

To: Board of Education

From: David Cunningham, executive director, human resources/chief legal counsel x.4937

Re: Student Confidentiality and the Family Education Rights and Privacy Act (FERPA) and Employee Confidentiality

Date: November 22, 2017

Background:

This is a report providing a general explanation regarding the rights of students and employees to confidentiality in certain situations and with respect to documents pertaining to an educational or employment record. The rules of student confidentiality are set forth in the Family Educational Rights and Privacy Act of 1974 ("FERPA"). Under FERPA, the district designates certain student information as "directory information," which may be disclosed without prior consent.

Unified school districts are public entities pursuant to Kansas law and are actually considered a municipality. A unified school district may sue and be sued, execute contracts and hold such real and personal property as it may acquire, and shall possess the usual powers of a corporation for public purposes.

Confidentiality is important when the board must address student or employee issues that are deemed confidential and when dealing with any subject matter for which the board is authorized to enter into executive session. Most often, board members are called on to comment or address a student or employee issue. This is always a difficult situation given the board members desires to be responsive but is held to a legal standard to protect the privacy interests of students or employees. Failure to adhere to these requirements can put the unified school district at risk, and, depending on the circumstances, subject individual board members to personal liability.

Recommendation:

None.

Motion:

None.