

# Chippewa Falls Area Unified School District Press Release

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February 9, 2024

Open Letter from the Superintendent

To Our School Community:

Recent online speculation about a disciplinary incident has raised questions in our community. As Superintendent, I want to directly address issues of transparency, safety, and law.

Online personalities made inaccurate comparisons between this situation and school tragedies. This sensationalism sowed public distrust in our schools. However, federal and state law prohibited us from disclosing confidential details on the student and incident. We rightly declined media requests for protected information.

Pupil record confidentiality is broadly mandated under Wisconsin and federal statutes. Disclosing the requested behavioral records would have violated legal duties. As public servants, we follow laws that exist to protect all students' privacy.

Still, we legally provided the former student's attendance dates, which coincide with our intervention. This transparency within legal bounds demonstrated our staff's responsible handling of the issue. No further announcement was legal or needed after the student left our system.

While parental concern for safety is understandable, we handled communications precisely as these laws require. We did not conceal anything we had authority to disclose. Baseless accusations of conspiracy and "cover up" lack factual foundations.

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I hope clearly explaining the pupil confidentiality laws governing this situation restores community faith in our compliance and governance. We adhere to rules protecting each student, and we will continue prioritizing student safety and education. Please reach out with any other questions or concerns and know that the Board will be meeting on February 27th to further consider this matter in open session, please stay tuned for an announcement regarding a larger capacity setting for that Board public meeting.

For those who need a formal and legally-stated version of the above, please read on:

As Superintendent for the Chippewa Falls Area Unified School District, I wanted to reach out to our students, parents, and other members of our community about important issues concerning school district policy and governance; matters that have been simultaneously ignored and distorted in the past few days by online media personalities. I want to set the record straight for the community we serve by addressing these issues directly and honestly. Please understand that since the Board President's letter surrounding this matter, our legal stance has since changed after further review of school district policies and what is permissible to divulge about student records under federal and state law.

Historically, our community has been supportive of how our schools handle student discipline and behavior issues, and our staff and administration have always been grateful for their support. Our citizens have always understood that pupil behavior and discipline is confidential; they have trusted that we will share whatever information we can and that we will protect student safety as our first priority. Unfortunately, most of our citizens know by now that recent online commentary about a situation involving a former student last fall has challenged the integrity of our staff and the District as a whole.

Online media presented a parade of misstatements and outright lies about our school district. They churned these falsehoods and their own ignorance of the law into irresponsible conspiracy theories, claiming that the District had staged a "cover up" of a student disciplinary incident that occurred last fall. To sensationalize the situation still further, online commentators actually equated our situation with the Columbine High School tragedy, when 13 students were killed by 2 other students, who then took their own lives.

By reporting that our Middle School situation was comparable to one of the deadliest armed student attacks in our nation's history, commentators incited considerable unrest and, at times,

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panic in some of our citizens, as well as questions from many about whether our schools are safe. In an even more outlandish attack, online commentators called into question the goodwill and professionalism of our entire faculty and administration. These baseless attacks cannot go unanswered.

Here is what really happened. Online media presented our District this way because we declined to give them information about this student and the student's behavior. They also contended that this information should have been made public at the time the situation developed last fall. They further contended that related information should have been released to the public and/or that some sort of general public announcement should have been made.

These commentators deliberately left out a critical, game-changing part of the story: the District specifically advised online media that the information they were seeking about the individual student and the student's behavior is confidential under state and federal law. This was not a refusal to disclose public information or an illegal conspiracy to prevent the public from getting what it has a right to know. In truth, the law simply states that school districts cannot share this information with anyone, much less with everyone (the general public).

This is what the law requires. You do not have to take our word for it, however: we can prove it. We encourage our citizens to consider this information about student record laws carefully, because it establishes that the District followed the correct procedures. The online media commentators' claims about our District cannot stand in the face of a basic understanding of our laws.

### Confidentiality of "Pupil Records" Under State and Federal Law

The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) is a Federal law that protects the confidentiality of student "education records." The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education (virtually all Wisconsin public school districts receive federal education funding, including the Chippewa Falls Area Unified School District).

"Education record" covers virtually any recorded information about a student. The term covers any records that are (1) directly related to a student; and (2) maintained by an educational agency or institution or by a party acting for the agency or institution. School districts must

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obtain written permission from the parent or eligible student to release any information from a student's education records under federal law.

Wisconsin law is even more demanding. In this regard, Wisconsin law provides that records relating to individual students and their behavior must be kept confidential but uses even more broad language where confidentiality is referenced. Wisconsin law broadly defines "pupil records" as "all records relating to individual pupils maintained by a school." Wis. Stat. 118.125(1)(d). Wisconsin law also protects the confidentiality of pupil records with equally broad language, stating that "[a]ll pupil records maintained by a public school shall be confidential." Wis. Stat. 118.125(2). The net effect of these statutes is that all records related to a specific student are confidential under Wisconsin law.

Records concerning pupil behavior, including pupil misconduct, are specifically identified as confidential. Pupil "behavioral records" include "any written statement relating specifically to an individual pupil's behavior," as well as law enforcement records concerning the pupil's behavior. Wis. Stat. 118.125(1)(a). The definition of "behavioral records" also includes a catch-all phrase stating that "behavioral records" shall include "any other pupil records that are not progress records." Wis. Stat. 118.125(1)(a). Consequently, records and the information they contain concerning student misconduct is confidential and cannot be released.

We encourage our community to consider all the information about this situation that has circulated with these laws in mind. The information online media outlets requested was information about a specific student and that student's behavior. Therefore, the requesters were seeking pupil record information that is confidential under state and federal law. Consequently, the requesters were asking the District to violate state and federal laws governing the confidentiality of pupil records that the District is duty-bound to comply with, enforce, and defend.

The Board of Education is an elected governmental body and District employees work for them. We don't break laws, we follow them. Further, as a governmental body, the Board enforces and upholds these legal mandates (and they are mandates). And, as an educational institution, we respect our long-standing public trust—your trust—that we will teach our students to be law-abiding citizens and not delinquent individuals who have no respect for the rule of law.

Therefore, online media commentators demanded that the District violate state and federal law by disclosing pupil records. In addition, implementing their perspective by making a public announcement of some sort that provided pupil behavioral record information also would have

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violated state and federal law. The letter of the law proves it.

### Availability of “Date of Attendance” Under State and Federal Law

Online commentators’ recklessness and hysterical, ill-informed rants only got worse from there. These self-styled “reporters” didn’t bother to check an equally critical fact. It is also a game-changer.

The District is entitled to disclose pupil “directory data” if parents or guardians do not notify the District that they want their child’s directory data to remain confidential. “Directory data” includes the student’s “dates of attendance.” 20 U.S.C. 1232g(5)(A). Further, state law specifically provides that a student’s “dates of attendance” qualify as “directory data,” and a pupil’s “attendance record” is part of a pupil’s “progress records.” Wis. Stat. 118.125(1)(b). In addition, the Department of Education has noted that “dates of attendance” means “...the period of time during which a student attends or attended an educational agency or institution.”[1]

This is the case under state law as well. “[D]irectory data may be disclosed to any person” if appropriate notice has been given to the parents/guardians. Wis. Stat. 118.125(2)(j)1. “Directory data” is defined by statute to include “dates of attendance.” Wis. Stat. 118.125(1)(b). In contrast, a student’s “attendance record” is a pupil “progress record” and is subject to the confidentiality mandates in the statute. Wis. Stat. 118.125(1)(c).

Therefore, the District is permitted to disclose that the former student attended District schools from September 6, 2023, to October 23, 2023. The District is also permitted to note that the student’s final date of attendance coincides exactly with the District’s monitoring, intervention, and investigation of this issue. As noted, the District is not permitted to provide any other type of pupil record information, so we are not able to release information concerning, e.g., why the student left or any actions taken by the District.

However, our community can plainly see that the student stopped attending our schools at the time when this situation was monitored and reviewed by District personnel (who did an outstanding job protecting the safety of all students). Consequently, it should be obvious that no general announcement of this situation was appropriate—even if the District had the ability to provide more than the student’s dates of attendance (it doesn’t)—because the student no longer attended our schools. To invite further student misconduct by making such an announcement would not only have been illegal, but reckless as well (for example, an announcement might

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incite copycat behavior or an angry, possibly dangerous reaction from the young student for the public shaming he might feel was delivered by the announcement to inform parents).

Therefore, these provisions of state and federal law allow the District to release information that proves the student left when he was under the watchful eye of District administrators, faculty, and staff. Further, the announcement that online commentators advocated would have been illegal and could not have enhanced student safety; it only could have worsened or compromised it. Therefore, the letter of the law establishes that the District handled its communications appropriately.

### Parents' Rights To Information and Confidentiality

Despite online reporters' bold claims of "conspiracy" and "cover up," we don't recall seeing any "reporting" on the reasons the District gave them for declining their request for information about the student or any checking into whether those reasons are correct. That's because they didn't bother to investigate or report on whether the District's reasons represent an accurate statement of the District's obligations under state and federal law. They have never even claimed that the District was wrong about what the law requires. How they can fail to do so and, nevertheless, carry on with reports of deadly conspiracies defies logic and common sense.

In these circumstances, it is not responsible to manufacture a nefarious conspiracy that the District has been wrongly concealing information without first verifying whether the District is telling the truth about the law. There's a big difference between holding something in confidence because the law requires it and hiding information that the District had the authority under the law to release all along. And it is simply dishonest not to even mention that this critical issue exists.

Perhaps more importantly, we implore our fellow citizens to consider not only the rule of law, but also the reasons that these laws exist. These laws are in place to protect the confidentiality of all students' pupil record information. They protect everyone's child.

We get it. Whenever anything takes place that might affect student safety, parents will want to know what's going on. If you're a parent, naturally you would want to know as much as you could to protect your child. And you would want the District to be forthcoming with as much information as possible so you could make informed decisions in the best interests of your children.

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Every parent feels this way. Until the day arrives when it is their child that is being investigated or disciplined.

Unsurprisingly, parents in these circumstances are opposed to any public disclosure and are adamant that releasing any information is not appropriate. These same parents often cite the same state and federal laws we referenced earlier in this letter to fortify their contention that the District is prohibited by law from releasing such records or information that has been derived from those records. Parents in this position no longer insist on school district transparency. Instead, they demand compliance with the law to protect their child's right to confidentiality.

When you are the parent of a student facing school discipline, you realize that any disclosure of behavioral information about your child could have serious negative effects on them socially and educationally. We don't think it is far-fetched to suggest that someone in this parent's shoes would strongly disagree with these online commentators. They would point out that the law prohibits making a general announcement that gives parents full and complete information about their child and his/her behavior.

This illustration helps explain the purposes of pupil confidentiality laws. State and federal legislatures have long recognized that any time a student misbehaves could be an occasion for other parents, community members, or even media outlets to demand answers. Lawmakers have decided that protecting pupil confidentiality takes precedence in these situations.

The District has a duty to comply with state and federal law. These laws are mandates, not options. Further, under federal law, compliance is tied to federal funding.

The public announcements that online media commentators insist should have been made would be illegal and would support a complaint to the Department of Education-Office of Civil Rights or a lawsuit against the District in our courts. Their claim that school officials left a dangerous situation at the Middle School unchecked cannot stand against indisputable evidence that the student who allegedly presented those hazards stopped attending school in the District. Therefore, virtually every position they have taken in this matter has been contrary to state and federal law.

### Conclusion

I, the Superintendent, would like to sincerely thank you for taking the time to read and understand our perspective on this issue. We hope that this discussion will aid our citizens'

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understanding of pupil records laws and our obligations under those laws more generally, so they can be more educated advocates for their children and consumers of the information we provide in these situations.

We also hope that this information makes clear why the online commentators who have managed to panic and anger so many in our community do not know what they're talking about.

[1] IDEA and FERPA Crosswalk, U.S. Department of Education, P. 6 (August 24, 2022), [https://studentprivacy.ed.gov/sites/default/files/resource\\_document/file/IDEA-FERPA%20Crosswalk\\_08242022.pdf](https://studentprivacy.ed.gov/sites/default/files/resource_document/file/IDEA-FERPA%20Crosswalk_08242022.pdf).

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