Minnesota Department of Education

Authorization to Release Information Form Instructions and Regulation Text

This instruction document is intended to provide technical assistance to individuals completing the Authorization to Release Information form, which is posted on the Minnesota Department of Education's (MDE) due process forms web page.

Section I

- Record today's date.
- Record student's first name, middle initial, and last name.
- Record student's birth date.
- Record student's ID number.
- Record student's current grade.
- Record the name of the school district in which student is currently enrolled.

Section II

- Record the name(s) of parent(s) or legal representative(s) giving the authorization.
- Record the school district number.
- Check the appropriate line for the information that is the subject of this authorization.
- Record name of individual or entity that information is being released to or from.
- Record address of entity that information is being released to or from.
- Include the date range in the appropriate spaces for the information categories selected.
- Describe the specific purpose why the information is being released or disclosed.

Section III

- Check and complete the date for the specific expiration date or the one-year-from signature date.
- Record the name and address of the district staff person to whom the parent can send a written request to terminate this authorization.
- Review each bullet with the person signing the authorization.
- Secure signature and date.
- Provide person signing the authorization with a copy.

References to Regulations

Authorization Consent Content Requirements of HIPAA, FERPA and Chapter 13

A. Health Insurance Portability and Accountability Act (HIPAA)

Section 164.508 – Uses and disclosures for which an authorization is required.

c) Implementation specifications: Core elements and requirements.

(1) **Core elements**. A valid authorization under this section must contain at least the following elements:

(i) A description of the information to be used or disclosed that identifies the information in a specific and meaningful fashion.

(ii) The name or other specific identification of the person(s), or class of persons, authorized to make the requested use or disclosure.

(iii) The name or other specific identification of the person(s), or class of persons, to whom the covered entity may make the requested use or disclosure.

(iv) A description of each purpose of the requested use or disclosure. The statement "at the request of the individual" is a sufficient description of the purpose when an individual initiates the authorization and does not, or elects not to, provide a statement of the purpose.

(v) An expiration date or an expiration event that relates to the individual or the purpose of the use or disclosure. The statement "end of the research study," "none," or similar language is sufficient if the authorization is for a use or disclosure of protected health information for research, including for the creation and maintenance of a research database or research repository.

(vi) Signature of the individual and date. If the authorization is signed by a personal representative of the individual, a description of such representative's authority to act for the individual must also be provided.

(2) **Required statements**. In addition to the core elements, the authorization must contain statements adequate to place the individual on notice of all of the following:

(i) The individual's right to revoke the authorization in writing, and either:

A. The exceptions to the right to revoke and a description of how the individual may revoke the authorization; or

B. To the extent that the information in paragraph (c)(2)(i)(A) of this section is included in the notice required by §164.520, a reference to the covered entity's notice.

(ii) The ability or inability to condition treatment, payment, enrollment or eligibility for benefits on the authorization, by stating either:

A. The covered entity may not condition treatment, payment, enrollment or eligibility for benefits on whether the individual signs the authorization when the

prohibition on conditioning of authorizations in paragraph (b)(4) of this section applies; or

B. The consequences to the individual of a refusal to sign the authorization when, in accordance with paragraph (b)(4) of this section, the covered entity can condition treatment, enrollment in the health plan, or eligibility for benefits on failure to obtain such authorization.

(iii) The potential for information disclosed pursuant to the authorization to be subject to redisclosure by the recipient and no longer be protected by this subpart.

(3) **Plain language requirement**. The authorization must be written in plain language.

(4) **Copy to the individual.** If a covered entity seeks an authorization from an individual for a use or disclosure of protected health information, the covered entity must provide the individual with a copy of the signed authorization.

B. Family Educational Rights and Privacy Act (FERPA)

Section 99.30 – Under what conditions is prior consent required to disclose information?

a) The parent or eligible student shall provide a signed and dated written consent before an educational agency or institution discloses personally identifiable information from the student's education records, except as provided in section 99.31.

b) The written consent must:

(1) Specify the records that may be disclosed;

(2) State the purpose of the disclosure; and

(3) Identify the party or class of parties to whom the disclosure may be made.

c) When a disclosure is made under paragraph (a) of this section:

(1) If a parent or eligible student so requests, the educational agency or institution shall provide him or her with a copy of the records disclosed; and

(2) If the parent of a student who is not an eligible student so requests, the agency or institution shall provide the student with a copy of the records disclosed.

C. Minnesota Government Data Practices Act (MGDPA), Minnesota Statutes, Chapter 13

Minnesota Statutes, section 13.05. Duties of responsible authority. Subdivision 4.

d) Private data may be used by and disseminated to any person or entity if the individual subject or subjects of the data have given their informed consent. Whether a data subject has given informed consent shall be determined by rules of the commissioner.

The responsible authority may require a person requesting copies of data under this paragraph to pay the actual costs of making and certifying the copies.

Subd. 4a. Informed consent for insurance purposes. Informed consent for insurance purposes must comply with this subdivision, unless otherwise prescribed by the HIPAA Standards for Privacy of Individually Identifiable Health Information, Code of Federal Regulations, title 45, section 164.

Informed consent for insurance purposes is not considered to have been given by an individual subject of data by the signing of a statement authorizing a government entity to disclose information about the individual to an insurer or its authorized representative, unless the statement is:

(1) in plain language;

(2) dated;

(3) specific in designating the government entity the data subject is authorizing to disclose information about the data subject;

(4) specific as to the nature of the information the data subject is authorizing to be disclosed;

(5) specific as to the persons to whom the data subject is authorizing information to be disclosed;

(6) specific as to the purpose or purposes for which the information may be used by any of the persons named in clause (5), both at the time of the disclosure and at any time in the future; and

(7) specific as to its expiration date, which must be within a reasonable period of time, not to exceed one year.

Notwithstanding clause (7), in the case of authorizations given in connection with applications for life insurance or noncancelable or guaranteed renewable health insurance that is so identified, the expiration date must not exceed two years after the date of the policy. An authorization in connection with medical assistance under chapter 256B or MinnesotaCare under chapter 256L or for individualized education program health-related services provided by a school district under section 125A.21, subdivision 2, is valid during all terms of eligibility.