



# MDIE Recommends

## PARENTAL RIGHTS

The sections of the *Revised School Code* that address this issue are contained in the Michigan Compiled Laws under MCL 15.243, 380.10, 380.1134, 380.1137, 380.1139, 380.1506, 380.1507, and 380.1507a. The sections of the *Public Health Code* that address this issue are contained in the Michigan Compiled Laws under MCL 333.9208 and 333.9211. The sections of the *Family Education Rights and Privacy Act* that address this issue are contained in the United States Code under 20 USC §1232g et seq. The section of the *No Child Left Behind Act* that address this issue is contained in the United States Code under 20 USC § 7908. The section of the *National Defense Authorization Act for Fiscal Year 2002* is contained in the United States Code under 10 USC § 503.

### **Reasonableness**

Section 380.10 establishes the role of the parent as a partner in their child's education and ensures a positive educational setting.

Section 380.10:

*It is the natural, fundamental right of parents and legal guardians to determine and direct the care, teaching, and education of their children. The public schools of this state serve the needs of the pupils by cooperating with the pupil's parents and legal guardians to develop the pupil's intellectual capabilities and vocational skills in a safe and positive manner.*

Section 380.1137 specifies that parents and legal guardians are permitted to review curriculum, textbooks, and teaching materials of the school in which the pupil is enrolled at a reasonable time and place. Parents and legal guardians are permitted, within reason, to observe instructional activity in a class or course in which the pupil is enrolled and present. A school board may adopt policies and guidelines concerning these permitted activities and must make them available to the public.

Section 380.1137:

(1) *In recognition of the rights of parents and legal guardians, the board of a school district, public school academy, university school, or intermediate school district shall ensure that a parent or legal guardian responsible for the care and custody of a pupil enrolled in the school district, public school academy, university school, or intermediate school district may do all of the following:*

(a) *Review the curriculum, textbooks, and teaching materials of the school in which the pupil is enrolled at a reasonable time and place and in a reasonable manner.*

(b) *Be present to a reasonable degree, and at reasonable times and subject to reasonable restrictions, controls, and limits, to observe instructional activity in a class or course in which the pupil is enrolled and present. As used in this sub-*



# MDIE Recommends

Michigan Department of Education  
<http://www.michigan.gov/studentissues>

division, “instructional activity” does not include testing.

- (2) The board of a school district, public school academy, university school, or intermediate school district may adopt reasonable policies or guidelines under this section. Those policies or guidelines shall not unreasonably prevent the exercise of the rights set forth in subsection (1) and shall not create an unreasonable obstacle to teaching or learning, or to administering or maintaining proper discipline, in a school or school program. If a board adopts policies or guidelines under this subsection, the board shall make the policies or guidelines available to the public.

### **Tagging Record of Missing Student**

Upon notification by a law enforcement agency that a student less than 17 years of age is missing, a local school district or intermediate school district shall tag the record of the missing student in a manner that will alert the local or intermediate school district to the fact that the record is that of a missing child. [MCL 380.1134].

### **Instruction in Reproductive Health and Sex Education**

Following a written request of a parent or legal guardian, a school district must excuse a student, without penalty or loss of academic credit, from enrolling in reproductive health or sex education [MCL 380.1506, 380.1507 and 380.1507a]. If you have questions about reproductive health or sex education courses, please call (517) 373-7247 for more information.

### **Immunization Waiver**

Sections 333.9208 and 333.9211 of the Michigan *Public Health Code* require that a parent or legal guardian applying to have a child registered for the first time in a Michigan school shall present to school officials at the time of registration, or not later than the first day of school, a certificate of immunization verifying that the child has been vaccinated against diphtheria, tetanus, pertussis, measles, mumps, rubella, poliomyelitis, and Hepatitis B. Beginning in the 2002-2003 school year, the parent or legal guardian shall present to school officials the immunization status for a child entering the sixth grade. In addition, a varicella (chicken pox) vaccination is required for children entering a new school district on or after January 1, 2002.

A parent or legal guardian wishing to exempt his or her child from a particular vaccination must provide a written statement indicating the religious or philosophical objections to the vaccination(s). A child who has been exempted from a vaccination is considered susceptible to the disease or diseases for which the vaccination offers protection. That child will be subject to exclusion from the school if an outbreak of a vaccine-preventable disease occurs.

### **Family Educational Rights and Privacy Act (FERPA)**

The Family Educational Rights and Privacy Act (FERPA) is a federal law protecting the privacy of student education records and parents’ access rights to those records. Under FERPA, education records include a range of information about a student that is collected in and maintained by schools in



# MDIE Recommends

Michigan Department of Education  
<http://www.michigan.gov/studentissues>

any format, such as handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche. Examples are:

Date and place of birth, parent(s) and/or guardian addresses, and parent's emergency contact information.

Grades, test scores, courses taken, academic specializations and activities, and official letters regarding a student's status in school.

Special education records.

Disciplinary records.

Medical and health records that the school creates or collects and maintains.

Documentation of attendance, schools attended, courses taken, awards conferred, and degrees earned.

Personal information such as a student's identification code, social security number, picture, or other information that would make it easy to identify or locate a student.

A summary of FERPA is described in *Fact Sheet: Family Educational Rights and Privacy Act of 1974* (Attachment A).

### Parent/Student Access to Educational Records

The *Family Educational Rights and Privacy Act (FERPA)* gives a parent or a student who is 18 years of age access to the student's educational records. When a student reaches the age of 18 or is enrolled at a postsecondary institution, he/she becomes an "eligible student" and rights under FERPA transfer accordingly. Parents may access the student records of children who are claimed dependents for tax purposes.

### Directory Information

Under the *Family Educational Rights and Privacy Act (FERPA)* a school district is required to identify the categories of personally identifiable information that has been designated as directory information by the school board. This information may be released without securing the prior written consent of the parent or 18 year old student if the school formulated and adopted a policy and gave the parent/student the required annual notice regarding directory information. This required annual notice should be designed to inform the parent/student of the types of information the school district has designated as directory information, and should inform the parent or eligible student of any operative policy of the school district regarding recipients of directory information. The annual notice provides the parent/student with an opportunity to object to the directory information designation, in which case information regarding the student cannot be released without the prior written consent of the parent or the 18-year old student.

Directory information is personally identifiable information that would not generally be considered harmful or an invasion of privacy. Directory information may include, but is not limited to, the following:

- Name, address, telephone number
- Electronic mail address
- Major field of study



# MDIE Recommends

Michigan Department of Education  
<http://www.michigan.gov/studentissues>

- Participation in school activities
- Degrees, honors and awards
- Date and place of birth
- Grade level
- Date of attendance
- Other similar information, e.g., alumni, associations, height and weight of athletes, honor roll members, information generally found in yearbook.

### Military Recruiter Access to Students and Student Information

The *No Child Left Behind Act* (20 USC. § 7908) and the *National Defense Authorization Act for Fiscal Year 2002* (10 USC § 503) require a school district to provide military recruiters the same access to high school students as college and job recruiters. A federal notice dated October 9, 2002, was issued and includes a *Model Notice for Directory Information* and common questions and answers regarding *Access to High School Students and Information on Students by Military Recruiters*. The documents are available at <http://www.ed.gov/policy/gen/quid/fpco/hottopics/index.html>.

Similar legislation (2002 PA 39) was passed in Michigan in 2002, [MCL 380.1139]. A copy of the law is available at [www.michiganlegislature.org](http://www.michiganlegislature.org). The state law provides:

- Schools may charge a fee for copying and mailing requests.
- Limits the use and release of information obtained by the military recruiters.
- Encourages districts to assign one or more school employees to notify male pupils 18 or older of their obligation to register for selective service.
- Encourages the armed forces to develop and use a standardized form for requesting access to a high school campus.
- Excludes from disclosure students with an unlisted telephone number.

Both the state and federal law permit parents to opt out of providing directory information to third parties including military recruiters. Schools must notify parents of that option.

### Freedom of Information Act Requests

In March 2002, the Freedom of Information Act was amended by 2002 PA 437 to require a local or intermediate school or public school academy to exempt directory information from disclosure that is requested for the purpose of surveys, marketing, or solicitation, unless the district determines that the use was consistent with the educational mission of the school, and beneficial to affected students [MCL 15.243]. The district may require the requester to sign an affidavit stating that the directory information will not be used, rented, or sold for the purpose of surveys, marketing, or solicitation. A copy of the law is available at [www.michiganlegislature.org](http://www.michiganlegislature.org).

*This information is provided as a service of the Michigan Department of Education and is distributed with the understanding that the Department is not engaged in rendering legal advice. Those individuals desiring or requiring legal advice should seek the services of an attorney.*

Final November 2011