

# Arkansas Choral Directors Association Privacy Policy

**Effective Date:** April 9, 2024

Except when a court order regarding a student has been presented to the ArkCDA to the contrary, all students' education records are available for inspection and copying by the parent of his/her student who is under the age of eighteen (18). At the age of eighteen (18), the right to inspect and copy a student's records transfers to the student. A student's parent or the student, if over the age of 18, requesting to review the student's education records will be allowed to do so within no more than forty-five (45) days of the request. The ArkCDA discloses audition/event participation records online with member-only access behind a password protected webpage.

ArkCDA will not release education records to any agency or individual not authorized by law to receive and/or view the education records. The ArkCDA shall maintain a record of requests by such agencies or individuals for access to, and each disclosure of, personally identifiable information (PII) from the education records of each student. Disclosure of education records is authorized by law to school officials with legitimate educational interests. A personal record kept by an ArkCDA member is not considered an education record if it meets the following tests:

- it is in the sole possession of the individual who made it;
- it is used only as a personal memory aid; and
- information contained in it has never been revealed or made available to any other person, except the maker's temporary substitute.

For the purposes of this policy an ArkCDA official is a person employed by a member-school as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel); a person serving on the Board; a person or company with whom the school has contracted to perform a special task (such as an attorney, auditor, medical consultant, or therapist); or a parent or student serving on an official committee, such as a disciplinary or grievance committee, or assisting another ArkCDA member in performing his or her tasks.

For the purposes of this policy, an ArkCDA official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility, contracted duty, or duty of elected office.

In addition to releasing PII to ArkCDA officials without permission, the ArkCDA may disclose PII from the education records of students in foster care placement to the student's caseworker or to the caseworker's representative without getting prior consent of the parent (or the student if the student is over eighteen (18)). For the ArkCDA to release the student's PII without getting permission:

- The student must be in foster care;
- The individual to whom the PII will be released must have legal access to the student's case plan; and
- The Arkansas Department of Human Services, or a sub-agency of the Department, must be legally responsible for the care and protection of the student.

The ArkCDA discloses PII from an education record to appropriate parties, including parents, in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals. The Executive Director or designee shall determine who will have access to and the responsibility for disclosing information in emergency situations.

When deciding whether to release PII in a health or safety emergency, the ArkCDA may take into account the totality of the circumstances pertaining to a threat to the health or safety of a student or other individuals. If the ArkCDA determines that there is an articulable and significant threat to the health or safety of a student or other individuals, it may disclose information from education records to any person whose knowledge of the information is necessary to protect the health or safety of the student or other individuals.

For purposes of this policy, the ArkCDA does not distinguish between a custodial and noncustodial parent, or a non-parent such as a person acting in loco parentis or a foster parent with respect to gaining access to a student's records. Unless a court order restricting such access has been presented to the ArkCDA to the contrary, the fact of a person's status as parent or guardian, alone, enables that parent or guardian to review and copy his child's records.

If there exists a court order which directs that a parent not have access to a student or his/her records, the parent, guardian, person acting in loco parentis, or an agent of the Department of Human Services must present a file-marked copy of such order to the member-school choir director and to the Executive Director. The ArkCDA will make good-faith efforts to act in accordance with such court order, but the failure to do so does not impose legal liability upon the school. The actual responsibility for enforcement of such court orders rests with the parents or guardians, their attorneys and the court which issued the order.

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A parent or guardian does not have the right to remove any material from a student's records, but such parent or guardian may challenge the accuracy of a record. The right to challenge the accuracy of a record does not include the right to dispute a score, rank, disciplinary rulings, disability placements, or other such determinations, which must be done only through the appropriate teacher and/or administrator, the decision of whom is final. A challenge to the accuracy of material contained in a student's file must be initiated with the member-school choir director, with an appeal available to the Executive Director or his/her designee. The challenge shall clearly identify the part of the student's record the parent wants changed and specify why he/she believes it is inaccurate or misleading. If the ArkCDA determines not to amend the record as requested, the ArkCDA will notify the requesting parent or student of the decision and inform them of their right to a hearing regarding the request for amending the record. The parent or eligible student will be provided information regarding the hearing procedure when notified of the right to a hearing.

Unless the parent or guardian of a student (or student, if above the age of eighteen[18]) objects, "directory information" about a student may be made available to the public, post-secondary educational institutions, prospective employers of those students, as well as school publications such as annual yearbooks and graduation announcements. "Directory information" includes, but is not limited to, a student's name, school attended, voice part, and event participation details, among others. If the student participates in inherently public activities (for example, All Region, All State, or other such activities), the publication of such information will be beyond the control of the ArkCDA. "Directory information" also includes a student identification (ID) number, audition group number, audition number, or other unique personal identifiers.

A student's name and photograph will never be displayed on the ArkCDA's web page(s).

Participation in ArkCDA events is considered a specific grant of permission to use Directory information. If a student (or their parents if student is under 18) would like to have any of their PII/Directory information removed at any point, they can make a request in writing to the Executive Director of the ArkCDA by getting contact information from their school choir director.

The right to opt out of the disclosure of directory information under Family Educational Rights and Privacy Act (FERPA) does not prevent the ArkCDA from disclosing or requiring a student to disclose the student's name, identifier, or institutional email address in a class in which the student is enrolled.

Parents and students over the age of 18 who believe the ArkCDA has failed to comply with the requirements for the lawful release of student records may file a complaint with the U.S. Department of Education (DOE) at:

Student Privacy Policy Office

U.S. Department of Education

400 Maryland Avenue, SW

Washington, DC 20202

The ArkCDA shall ensure that all contracts that disclose or make available student personally identifiable information to vendors, including school service contract providers, school service on-demand providers, and other third parties, including without limitation subcontractors of contract providers, include express provisions that safeguard the privacy and security of student personally identifiable information that meet the requirements under A.C.A. § 6-18-2601 et seq. The ArkCDA shall maintain a list of the school service contract providers that the ArkCDA contracts with for school services that include or make available student personally identifiable information. The list shall be updated at least once at the beginning of each semester and provided to parents upon request.

Legal References:

A.C.A. § 9-28-113(b)(6)

A.C.A. § 6-18-2601 et seq.

20 U.S.C. § 1232g

20 U.S.C. § 7908

34 C.F.R. 99.3, 99.7, 99.21, 99.22, 99.30, 99.31, 99.32, 99.33, 99.34, 99.35, 99.36, 99.37, 99.63, 99.64

Additional Reference: ASBA Model Policies