

GUIDELINES FOR
CONSIDERING REQUESTS TO OBTAIN STUDENT DATA
IN THE
OMAHA PUBLIC SCHOOL DISTRICT



October 2010

Introduction

The Omaha Public Schools conducts and supports research, development, and planning involving education for the well-being and success of students in the Omaha Public Schools. The purpose of these guidelines is to support student data requests and research while respecting the privacy of students and their families and ensuring compliance with federal and state laws. The Federal Educational Rights and Privacy Act (FERPA), Nebraska State School Law 79-2,104, and Nebraska State Statute 84-712 are based on the principle that information about an individual student is private and confidential and may only be accessed, without parent consent, for purposes of approved educational fact-finding and research, and by school staff in the performance of their professional duties/responsibilities. The Omaha Public School District's Policy on Use of Student Records is consistent with federal and state laws, ensuring the confidentiality and protection of student record files.

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Section I: Requests of OPS for Student Data

A. Requests for student data made by school officials

All requests of the Omaha Public Schools (OPS) for student data will be evaluated pursuant to the requirements specified in the Federal Educational Rights and Privacy Act (FERPA).

Student, school or district-wide data can be provided to school officials with a legitimate educational or administrative interest in the information as part of their professional duties/responsibilities.

A school official is a person employed by the district as an administrator, supervisor, teacher, or support staff member; or a person or organization with whom the district has contracted or made agreement with to perform a special task (such as an attorney, auditor, consultant, medical professional, or therapist).

A school official has a legitimate educational or administrative interest if he or she needs educational records in order to fulfill his or her professional duties/responsibilities. A school official does not have a legitimate educational or administrative interest in student records when the data is unrelated to his or her professional duties/responsibilities.

B. Requests for student data made by persons not affiliated with the school district

All requests of the Omaha Public Schools (OPS) for student data will be evaluated pursuant to the requirements specified in the Federal Educational Rights and Privacy Act (FERPA).

Requests for student data by persons not affiliated with the school district must be approved at the district level by the Director of Research or the Coordinator of Student Information Services, and may not be approved at the school level.

A substantial amount of school and district aggregate data, i.e., school demographic information and assessment results is available to the public on the Omaha Public Schools website, <http://www.ops.org> and the Nebraska Department of Education's *State of the Schools* website, <http://www.nde.state.ne.us>.

Requests for other student data must be evaluated in light of district resources and the Family Educational Rights and Privacy Act (FERPA) of 1974, (Federal P.L. 93-380), Nebraska State School Law 79-2,104, and Nebraska State Statute 84-712.

In addition, federal and state laws refer to what information may be released as Directory Information. Based upon federal and state guidance, the Omaha Public

Schools has designated Directory Information to include: student name, grade level, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance (enrollment), degrees, honors and awards received, current and most recent previous educational agency or institution attended by the student, and photograph.

Consistent with student privacy and confidentiality laws, OPS requires that persons requesting student data complete the OPS Request for Obtaining Student Data form, which is discussed in Appendix 1. In addition, if individual student records are included in the request, the OPS Student Data Release and Confidentiality Agreement (Appendix 2) regarding use of OPS student level data will be required in most instances when data is non-directory information. When such agreements are deemed necessary, they will be reviewed and approved by the district's legal counsel prior to the district's enactment of the agreement.

The law does not distinguish between persons, organizations or corporations making requests. Under the law, any person or organization could submit a legitimate request for student information. Requests from other public agencies will be evaluated using the same standards as a request from a private corporation or individual researcher.

Refer to Appendix 6: OPS Process for Release of Student Information

C. Data content

As a general rule, and in accordance with FERPA, student data which identifies individual students or parents may not be released without the specific approval of the parent. Data that does not include information identifying individual students, and that is readily available, may be released for use in research, statistical reporting, and planning.

D. Informed consent for release of individually-identifiable student data

Both federal and state laws require informed consent by a parent prior to the release of any data from which the identity of the student or parent could be determined, with certain limited exceptions as described in Section 1. F. below. Informed consent requires prior, specific, dated, written consent of the parent designating the person or agency to which the records may be released, the reason for the release, and the specific records to be released. Additionally, the consent should indicate a date or event on which the authorization will expire, e.g., when student participation in a program ends, when the student graduates, when the student leaves the school/district. At the time such consent is requested or obtained, the school shall inform the parents that they may inspect a copy of such records, challenge the contents of the records and limit consent to designated records or designated portions of information within the records.

E. Release of student data without parental consent

As per FERPA, the district may disclose a student's education records without parental consent when:

- The disclosure is to school officials who have been determined to have legitimate educational interests as described in Section I. A.;
- The disclosure is pursuant to a confidentiality agreement approved by the district's legal counsel;
- The student is seeking or intending to enroll in another school;
- The disclosure is to state or local educational authorities auditing or evaluating Federal or State supported education programs or enforcing Federal laws which relate to those programs;
- The disclosure is to organizations conducting studies for, or on behalf of, an educational agency or institution to develop, validate, or administer predictive tests, administer student aid programs, or improve instruction. The district may disclose information under this section only if the study is conducted in a manner that does not permit personal identification of parents and students by individuals other than representatives of the organization, and the information is destroyed when no longer needed for the purposes for which the study was conducted.
- The disclosure is pursuant to a lawfully issued court order;
- The disclosure is to appropriate officials in cases of health and safety emergencies; and
- The information disclosed has been appropriately designated as directory information by the school. Schools may disclose, without consent, Directory Information such as student name, grade level, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance (enrollment), degrees, honors and awards received, current and most recent previous educational agency or institution attended by the student, and photograph. However, schools must inform parents and eligible students about the district policy on release of Directory Information and allow parents and eligible students a reasonable amount of time to request that the district not disclose directory information about them.

Note: Please refer to the Policy and Regulations of the Omaha Public Schools District: Section 6.12 Use of Student Records, Section 6.13 Lists of Names of Students, Section 11.05 Survey of Students, and Section 11.06. Access to Student Records. (Appendix 3)

F. Release of student data under a confidentiality agreement

If a district approved grant, research study, or program/project is conducted in partnership with OPS, the district may disclose student educational records to the

requestor without parental consent under the terms of a security agreement, also known as a Student Data Release and Confidentiality Agreement (Appendix 2). Such agreement must, at a minimum, include the following terms:

- The researcher affirms that the student information will be used only for the specific purpose of the agreement.
- The researcher affirms that the student information will not be released to any other party.
- The researcher affirms that he or she will comply with all laws pertaining to student confidentiality.
- The researcher affirms that the student information will be destroyed when the purpose of the security agreement is completed.
- A description of the organization's procedure for keeping the data secure must accompany the Student Data Request and Confidentiality Agreement.

G. Specific release of non-directory information

Requests for data to support academic and community activities may be considered for a limited release of non-directory information. Each year, parents and eligible students have the option of signing a release of information that would include non-directory information. These releases give permission for OPS to release address, phone number and parent/guardian names to organizations/agencies for school-related purposes only. Examples of requests that might be honored under this type of release include scholarship organizations, college recruiters, senior portrait photographers, student financial aid entities, news articles on student accomplishments, and student directories for student/school and parent use.

Additionally, community organizations, either with the approval of the district or in partnership with the district, may have a need for student data that extends beyond Directory Information. For example, student mentoring programs might request academic or attendance data in order to better serve the students they are mentoring.

Initial approval of a program (outside of a research proposal) must be provided at the district level. Following district approval, the organization must also receive approval by the principal of the school(s) in which the program will take place.

An organization's request for student information will be evaluated to determine the amount and type of data needed to fulfill the organization's objective and to determine the least intrusive method of obtaining that data in a timely fashion. Requests for on-going (real-time) data will be judiciously approved only for those programs where the need cannot be filled in any other effective and efficient manner.

In those cases where on-going data is provided, care must be taken that student data is available only where parent permission has been obtained. If such care requires

extensive maintenance of records on the student information system, the request for access will be denied.

H. Procedures for requesting student data

The Omaha Public Schools will not release any data that violates the provisions of the Family Education Rights and Privacy Act or Nebraska State Law. Data that may be released will be in compliance with Federal and/or State regulations and district policies and procedures.

Individuals or organizations requesting data must submit an OPS Request for Obtaining Student Data form, an OPS Request to Conduct Research, and/or a Grant Application. Each of these documents is dependent on the purpose, complexity, and duration of the data gathering project.

The OPS Request for Obtaining Student Data form is normally submitted by individuals who are contemplating a grant application, conducting program evaluations, interested in evaluating the results of new curriculum, etc. This type of request is for data that is generally of a one-time occurrence and for a specific point in time.

The Request to Conduct Research is for a specific research study, involves a specific group of students, has a stated purpose/hypothesis, and a detailed methodology for evaluation.

A Grant Application is used to obtain funds to study or assist a particular educational need and may require student data to apply for the grant and/or evaluate the programs or strategies contained in the grant. Grant applications must be submitted to the Grants Administrator in Student and Community Services for approval.

All of these data request formats require the researcher to do the following:

- Define the data elements, that is, describe specifically what data fields are needed and how these fields will be used.
- Describe the student population of interest by specifying schools, grades, gender, ethnicity, etc.
- State the timeline and frequency of uploads/data extractions needed for the study.

Requests submitted on an OPS Request for Obtaining Student Data form or through the OPS Request to Conduct Research process must be approved before any data is provided. If the requested data is not readily available, the request will be sent to the OPS Data Review Committee to determine if the request should be provided based upon established district criteria.

Requests for data in support of grants must be approved by the district's Coordinator of Grants, Student Community Services, in conjunction with approval by the Data Review Committee.

Data provided will be limited to just the information that was requested and in the method or manner stated in the request. Significant changes and/or additional information will require a new agreement between the researcher and the district.

Whenever possible, OPS will use existing reports, processes, or district predefined constructs to meet the data request. If the data request requires excessive district resources to process/complete, the data request will not be approved. Creating multiple queries or collecting and/or disseminating data frequently that are not normally processed or used by the district would require additional resources.

If the research will necessitate personal information for students under the age of 18, the researcher must obtain written permission from the legal parent/guardian. Students over the age of 18 (eligible student) do not need parent/guardian permission but still must provide written permission to release their own information. The written permissions must be provided to and maintained by the district before any data will be provided.

The Omaha Public Schools reserves the right to deny access to data for students who are not included in the proposed research intervention or data that could be used to clearly identify individual students. For example, data provided that include small numbers of students within a particular group would allow for possible identification of individual students and thus would not be in compliance of FERPA.

If the researcher is considering publishing the results of the study, a program evaluation, the impact of implemented strategies, etc., the researcher must submit a copy of the findings to the Division of Research prior to publication.

Section II: Appendices

Appendix 1

OPS Request for Student Data

An OPS Request for Student Data is required any time student information is needed and cannot be obtained directly from OPS official reports. For OPS staff, the first contact for data at the schools should be the school's Data Administrator or Academic Data Representative. If these individuals are unable to provide the necessary information, it may be appropriate to request assistance from Central Office Staff.

Requests for assistance from Central Office Staff would include those situations where a staff member does not have access to needed information or is having difficulty defining what data is needed for purposes of research, statistical reporting, and/or planning. For agencies outside of OPS, or for staff needing further assistance, the Division of Research, Student Information Services, and IMS Technical Support are ready to assist in data gathering and assistance with information gathering questions.

IMS Technical Support can provide data and build reports for information requests that require recurring processing. OPS staff may request assistance from IMS Technical Support using the automated Help Desk Request system in FirstClass. Staff should provide a detailed request including data elements, defining characteristics of group (e.g., grade level, school, etc.) and format required. The Help Desk will provide a prompt response indicating the request has been received and has been assigned.

For aggregate information regarding student information, requests should be directed to the Research Division. To request assistance from the Division of Research, complete an OPS Request for Obtaining Student Data form. This form is accessible through the OPS web site (<http://www.ops.org>) by clicking on the Data Request Tab on the homepage. Complete the necessary entries and click 'Submit'. The request will be sent automatically to the Research Division.

For requests of student specific information, requests should be forwarded to Student Information Services (SIS). SIS staff will evaluate the request and determine if it meets the requirements of the Federal Educational Rights and Privacy Act (FERPA). Requests that do not meet these requirements will not be approved. If additional student information is needed, SIS will forward the request to the appropriate division for further processing.

Allow at least two weeks for completion of requests. Requests will be prioritized and processed based on district requirements.

Appendix 2

OPS Student Data Release and Confidentiality Agreement

Introduction

The individual or representative of an organization signing this agreement has requested access to student level data that belongs to the Omaha Public Schools. The Omaha Public Schools is providing this data for the purpose of research, statistical reporting, or planning that will assist efforts to improve education, or efforts to improve the general well-being of students, teachers, parents, schools, and the community at large.

The **Guidelines for Considering Requests to Obtain Student Data in the Omaha Public Schools** requires recipients of the data to sign the OPS Student Data Release and Confidentiality Agreement, agreeing to comply with all applicable statutes and rules pertaining to school student records. This form is accessible through the OPS web site (<http://www.ops.org>) by clicking on the Data Request Tab on the homepage.

Authorized Users

This data is provided for the sole use of the organization or individual signing this document. The person signing this agreement is responsible for ensuring that all student level data provided by the Omaha Public Schools is securely stored and that staff researchers and analysts abide by the security requirements described here. This data may not be shared with other researchers or analysts outside of this organization without the consent of the Director of Research, Omaha Public Schools.

All requests for student information must be made on an OPS Request for Student Data Request form, an OPS Request to Conduct Research application, or a grant application prior to receiving any student data. Also, if individual student data is requested, approved parent permission forms must be signed and submitted prior to the release of any data.

Data Security Procedures

All OPS student level data approved for use must be stored securely so that only authorized users within the organization have access to it. This means that computer databases should be password protected; that precautions are taken to ensure that access through modems, networks, and the Internet is carefully monitored and limited to authorized users; and that data tapes, disks, paper files and other storage media are kept in secure locations.

(In a separate attachment, describe in detail how this data will be secured.)

Restrictions on the Use of Data

The requestor of this data agrees that the data will be used for research, statistical reporting, and/or planning only. The data is not to be used in product marketing studies, student recruitment studies, or in other commercial ventures.

The requestor agrees that only aggregate data will be used in any reports. Protection of student privacy is paramount. Individual level data may be analyzed for the purpose of obtaining aggregate information across individuals or subgroups. When analyzing individual student data, group size must be considered. When a group is very small, less than 10 students, individual students may be identifiable. It is also inappropriate to seek out or report individual-level data for the purpose of obtaining information about or identifying specific students, even for research purposes, unless the researcher has obtained explicit written permission from the students' parent(s) and such use has been approved in writing by the Director of Research, Omaha Public Schools.

If the requested data elements in combination could lead to identification of students, the data requested may be denied. If data at the individual level is used in a report for illustrative purposes, data must be obscured in such a way that student identity cannot be inferred or discovered.

Publication of Findings

Results of findings pertaining to aggregate data must be provided to the Omaha Public Schools Research Division prior to publication.

Data Provision and Maintenance

Data requests will not be approved if they place an excessive burden on district resources because of the magnitude, frequency, duration or atypical nature of the request. Individual data provided by Omaha Public Schools will be destroyed at the end of the research project or as agreed upon prior to the beginning of the project and clearly stated in the attachment for security procedures.

Appendix 3

OPS Policies and Regulations: Student Records, Student Information, Surveying Students, Access to Student Records

6.12 Use of Student Records (Revised September 3, 1986)

- a. The Board of Education of the School District of Omaha authorizes the schools to collect, maintain, secure, and disseminate information of a personal nature on students and former students in compliance with the provisions of the "Family Educational Rights and Privacy Act of 1974," (Federal P.L. 93-380) and *the Nebraska State School Law* (79-2, 104) and to destroy records as provided for in the *Nebraska State School Law* (79-539).
- b. School records pertaining to the individual child may be used only for the promotion or welfare of the student and shall not be made available to any outside person or agency unless it is clear that such person or agency will use the records to the advantage of the child or family.
- c. No teacher may give information from a child's record to anyone outside the school staff without the permission of the principal.
- d. The district shall provide student records to other school systems or institutions at no charge upon the student's transfer in accordance with criteria established in the *Practices and Procedures* of the School District of Omaha.
- e. Students or their parents and/or guardians may inspect, review, and/or obtain copies of the student's records upon request. Students or their families may be assessed a fee to cover reproduction costs.

6.13 Lists of Names of Students (Revised February 21, 2007)

The superintendent of schools or designee is authorized to release copies of lists of student names who have not requested that the information remain private to local schools and colleges, military authorities, or other agency with legitimate educational interest. No other employee of the schools may furnish copies of lists of names and addresses of students to anyone other than school officials. Access to lists of student names and publication of student directories shall be governed by the requirements of the federal Family Educational Rights and Privacy Act (FERPA).

11.05 Survey of Students (June 19, 1995)

External requests to conduct research/studies involving students of the Omaha Public Schools must be submitted in writing to and be approved by the Research Division. Research studies include, but are not limited to, surveys, questionnaires, opinionnaires,

personal or group interviews, or testing. Prior written consent of a parent (legal guardian) will be required for surveys if they include questions which reveal information concerning:

- political affiliation;
- mental and psychological problems potentially embarrassing to the student or his/her family;
- sex behavior and attitudes;
- illegal, anti-social, self-incriminating and demeaning behavior;
- critical appraisals of other individuals with whom the student has close family relationships;
- legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers; or
- income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program).

All external and internal research study instruments such as questionnaires and opinionnaires may be reviewed by parents/guardians at any time, including in advance of their child's participation in the study.

11.06 Access to Student Records (Revised February 21, 2007)

Students and their parents/guardians shall annually be notified in writing of their rights to inspect, review, challenge, amend, and give or withhold consent for the disclosure of personally identifiable educational records. The annual notification shall be accomplished by annual publication in the *Omaha World-Herald*, the *Omaha Star* and *Nuestro Mundo*.

A student or his/her parent/guardian may review the educational records of the student at the location where they are on file. Any request to review student records must be honored as soon as possible but within ten days of receipt of the request.

The school district will not provide full access to or disclosure of educational records to the student or his parents/guardians if educational records contain information regarding more than one student. In such cases access will be provided only to information regarding the student who is or whose parent/guardian is requesting such access or disclosure.

The school district will charge according to a schedule developed by the person responsible for the records. Where the fee represents an unusual hardship, it may be waived in part or entirely by the custodian of the records.

Types of educational records maintained by the school district and the individual responsible for those records:

- a. The following school based records are available from the principal of each school. A current list of principal names and school addresses is available from the Student Information Services office, 3215 Cuming Street, Omaha, NE 68131-2024.
 - Permanent Record Card of Grades, Attendance, and Achievement Test Scores
 - Cumulative Folders of students currently enrolled in an Omaha Public School
 - Health records of students currently enrolled

- b. The following central office based records are available from the director of Student Personnel Services and/or the coordinator of Student and Community Services, 3215 Cuming Street, Omaha, NE 68131-2024.
 - Cumulative Folders of students previously enrolled in an Omaha Public School
 - Psychological Services records
 - Student Placement records
 - Student Due Process records
 - Special Education Placement records
 - Health records of students previously enrolled in an Omaha Public School
 - Other student support records

Rights of Privacy for Student Records—Personally identifiable information will not be released from the educational records of a student without prior written consent of the parent/guardian of the student if the student is under 18 years of age or of the student if he/she is 18 years of age or older except as provided by 34 C.F.R. Section 99.31 (federal regulations which enforce the Family Educational Rights and Privacy Act) and this policy. Personally identifiable information from students' educational records may be disclosed to school officials for legitimate educational purposes.

Directory Information—the school district may release directory information regarding a current student without prior student consent unless the parent/guardian or student 18 years of age or older timely notifies the Student Information Services office that such information is not to be released. Parents/guardians and students 18 years of age and older shall be notified annually of their rights regarding directory information.

Correction or Amendment of Student Records—Upon written request, a parent/guardian or student 18 years of age or older may request that the Omaha Public Schools correct the student's education record, obtain a hearing to challenge the content of the educational records, and/or add a statement to the student's educational record. Any such request must be made to the department of Student and Community Services.

Appendix 4

Background on the Family Educational Rights and Privacy Act (FERPA)

<http://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html>

The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education.

FERPA gives parents certain rights with respect to their children's education records. These rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level. Students to whom the rights have transferred are "eligible students."

- Parents or eligible students have the right to inspect and review the student's education records maintained by the school. Schools are not required to provide copies of records unless, for reasons such as great distance, it is impossible for parents or eligible students to review the records. Schools may charge a fee for copies.
- Parents or eligible students have the right to request that a school correct records which they believe to be inaccurate or misleading. If the school decides not to amend the record, the parent or eligible student then has the right to a formal hearing. After the hearing, if the school still decides not to amend the record, the parent or eligible student has the right to place a statement with the record setting forth his or her view about the contested information.
- Generally, schools must have written permission from the parent or eligible student in order to release any information from a student's education record. However, FERPA allows schools to disclose those records, without consent, to the following parties or under the following conditions (34 CFR § 99.31):
 - School officials with legitimate educational interest;
 - Other schools to which a student is transferring;
 - Specified officials for audit or evaluation purposes;
 - Appropriate parties in connection with financial aid to a student;
 - Organizations conducting certain studies for or on behalf of the school;
 - Accrediting organizations;
 - To comply with a judicial order or lawfully issued subpoena;
 - Appropriate officials in cases of health and safety emergencies; and
 - State and local authorities, within a juvenile justice system, pursuant to specific State law.

Schools may disclose, without consent, "directory" information such as a student's name, address, telephone number, date and place of birth, honors and awards, and dates of attendance. However, schools must tell parents and eligible students about directory information and allow parents and eligible students a reasonable amount of time to request that the school not disclose directory information about them. Schools must notify parents and eligible students annually of their rights under FERPA. The actual means of notification (special letter, inclusion in a PTA bulletin, student handbook, or newspaper article) is left to the discretion of each school.

Appendix 5

Background on the Protection of Pupil Rights Amendment (PPRA)

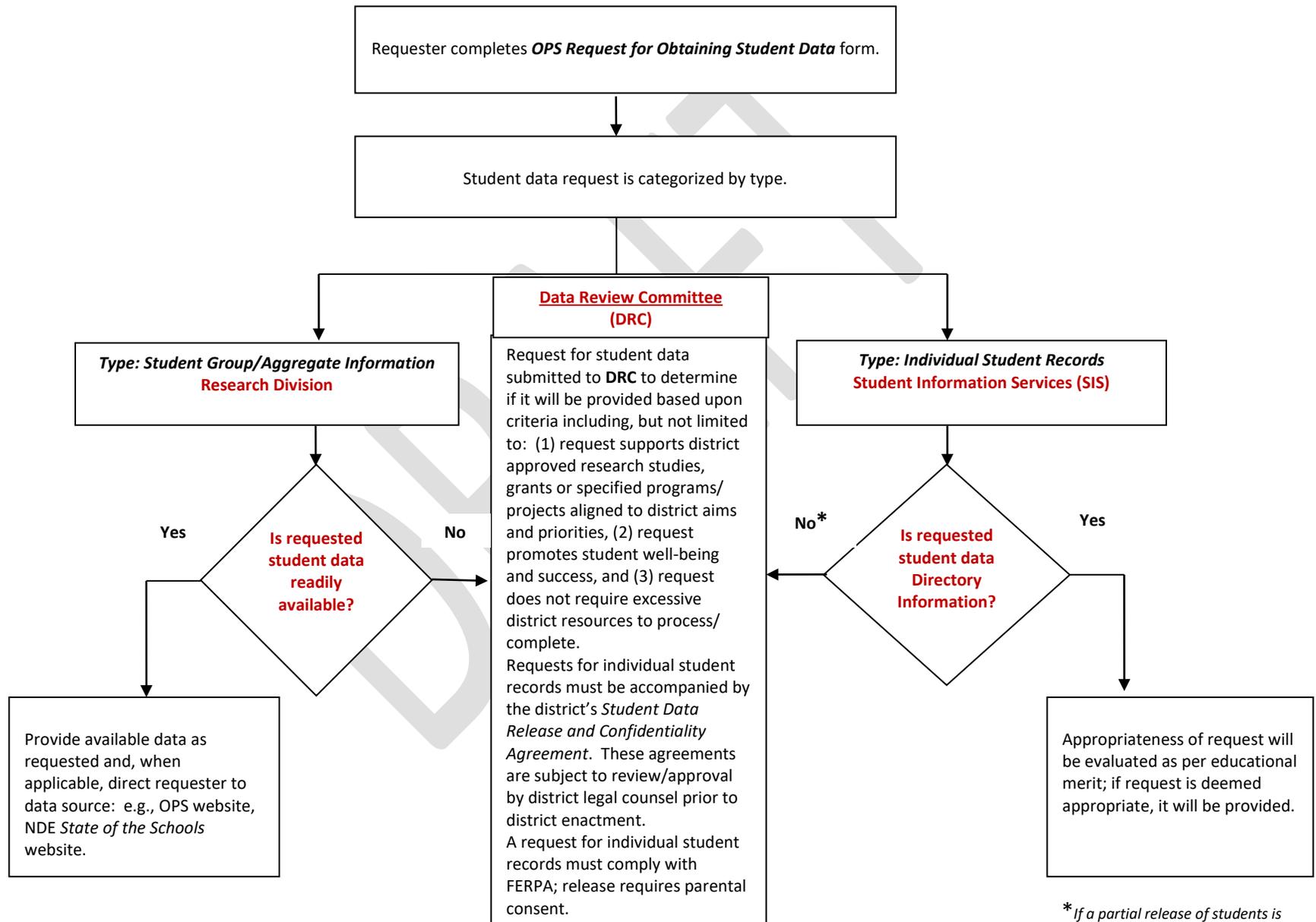
<http://www2.ed.gov/policy/gen/guid/fpco/ppra/index.html>

The Protection of Pupil Rights Amendment (PPRA) (20 U.S.C. § 1232h; 34 CFR Part 98) applies to programs that receive funding from the U.S. Department of Education (ED). PPRA is intended to protect the rights of parents and students in two ways:

- It seeks to ensure that schools and contractors make instructional materials available for inspection by parents if those materials will be used in connection with an ED-funded survey, analysis, or evaluation in which their children participate; and
- It seeks to ensure that schools and contractors obtain written parental consent before minor students are required to participate in any ED-funded survey, analysis, or evaluation that reveals information concerning:
 1. Political affiliations;
 2. Mental and psychological problems potentially embarrassing to the student and his/her family;
 3. Sex behavior and attitudes;
 4. Illegal, anti-social, self-incriminating and demeaning behavior;
 5. Critical appraisals of other individuals with whom respondents have close family relationships;
 6. Legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers; or
 7. Income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program).

Parents or students who believe their rights under PPRA may have been violated may file a complaint with ED by writing the Family Policy Compliance Office. Complaints must contain specific allegations of fact giving reasonable cause to believe that a violation of PPRA occurred.

PROCESS FOR RELEASE OF STUDENT INFORMATION



* If a partial release of students is acceptable to the requester, data may be released for those students with a Limited Release of Non-Directory Information on file.