive Director or designee will be based solely on the evidence presented at the hearing and is final. Within thirty (30) days after the conclusion of the hearing, EBIA'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, EBIA decides that the information is inaccurate, misleading, or 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, EBIA decides that the information in the education record is not inaccurate, misleading, or 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 EBIA, or both. If EBIA 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.

V. DISCLOSURE OF EDUCATION RECORDS AND DIRECTORY INFORMATION

EBIA must have a signed and dated written consent from the parent or eligible student before releasing any non-directory information from a student's education record except as provided below. 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 and EBIA shall provide him or her with a copy of the records disclosed upon request. 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.

EBIA will only disclose personally identifiable information on the condition that the receiving party not disclose the information to any party without the prior written consent of the parent or eligible student and that the receiving party use the information for the purposes for which the disclosure was made. This restriction does not apply to disclosures that fall within the disclosure exceptions listed below. EBIA must maintain the appropriate records related to these disclosure exceptions, as described below. Except for disclosures pursuant to a warrant, judicial order or lawfully issued subpoena, or directory information or to parents or eligible students, EBIA 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. Note specifically that EBIA will not release information to third parties for immigration-enforcement purposes, except as required by law or court order.

EBIA will disclose education records, without prior written consent of the parent or eligible student, to the following parties:

1. School officials who have a legitimate educational interest as defined by 34 C.F.R. Part 99;
2. Other schools to which a student seeks or intends to enroll so long as the disclosure is for purposes related to the student's enrollment or transfer. When a student transfers schools, EBIA will mail the original or a copy of a student's cumulative file to the receiving district or private school within ten (10) school days following the date the request is received from the public school or private school where the pupil intends to enroll. EBIA will make a reasonable attempt to notify the parent or eligible student of the request for records at his/her last known address, unless the disclosure is initiated by the parent or eligible student. Additionally, EBIA 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 pursuant to Section (IV)(3) above;
3. Certain government officials listed in 20 U.S.C. § 1232g(b)(1) in order to carry out lawful functions;
 4. Appropriate parties in connection with a student’s application for, or receipt of, financial aid if it is necessary to determine eligibility, amount of aid, conditions for aid or enforcing the terms and conditions of the aid;
 5. Organizations conducting certain studies for EBIA in accordance with 20 U.S.C. § 1232g(b)(1)(F);
 6. Accrediting organizations in order to carry out their accrediting functions;
 7. Parents of a dependent student as defined in section 152 of the Internal Revenue Code of 1986;
 8. Individuals or entities, in compliance with a judicial order or lawfully issued subpoena. Subject to the exceptions found in 34 C.F.R. § 99.31(a)(9)(i), reasonable effort must be made 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 a protective order;
 9. Persons who need to know in cases of health and safety emergencies;
 10. State and local authorities, within a juvenile justice system, pursuant to specific State law;
 11. A foster family agency with jurisdiction over a currently enrolled or former student, a short-term residential treatment program staff responsible for the education or case management of a student, and/or a caregiver (regardless of whether the caregiver has been appointed as the pupil’s educational rights holder) who has direct responsibility for the care of the student, including a certified or licensed foster parent, an approved relative or nonrelated extended family member, or a resource family, may access the current or most recent records of grades, transcripts, attendance, discipline, and online communication on platforms established by EBIA for student and parents, and any individualized education program (“IEP”) or Section 504 plan that may have been developed or maintained by EBIA; and/or
 12. 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 EBIA

with respect to that alleged crime or offense. EBIA may disclose the final results of the disciplinary proceeding, regardless of whether EBIA concluded a violation was committed.

VI. RECORD KEEPING REQUIREMENTS

EBIA 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 must include the following 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 EBIA in accordance with 34 C.F.R. § 99.33(b), the record must include the names of the additional parties to which the receiving party may disclose the information on behalf of EBIA 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 or eligible students, EBIA 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, EBIA 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 EBIA.

Student cumulative records may not be removed from the premises of EBIA, unless the individual removing the record has a legitimate educational interest, and is authorized by the Executive Director or by a majority of a quorum of the Board of Directors at a duly agendized meeting. Employees who remove student cumulative records or other student records from the EBIA premises without a legitimate educational interest and authorization may be subject to discipline. Employees are permitted to take student work-product, or other appropriate student records, off premises without authorization for legitimate academic purposes (e.g. grading work-product, assigning credit, reviewing materials for classroom discussion, etc.)

VII. COMPLAINTS

Parents and eligible students have the right to file a complaint with the U.S. Department of Education concerning alleged failures by EBIA 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. 20202-5920