

## **Educational Records and Student Information Policy**

The Board of Directors of Westlake Charter School (“WCS”), 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 WCS.

### **I. DEFINITIONS**

#### **A. 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 containing information directly relating to a student that is maintained by WCS or by a party acting for WCS. Such information includes, but is not limited to:

1. 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;
2. Grades, test scores, courses taken, academic specializations and school activities;
3. Special education records;
4. Disciplinary records;
5. Medical and health records;
6. Attendance records and records of past schools attended;
7. 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:

1. Records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute;
2. Records maintained by a law enforcement unit of WCS that were created by that law enforcement unit for the purpose of law enforcement;
3. In the case of a person who is employed by WCS but who is not in attendance at such agency or institution, 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 use for any other purpose;
4. 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 WCS;

5. Records that only contain information about an individual after he or she is no longer a student at WCS; or
6. Grades on peer-graded papers before they are collected and recorded by a teacher.

#### B. Personally Identifiable Information

Personally Identifiable Information (PII) is information about a student that is contained in his or her education records that cannot be disclosed without compliance with the requirements of FERPA. PII 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 WCS reasonably believes knows the identity of the student to whom the education record relates.

#### C. Directory Information

WCS may disclose PII that it has designated as directory information, consistent with the terms of WCS' annual notice provided pursuant to the Family Educational Rights and Privacy Act of 2001 (20 U.S.C. § 1232g) ("FERPA").

WCS 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
- 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.)



D. 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.

E. Eligible Student

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

F. School Official

A school official is a person employed by WCS 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 WCS. A school official also may include a volunteer or an independent contractor outside of WCS who performs an institutional service or function for which WCS would otherwise use its own employees and who is under the direct control of WCS with respect to the use and maintenance of PII 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.

G. 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 year, WCS shall provide parents and eligible students with a notice containing the following information: 1) The type of PII it designates as directory information; 2) The parent's or eligible student's right to request that WCS not release "directory information" without obtaining prior written consent from parent or eligible student; and 3) The period of time within which a parent or eligible student may notify WCS in writing of the categories of "directory information" that it may not disclose without the parent or eligible student's prior written consent.

III. ANNUAL NOTIFICATION TO PARENTS AND ELIGIBLE STUDENTS

At the beginning of each school year, in addition to the notice required for directory information, WCS shall provide parents and eligible students with a notice of their rights under the FERPA. The notice shall inform the parents and eligible students that they have the right to:

- A. Inspect and review the student's education records;
- B. 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;
- C. Consent to disclosures of PII contained in the student's education records, except to the extent that disclosure is permitted without prior written consent pursuant to FERPA;
- D. File with the U.S. Department of Education a complaint concerning alleged failures by WCS to comply with the requirements of FERPA and its promulgated regulations; and



- E. Request that WCS 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:

- A. The procedure for exercising the right to inspect and review educational records;
- B. The procedure for requesting amendment of records;
- C. A statement that WCS forwards education records to other agencies or institutions that have requested the records and in which the student seeks or intends to enroll;
- D. 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, WCS shall comply with the request.

##### A. Copies of Education Records

WCS will provide copies of requested documents within five (5) business days of a written request for copies. WCS may charge reasonable fees for copies it provides to parents or eligible students. The charge will not include a fee to search for or to retrieve the education records.

##### B. 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. An unsubstantiated personal conclusion or inference;
3. A conclusion or inference outside of the observer's area of competence;
4. Not based on the personal observation of a named person with the time and place of the observation noted;
5. Misleading; or
6. In violation of the privacy rights of the student.

WCS will respond within thirty (30) days of the receipt of the request to amend. WCS' response will be in writing and if the request for amendment is denied, WCS 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 Executive Director's designee must then inform the parent or eligible student of the amendment in writing. However, the Executive Director shall not order a pupil's grade to be changed, unless the teacher who determined the grade is, to the extent practicable, given an opportunity to state orally, in writing, or both, the reasons for which the grade was given and is, to the extent practicable, included in all discussions relating to the changing of the grade.

### C. Hearing to Challenge Education Record

If WCS 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 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 WCS 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 his/her 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 his/her 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, WCS' 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, WCS 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, WCS 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 WCS, or both. If WCS 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

WCS 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. 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.

WCS will only disclose PII 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. WCS must maintain the appropriate records related to these disclosure exceptions, as described below. Except for disclosures pursuant to a judicial order or lawfully issued subpoena, or directory information or to parents or eligible students, WCS 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.

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

1. School employees 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. WCS 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, WCS 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 WCS in accordance with 20 U.S.C. § 1232g(b)(1)(F);
6. Requestors that engage in political advocacy, lobbying or information dissemination related to California charter schools with which WCS has an existing relationship;
7. Accrediting organizations in order to carry out their accrediting functions;
8. Parents of a dependent student as defined in section 152 of the Internal Revenue Code of 1986;
9. 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;
10. Persons who need to know in cases of health and safety emergencies;
11. State and local authorities, within a juvenile justice system, pursuant to specific State law;
12. 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 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 non-related 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 WCS for student and parents, and any individualized education program ("IEP") or Section 504 plan that may have been developed or maintained by WCS.
13. 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 WCS with respect to that alleged crime or offense. WCS may disclose the final results of the disciplinary proceeding, regardless of whether WCS concluded a violation was committed.

## VI. RECORD KEEPING REQUIREMENTS

WCS will maintain a record of each request for access to and each disclosure of PII 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 PII to institutions that make disclosures of the information on behalf of WCS 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 WCS 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, WCS 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 PII may be inspected by parents and eligible students, WCS 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 WCS.

Student cumulative records may not be removed from the premises of WCS, 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 WCS 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 WCS 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