

## **POLICY 1212**

### **EDUCATIONAL RECORDS AND STUDENT INFORMATION**

APPROVED: DECEMBER 11, 2017,

AMENDED: JUNE 21, 2018, FEBRUARY 17, 2021, **JUNE 22, 2023**

The Board of Directors of Student Success Programs, a California nonprofit public benefit corporation operating Audeo Charter School and The Charter School of San Diego hereafter collectively referred to as (“Charter School”) hereby adopts this Educational Records and Student Information Policy to apply to all educational records and student information maintained by Charter School.

#### **Definitions**

- *“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 Charter School or by a party acting for Charter School. 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; and/or
  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 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;
2. Records maintained by a law enforcement unit of Charter School 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 Charter School but not in attendance at Charter School, 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;

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 their 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 Charter School;
  5. Records that only contain information about an individual after the individual is no longer a student at Charter School; or
  6. Grades on peer-graded papers before they are collected and recorded by a teacher.
- “*Personally Identifiable Information*”: Personally identifiable information (“PII”) is information about a student that is contained in their education records that cannot be disclosed without compliance with the requirements of Family Educational Rights and Privacy Act of 2001 (“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 combination, 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 Charter School reasonably believes knows the identity of the student to whom the education record relates.
  - “*Directory Information*”: Directory information is information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. Charter School may disclose the PII that it has designated as directory information, consistent with the terms of the annual notice provided by Charter School pursuant to the FERPA (20 U.S.C. § 1232g). Charter School has designated the following information as directory information:
    1. Student’s name
    2. Student’s address
    3. Parent/guardian’s address
    4. Telephone listing
    5. Student’s electronic mail address
    6. Parent/guardian’s electronic mail address
    7. Photograph/video
    8. Date and place of birth
    9. Dates of attendance
    10. Grade level

11. Participation in officially recognized activities and sports
  12. Weight and height of members of athletic teams
  13. Degrees, honors, and awards received
  14. The most recent educational agency or institution attended
  15. 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.)
- “*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.
  - “*Eligible Student*”: Eligible student means a student who has reached eighteen (18) years of age.
  - “*School Official*”: A school official is a person employed by Charter School 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 Charter School . A school official also may include a volunteer for Charter School or an independent contractor of Charter School or other party who performs an institutional service or function for which Charter School would otherwise use its own employees and who is under the direct control of Charter School with respect to the use and maintenance of PII from education records, such as an attorney, auditor, medical consultant, or therapist, contracted provider of digital educational platforms and/or services, 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 their tasks.
  - “*Legitimate Educational Interest*”: A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill their professional responsibility.

### **Disclosure Of Directory Information**

At the beginning of each school year, Charter School 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 require that Charter School 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 Charter School in writing of the categories of “directory information” that it may not disclose without the parent’s or eligible student’s prior written consent. Charter School 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.

### **Annual Notification To Parents And Eligible Students**

At the beginning of each school year, in addition to the notice required for directory information, Charter School 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 PII 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 Charter School to comply with the requirements of FERPA and its promulgated regulations; and
5. Request that Charter School 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 Charter School 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.

### **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, Charter School shall comply with the request.

#### **1. Copies of Education Records**

Charter School will provide copies of requested documents within five (5) business days of a written request for copies. Charter School 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 students' records or (2) up to two verifications of various

records of former students. 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:

- a. Inaccurate.
- b. Misleading.
- c. In violation of the privacy rights of the student.

Charter School will respond within thirty (30) days of the receipt of the request to amend. Charter School's response will be in writing and if the request for amendment is denied, Charter School will set forth the reason for the denial and inform the parent or eligible student of their right to a hearing challenging the content of the education record.

If the Executive Director sustains any or all of the allegations, the Executive Director 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.

If the Executive Director sustains the parent or eligible student's request to change the student's name and/or gender, Charter School shall add a new document to the student's record that includes all of the following information:

- a. The date of the request.
- b. The date the requested records were corrected.
- c. A list of the records requested to be corrected.
- d. The type of documentation, if any, provided to demonstrate a legal change to the student's name and/or gender. The parent or guardian of the student is not required to provide documentation of a legal change to the student's name and/or gender.
- e. The name of the employee that completed the request.
- f. The student's corrected and former names and/or genders.

Charter School shall immediately update a former student's records to include the student's updated legal name or gender if the Charter School receives government-issued documentation demonstrating that the former student's legal name or gender has been changed. Acceptable government issued identification includes but is not limited to:

- a. State-issued driver's license.
- b. Birth certificate.
- c. Passport.
- d. Social security card.
- e. Court order indicating a name change or a gender change, or both.

If requested by the former student, the Charter School shall reissue any documents conferred upon the former student with the former student's updated legal name or gender. Documents that may be reissued by Charter School include, but are not limited to, a transcript, a high school diploma, a high school equivalency certificate, or other similar documents conferred upon the former student.

If a former student requests that their name or gender be changed and the requested records are reissued, the Charter School shall add a new document to the former student's file that includes all of the following:

- a. The date of the request.
- b. The date the requested records were reissued to the former student.
- c. A list of the records that were requested by, and reissued to, the former student.
- d. The type of documentation provided by the former student in order to demonstrate the legal name or gender change.
- e. The name of the school district, charter school, or county office of education staff person that completed the request.
- f. The current and former name or gender of the former student.

### 3. Hearing to Challenge Education Record

If Charter School 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 the parent or eligible student 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 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 student's records to the members of the panel convened. The hearing panel shall consist of the following persons:

- a. The Administrator of Instructional Services, School Coordinator, or designee of a public school other than the public school at which the record is on file;
- b. A certificated Charter School employee; and
- c. A parent appointed by the Executive Director or by the Board Chair, 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 Charter School to the parent or eligible student no later than twenty (20) days before the hearing.

The Administrator for Instructional Services or designee of a public school will serve as the chairman and 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 their own expense, be assisted or represented by one or more individuals of their choice, including an attorney. The decision of the Board Chair or 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, Charter School '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, Charter School 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, Charter School 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 they disagree with the decision of Charter School, or both. If Charter School 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.

### **Disclosure Of Education Records And Directory Information**

Charter School 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 Charter School shall provide the requestor 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.

Charter School 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. Charter School 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, Charter School 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 Charter School will not release information to third parties for immigration-enforcement purposes, except as required by law or court order.

1. Charter School will disclose education records, without prior written consent of the parent or eligible student, to the following parties:
2. School officials who have a legitimate educational interest as defined by 34 Code of Federal Regulations (“C.F.R.”) Part 99;
3. 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, Charter School 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 student intends to enroll. Charter School will make a reasonable attempt to notify the parent or eligible student of the request for records at their last known address, unless the disclosure is initiated by the parent or eligible student. Additionally, Charter School 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;
4. Certain government officials listed in 20 U.S.C. § 1232g(b)(1) in order to carry out lawful functions;
5. 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;
6. Organizations conducting certain studies for Charter School in accordance with 20 U.S.C. § 1232g(b)(1)(F);
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/or a caregiver (regardless of whether the caregiver has been appointed as the student’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 Charter School for student and parents, and any individualized education program (“IEP”) or Section 504 plan that may have been developed or maintained by Charter School ; and/or

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

### **Solicitation and Disclosure of Student Information for Immigration Purposes**

Charter School shall observe the following:

1. Except as required by state or federal law or as required to administer a state or federally supported education program, Charter School officials and employees will not collect information or documents regarding citizenship or immigration status of students or their family members.
2. If Charter School possesses information that could indicate immigration status, citizenship status, or national origin information, Charter School will not use the acquired information to discriminate against any student or families or bar children from enrolling in or attending school.
3. If parents or guardians choose not to provide information that could indicate their or their children’s immigration status, citizenship status, or national origin, Charter School will not use such actions as a basis to discriminate against any students or families or bar children from enrolling or attending school.
4. Charter School will not allow school resources or data to be used to create a registry based on race, gender, sexual orientation, religion, ethnicity, or national origin.
5. During the enrollment process:
  - a. Where permitted by law, Charter School shall accept alternative means to establish residency, age, or other eligibility criteria for enrollment or programs, and those alternative means shall include among them documentation or information that are available to persons regardless of immigration status, citizenship status, or national origin, and that do not reveal information related to citizenship or immigration status.
  - b. Charter School will not inquire specifically about a student’s citizenship or immigration status or the citizenship or immigration status of a student’s parents

or guardians; nor shall personnel seek or require, to the exclusion of other permissible documentation or information, documentation or information that may indicate a student's immigration status, such as a green card, voter registration, a passport, or citizenship papers.

- c. Charter School will not collect entire social security numbers or cards or a statement that the parent or guardian does not possess a Social Security number for the purposes of enrollment, and failure to provide this information will not bar a student from enrolling or attending Charter School. However, the last four digits of an adult household member's Social Security number may be solicited and/or collected if required to establish eligibility for federal benefit programs such as free or reduced-price meals. This Social Security information will only be collected for the limited purpose of establishing eligibility for federal benefit programs and will not affect student enrollment.

6. Charter School will not release information to third parties for immigration-enforcement purposes, except as required by law or court order. Except for investigations of child abuse, child neglect, or child dependency, or when the subpoena served on the Charter School prohibits disclosure, Charter School shall provide parental or guardian notification of any court orders, warrants, or subpoenas before responding to such requests.

The parent, guardian, or eligible student is not required to sign the consent form. If the parent, guardian or eligible student refuses to provide written consent for the release of student information that this not otherwise subject to release, Charter School shall not release the information. Charter School will permanently keep the consent notice with the record file.

Charter School personnel shall take the following steps upon receiving an information request related to a student's or family's immigration or citizenship status:

1. Notify a designated Charter School official about the information request.
2. Provide students and families with appropriate notice and a description of the immigration officer's request.
3. Document any verbal or written request for information by immigration authorities.
4. Unless prohibited, provide students and parents/guardians with any documents issued by the immigration-enforcement officer.

#### Contract for Digital Storage, Management, and Retrieval of Student Records

The Charter School may enter into a contract with a third party for the digital storage, management, and retrieval of student records and/or to authorize a third party provider of digital software to access, store, and use student records, provided that the contract meets the requirements of Education Code section 49073.1 and other applicable state and federal laws.

#### **Record Keeping Requirements**

Charter School 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 Charter School 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 Charter School 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, Charter School 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, Charter School 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 Charter School.

Student cumulative records may not be removed from the premises of Charter School, 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 Charter School 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.).

### **Complaints**

Parents and eligible students have the right to file a complaint with the U.S. Department of Education concerning alleged failures by Charter School to comply with the requirements of FERPA. The name and address of the Office that administers FERPA is:

Student Privacy Policy Office  
U.S. Department of Education  
400 Maryland Avenue, S.W.  
Washington, D.C. 20202-8520

### **Record Retention**

Charter School complies with the definition and retention of student records as established in Title 5 of the California Code of Regulations (“CCR”) sections 431 through 438, per the

following:

- “*Mandatory Permanent Student Records*”: must be maintained indefinitely or an exact copy thereof for every student who was enrolled in the charter school. These records are defined as:
  1. Legal name of student
  2. Date of birth
  3. Method of verification of birth date
  4. Sex of student
  5. Place of birth
  6. Name and address of parent of minor student
  7. Address of minor student if different than above
  8. An annual verification of the name and address of the parent and the residence of the student
  9. Entering and leaving date of each school year and for any learning periods or courses taken during each year, half year, summer or quarter
  10. If marks or credit are given, the mark or number of credits toward graduation allows for work taken.
  11. Verification of or exemption from required immunizations
  12. Date of high school graduation or equivalent

The mandatory permanent student record or a copy thereof shall be forwarded by the Charter School upon request of a public or private school in which the student has enrolled or intends to enroll. If the Charter School forwards the original mandatory permanent student record, a copy must be maintained by the Charter School. If the Charter School forwards a copy, the original must be maintained by the Charter School.

- “*Mandatory Interim Student Records*”: Must be maintained until judged to be disposable defined as “when the student leaves the charter school or when their usefulness ceases.” These records may be destroyed during the third (3rd) school year following the determination that the records are disposable (i.e. 2019-2020 records may be destroyed after July 1, 2023). These records are defined as:
  1. A log or record identifying those persons (except authorized school personnel) or organizations requesting or receiving information from the record. The log or record shall be accessible only to the legal parent or guardian or the eligible student, or a dependent adult student, or an adult student, or the custodian of records.
  2. Health information, including Child Health Developmental Disabilities Prevention Program verification or waiver
  3. Participation in special education programs including required tests, case studies, authorizations, and actions necessary to establish eligibility for admission or discharge
  4. Language training records
  5. Progress slips and/or notices
  6. Parental restrictions regarding access to directory information or related stipulations.
  7. Parental or adult student rejoinders to challenged records and to disciplinary action

8. Parental authorizations or prohibitions of student participation in specific programs
9. Results of standardized tests administered within the preceding three years

The mandatory interim student record or a copy thereof shall be forwarded by the Charter School upon request of a public school in California in which the student has enrolled or intends to enroll. If the transfer is to an out of state or to a private school, the mandatory interim student record may be forwarded. If the Charter School forwards the original mandatory interim student record, a copy must be maintained by the Charter School until it is destroyed in accordance with this Policy. If the Charter School forwards a copy, the original must be maintained by the Charter School until destroyed in accordance with this Policy.

- “*Permitted Student Records*”: may be maintained and may be destroyed when their usefulness ceases or after six (6) months following the student’s completion or withdrawal from school. These records are defined as:
  1. Objective counselor and/or teacher ratings
  2. Standardized test results older than three years
  3. Routine discipline data
  4. Verified reports of relevant behavioral patterns
  5. All disciplinary notices
  6. Attendance records not covered in the 5 CCR § 400

Permitted student records may be forwarded upon a request by a public or private school in which a student is enrolling. If the Charter School forwards the original permitted student record, a copy must be maintained by the Charter School until it is destroyed in accordance with this Policy. If the Charter School forwards a copy, the original must be maintained by the Charter School until destroyed in accordance with this Policy.