

Confidentiality Guidelines

All educators have a professional, ethical, and legal responsibility to respect the privacy and confidentiality of students and their families. Students and parents/guardians frequently share verbal and written communications with school personnel with the expectation that the information will be held in confidence and will not be disclosed to third parties without permission. School staff members have an obligation to protect all information obtained in the performance of professional duties and to recognize the extent and limits of confidentiality as required by laws and regulations.

The following guidelines are offered for the protection and disclosure of student information by school staff and Student Support Services personnel:

1. School systems must keep accurate and complete individual student records to provide written documentation of the student's academic program and individual progress. Student records include information personally identifiable to a student that is maintained in written, photographic, or electronic format. All student records are to be maintained in accordance with the Family Educational Rights and Privacy Act 1974 (FERPA), Protection of Pupil Rights Amendment 2001 (PPRA), No Child Left Behind Act 2001 (NCLB), Code of Maryland Regulations (COMAR), Individuals with Disabilities Education Act 2004 (IDEA), and Maryland Student Records System Manual for the most current year. Access to student record information is limited to school personnel with legitimate educational interest. Release of student record information to a third party, absent a court order, requires written consent of the parent(s), guardian(s), or eligible student(s) through submission of the BCPS "Consent for Release of Records" form (See PS 126).
2. In keeping with professional codes of ethics and standards of practice, information that is directly related to and/or personally identifies a student should be shared only with school staff members that have legitimate educational interest. Sharing of student information should be specific and limited to information that is needed for legitimate educational ends. Every attempt should be made to ensure that the information is accurate, timely, relevant, and obtained legally. Consideration should be given to the impact of the disclosure and to what extent the disclosure, or lack of disclosure, would result in harm to the student, his or her family, or others. This would include student information shared during professional consultations, conferences, teacher meetings, Student Support Teams, IEP Teams, and other school-based meetings involving educational planning for students.
3. Information that is directly related to and/or personally identifies a student should not be disclosed to persons not employed by the school system, even if these persons have a legitimate educational interest, unless the release of information is authorized in writing by the parent, guardian, or eligible student. This would include, but not be limited to, persons providing educational, health, mental health, or other services to students that are independent providers or persons employed by independent or government agencies **(See 4. below for mandatory disclosure of information related to: suspected child abuse neglect; suicide risk, risk of harm to self or another; and/or substance abuse or other illegal acts when the student is not seeking help).**

4. Disclosure of information in emergency situations is not considered to be a breach of confidentiality when action could be taken, if necessary, which would potentially protect the health or safety of a student or others. Factors specifically to be taken into account in determining if the release of student information is necessary are:
 - The seriousness of the threat to health or safety of the student or other person.
 - The need for such records to meet the emergency.
 - Whether the persons to whom the records are released are in a position to deal with the emergency.
 - The extent to which time is of the essence in dealing with the emergency (See PS 126).

5. Students and parents/guardians should be made aware that there are limits to confidentiality and, by law, school staff must disclose information related to suspected child abuse or neglect, suicide risk, risk of harm to self or another, and/or substance abuse, or other illegal acts when the student is not seeking help.
 - School personnel who suspect a child has been subjected to physical abuse, sexual abuse, neglect, or mental injury must immediately make a report to the local Department of Social Services or appropriate law enforcement agency. The oral report must be made as soon as reasonably possible. The written report must be made within 48 hours (See PS 103).
 - School personnel who receive information indicating that a student is making verbal or written threats of harm towards self, intention to harm self, or has attempted suicide, must refer the student to the school counselor, school psychologist, or school social worker for emergency consultation. School staff or Student Support Services personnel must contact the parents/guardians about the suicidal threat or attempt and explain the parents'/guardians' responsibility to obtain assistance for the student. Parents/guardians must be contacted even when the information does not come from the student but from a third party. A written record of the time/date of notification of parents/guardians, the school staff contacted, and the intervention steps taken by school staff and parents/guardians should be kept by Student Support Services personnel (See PS 108).
 - School personnel who receive information indicating a threat to the health or safety of others such as homicide, gang violence, rape, arson, or other illegal activity should report the information to those in authority in accordance with legal mandates, Baltimore County Public Schools' (BCPS) policies and procedures, and professional and ethical practices. Information regarding a student seeking help for substance abuse should not be disclosed. Reasonable steps must be taken to warn a person or persons in the event of a serious threat of harm to that person or persons. Parents/guardians must be warned of a serious threat of harm to persons who are minors (See also PS 112).

- School personnel who receive information involving a known or suspected case of a communicable disease should notify the school nurse (See also PS 306).
6. Students who are minors have the legal right to consent to treatment for or advice about drug abuse, alcoholism, sexually transmitted disease, pregnancy, and contraception. Students who are minors have the legal right to consent for physical examination and treatment for rape/sexual offense and physical examination to obtain evidence of rape/sexual offense. According to the Annotated Code of Maryland Health General Article:
- Without the consent of or over the express objection of a minor, the attending physician, psychologist or, on advice or direction of the attending physician or psychologist, a member of the medical staff of a hospital or public clinic may, but need not, give a parent, guardian, or custodian of the minor, or the spouse of the parent, information about treatment needed by the minor or provided to the minor under this section, except information about an abortion.*
7. Confidentiality is different than privileged communication. Confidentiality involves the disclosure or non-disclosure of information and under what circumstance the information can be released. Privilege is granted by law and refers to the right of the client or patient to prohibit disclosure of information in a legal proceeding (MPA Legal Manual II, 1999). The State of Maryland does not have a statute which expressly affords privileged status to communications between students and educators or between students and Student Support Services personnel in school settings. The Annotated Code of Maryland includes Health Occupations Articles that define the scope of privilege between patient or client and licensed psychologist, psychiatric-mental health nursing specialist, professional counselor, or licensed social worker. These articles define privilege as being held by the patient or client and as allowing the patient or client to prevent a witness from disclosing information about diagnosis or treatment of mental or emotional disorder, or mental or emotional condition during judicial, legislative, or administrative proceedings.

Legal Manual II (1999). Columbia, MD: Maryland Psychological Association.

Ann. Code, Health General 20-102

Ann. Code, Health Occupations 9-109, 9-109.1, 9-121