# TRIO Wolf Creek Distance Learning Charter School #4095

## 515 PROTECTION AND PRIVACY OF PUPIL RECORDS

### I. PURPOSE

The charter school recognizes its responsibility in regard to the collection, maintenance and dissemination of pupil records and the protection of the privacy rights of students as provided in federal law and state statutes.

### II. GENERAL STATEMENT OF POLICY

The following procedures and policies regarding the protection and privacy of parents and students are adopted by the charter school, pursuant to the requirements of 20 U.S.C. §1232g, et seq., [Family Educational Rights and Privacy Act (FERPA)] 34 C.F.R. Part 99 and consistent with the requirements of the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13. and Minn. Rules Pts. 1205.0100 to 1205.2000.

### III. DEFINITIONS

A. Authorized Representative: "Authorized Representative" means any entity or individual designated by the school, state, or an agency headed by an official of the Comptroller of the United States, the Attorney General of the United States, the Secretary of the U.S. Department of Education, or state and local educational authorities to conduct, with respect to federal or state supported education programs, any audit or evaluation or any compliance or enforcement activity in connection with federal legal requirements that relate to these programs.

B. Biometric Record: "Biometric Record", as referred to in "Personally Identifiable", means a record of one or more measurable biological or behavioral characteristics that can be used for authorized recognition of an individual (e.g., fingerprints, retina and iris patterns, voice prints, DNA sequence, facial characteristics and handwriting).

C. Dates of attendance: "Date of attendance", as referred to in "Directory Information", means the period of time during which a student attends or attended a school or schools in the charter school. The term does not include specific daily records of a student's attendance at a school or schools in the charter school.

D. Directory Information: "Directory information" means information contained in an education record of a student which would not generally be considered harmful or an invasion of privacy if disclosed. It includes the student's name, the student's photo, the student's address and the student's telephone number. Directory information does not include:

1. a student's social security number;

2. a student's identification number (ID), user ID, or other unique personal identifier used by a student for purposes of accessing or communicating in electronic systems if the identifier may be used to access education records

without use of one or more factors that authenticate the student's identity such as a personal identification number (PIN), password, or other factor known or possessed only by the authorized user;

3. a student ID or other unique personal identifier that is displayed on a student ID badge if the identifier can be used to gain access to educational records when used in conjunction with one or more factors that authenticate the student's identity, such as a PIN, password, or other factor known or possessed only by the student;

4. personally identifiable data which references religion, race, color, social position, or nationality; or

5. data collected from nonpublic school students, other than those who receive shared time educational services, unless written consent is given by the student's parent or guardian.

Any parent/guardian objecting to having their student's name, grade, graduation date, Learning Manager, address, telephone number, height, and/or weight (given only if on an athletic or extracurricular participant), picture or video taken and used for public distribution or viewing, or picture/information in the yearbook or on the website; or name released to the Armed Services* must complete the Data Privacy Request Form-Appendix A and submit it to the following address.

TRIO Wolf Creek
Attn: Charter School Director
29678 Karmel Avenue
Chisago City, MN 55013

**Armed Service only- unless opt-out information has been submitted as allowable by law.*

E. Education records:

1. What constitutes education records? "Education records" mean those records which: (1) are directly related to a student; and (2) are maintained by the charter school or by a party acting for the charter school.

2. What does not constitute an education record? The term "education records" does **not** include:

a. Records of instructional, supervisory and administrative personnel and educational personnel ancillary thereto which:

(1) are in the sole possession of the maker of the record; and

(2) are used only as a personal memory aid;

(3) are not accessible or revealed to any other individual except a temporary substitute for the maker of the record; and

(4) are destroyed at the end of the school year.

b. Records of a law enforcement unit of the charter school, provided educational records maintained by the charter school are not disclosed to the unit, and the law enforcement records are:

(1) maintained separately from education records;

(2) maintained solely for law enforcement purposes; and

(3) disclosed only to law enforcement officials of the same jurisdiction.

c. Records relating to an individual, including a student, who is employed by the charter school which:

(1) are made and maintained in the normal course of business;

(2) relate exclusively to the individual in that individual's capacity as an employee; and

(3) are not available for use for any other purpose.

However, these provisions shall not apply to records relating to an individual in attendance at the charter school who is employed as a result of his or her status as a student.

d. Records relating to an eligible student, or a student attending an institution of post-secondary education, which are:

(1) made or maintained by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional acting in his or her professional or paraprofessional capacity or assisting in that capacity;

(2) made, maintained, or used only in connection with the pro vision of treatment to the student; and

(3) disclosed only to individuals providing the treatment; provided that the records can be personally reviewed by a physician or other appropriate professional of the student's choice. For the purpose of this definition, "treatment" does not include remedial educational activities or activities that are a part of the program of instruction within the charter school.

e. Records that only contain information about an individual after he or she is no longer a student at the charter school.

F. Eligible student: "Eligible student" means a student who has attained eighteen (18) years of age or is attending an institution of post-secondary education.

G. Juvenile Justice System: "Juvenile Justice System" includes criminal justice agencies and the judiciary when involved in juvenile justice activities.

H. Legitimate educational interest: "Legitimate educational interest" includes interest directly related to classroom instruction, teaching, student achievement and progress, discipline of a student and student health and welfare. It includes a person's need to know in order to:

1. Perform an administrative task required in the school or employee's contract or position description approved by the school board;

2. Perform a supervisory or instructional task directly related to the student's education; or

3. Perform a service or benefit for the student or the student's family such as health care, counseling, student job placement or student financial aid.

4. Perform a task directly related to responding to a request for data.

I. Parent: "Parent" means a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent of the student in the absence of a parent or guardian. The charter school may presume the parent has the authority to exercise the rights provided herein, unless it has been provided with evidence that there is a state law or court order governing such matters as marriage dissolution, separation or child custody, or a legally binding instrument which provides to the contrary.

J. Personally identifiable: "Personally identifiable" means that the data or information includes, but is not limited to: (a) a student's name; (b) the name of the student's parent or other family member; (c) the address of the student or student's family; (d) a personal identifier such as the student's social security number or student number; (e) a list of personal characteristics that would make the student's identity easily traceable; or (f) other information that would make the student's identity easily traceable.

K. Record: "Record" means any information or data recorded in any way including, but not limited to, handwriting, print, tape, film, microfilm and microfiche.

L. Responsible authority: "Responsible" authority means the Charter School Director.

M. Student: "Student" includes any individual who is or has been in attendance, enrolled or registered at the charter school and regarding whom the charter school maintains

education records. Student also includes applicants for enrollment or registration at the charter school, and individuals who receive shared time educational services from the charter school.

N. School official: "School official" includes: (a) a person duly elected to the charter school board; (b) a person employed by the charter school board in an administrative, supervisory, instructional or other professional position; (c) a person employed by the charter school board as a temporary substitute in a professional position for the period of his or her performance as a substitute; and (d) a person employed by, or under contract to, the charter school board to perform a special task such as a secretary, a clerk, an attorney or an auditor for the period of his or her performance as an employee or contractor.

O. Summary data: "Summary data" means statistical records and reports derived from data on individuals but in which individuals are not identified and from which neither their identities nor any other characteristic that could uniquely identify the individual is ascertainable.

P. Other terms and phrases: All other terms and phrases shall be defined in accordance with applicable state and federal law or ordinary customary usage.

## IV. GENERAL CLASSIFICATION

State law provides that all data collected, created, received or maintained by a charter school is public unless classified by state or federal law as not public or private or confidential. State law classifies all data on individuals maintained by a charter school which relates to a student as private data on individuals. This data may not be disclosed to parties other than the parent or eligible student without consent, except pursuant to a valid court order, certain state statutes authorizing access, and the provisions of FERPA and the regulations promulgated thereunder.

## V. STATEMENT OF RIGHTS

A. Rights of parents and eligible students:

Parents and eligible students have the following rights under this policy:

1. The right to inspect and review the student's education records;

2. The right to request the amendment of the student's education records to ensure that they are not inaccurate, misleading or otherwise in violation of the student's privacy or other rights;

3. The right to consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that such consent is not required for disclosure pursuant to this policy, state or federal law, or the regulations promulgated thereunder.

4. The right to refuse release of 11th and 12th grade students' names, addresses, and home telephone numbers to military recruiting officers;

5. The right to file a complaint with the U.S. Department of Education concerning alleged failures by the charter school to comply with the federal law and the regulations promulgated thereunder;

6. The right to be informed about rights under the federal law; and

7. The right to obtain a copy of this policy at the location set forth in the COPIES OF POLICY section of this policy.

B. Eligible students:

All rights and protections given parents under this policy transfer to the student when he or she reaches eighteen (18) years of age or enrolls in an institution of post-secondary education. The student then becomes an "eligible student." However, the parents of an eligible student who is also a "dependent student" are entitled to gain access to the educational records of such student without first obtaining the consent of the student. In addition, parents of an eligible student may be given access to education records in connection with a health or safety emergency if the disclosure meets the conditions of any provision set forth in 34 C.F.R. § 99.31(a).

C. Disabled Students:

The charter school shall follow 34 C.F.R §§ 300.610-300.617 with regard to the confidentiality of information related to students with a disability.

## VI. DISCLOSURE OF EDUCATION RECORDS

A. Consent required for disclosure:

1. The charter school shall obtain a signed and dated written consent of the parent of a student or the eligible student before disclosing personally identifiable information from the education records of the student, except as provided herein.

2. The written consent required by this subdivision must be signed and dated by the parent of the student or the eligible student giving the consent and shall include:

   a. a specification of the records to be disclosed;
   b. the purpose or purposes of the disclosure;
   c. the party or class of parties to whom the disclosure may be made; and
   d. if appropriate, a termination date for the consent.

3. When a disclosure is made under this subdivision:

   a. if the parent or eligible student so requests, the charter school shall provide him or her with a copy of the records disclosed; and

b. if the parent of a student who is not an eligible student so requests, the charter school shall provide the student with a copy of the records disclosed.

4. If the responsible authority seeks an individual's informed consent to the release of private data to an insurer or the authorized representative of an insurer, informed consent shall not be deemed to have been given unless the statement is:

a. in plain language;

b. dated;

c. specific in designating the particular persons or agencies the data subject is authorizing to disclose information about the data subject;

d. specific as to the nature of the information the subject is authorizing to be disclosed;

e. specific as to the persons or agencies to whom the subject is authorizing information to be disclosed;

f. specific as to the purpose or purposes for which the information may be used by any of the parties named in clause "e", both at the time of the disclosure and at any time in the future; and

g. specific as to its expiration date which should be within a reasonable time, not to exceed one year except in the case of authorizations given in connection with applications for life insurance or non-cancelable or guaranteed renewable health insurance and identified as such, two years after the date of the policy, or (ii) medical assistance under Minn. Stat. Ch. 256B or Minnesota Care under Minn. Stat. Ch. 256L, which shall be ongoing during all terms of eligibility, for individualized education program health-related services provided by a school that are subject to third party reimbursement.

5. Eligible student consent: Whenever a student has attained eighteen (18) years of age or is attending an institution of post-secondary education, the rights accorded to and the consent required of the parent of the student shall thereafter only be accorded to and required of the eligible student, except as provided in the STATEMENT OF RIGHTS section of this policy.

B. Prior consent for disclosure not required:

The charter school may disclose personally identifiable information from the education records of a student without the written consent of the parent of the student or the eligible student unless otherwise provided herein, if the disclosure is:

1. To other school officials, including teachers, within the charter school whom the charter school determines have a legitimate educational interest in such records;

2. To a contractor, consultant, volunteer, or other party to whom the school has outsourced institutional services or functions provided that the outside party:

   a. performs an institutional service or function for which the school would otherwise use employees;

   b. is under the direct control of the school with respect to the use and maintenance of education records; and

   c. will not disclose the information to any other party without the prior consent of the parent or eligible student and uses the information only for the purposes for which the disclosure was made.

3. To officials of other schools or school in which the student seeks or intends to enroll. The records shall include information about disciplinary action taken as a result of any incident in which the student possessed or used a dangerous weapon and any disposition order which adjudicates the student as delinquent for committing an illegal act on charter school property and certain other illegal acts. Upon request, the charter school will provide the parent or eligible student with a copy of the education records which have been transferred and provide an opportunity for a hearing to challenge the content of those records in accordance with the REQUEST TO AMEND RECORDS; PROCEDURES TO CHALLENGE DATA section of this policy;

4. To authorized representatives of the Comptroller General of the United States, the Secretary of the U.S. Department of Education, or an official or employee of the Department of Education acting for the Secretary under a delegation of authority, or the Commissioner of the State Department of Children, Families and Learning or his or her representative, subject to the conditions relative to such disclosure provided under federal law;

5. In connection with financial aid for which a student has applied or has received, if the information is necessary for such purposes as to:

   a. determine eligibility for the aid;

   b. determine the amount of the aid;

   c. determine conditions for the aid; or

   d. enforce the terms and conditions of the aid.

"Financial aid" for purposes of this provision means a payment of funds provided to an individual or a payment in kind of tangible or intangible property to the individual that is conditioned on the individual's attendance at an educational agency or institution.

6. To state and local officials or authorities to whom such information is specifically required to be reported or disclosed pursuant to state statute adopted:

   a. before November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and such systems ability to effectively serve the student whose records are released; or

   b. after November 19, 1974, if the reporting or disclosure allowed by state statute concerns the juvenile justice system and the system's ability to effectively serve, prior to adjudication, the student whose records are released, provided the officials and authorities to whom the records are disclosed certify in writing to the charter school that the data will not be disclosed to any other party, except as provided by state law, without the prior written consent of the parent of the student. At a minimum, the charter school shall disclose the following information to the juvenile justice system under this paragraph: a student's full name, home address, telephone number, and date of birth; a student's school schedule, attendance record, and photographs, if any; and parent's names, home addresses, and telephone numbers;

7. To organizations conducting studies for or on behalf of educational agencies or institutions for the purpose of developing, validating or administering predictive tests, administering student aid programs or improving instruction; provided that the studies are conducted in a manner which does not permit the personal identification of parents or students by individuals other than representatives of the organization and the information is destroyed when no longer needed for the purposes for which the study was conducted. For purposes of this provision, the term "organizations" includes, but is not limited to, federal, state and local agencies and independent organizations. In the event the Minnesota Department of Education determines that a third party outside of the charter school to whom information is disclosed violates this provision, the charter school may not allow that third party access to personally identifiable information from education records for at least five years.

8. To accrediting organizations in order to carry out their accrediting functions;

9. To parents of a dependent student;

10. To comply with a judicial order or lawfully issued subpoena, provided, however, that the charter school makes a reasonable effort to notify the parent or eligible student of the order or subpoena in advance of compliance therewith so that the parent or eligible student may seek protective action, unless the disclosure is in

compliance with a federal grand jury subpoena, or any other subpoena issued for law enforcement purposes, and the court of other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed. In addition, if the charter school initiates legal action against a parent or student, it may disclose to the court, without a court order or subpoena, the education records of the student that are relevant for the charter school to proceed with the legal action as plaintiff. Also, if a parent or eligible student initiates a legal action against the charter school, the charter school may disclose to the court, without a court order or subpoena, the student's education records that are relevant for the charter school to defend itself.

11. To appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals. In addition, an educational agency or institution may include in the educational records of a student, appropriate information concerning disciplinary action taken against the student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community. This information may be disclosed to teachers and school officials within the charter school and/or teachers and school officials in other schools who have legitimate educational interests in the behavior of the student;

12. To the juvenile justice system if information about the behavior of a student who poses a risk of harm is reasonably necessary to protect the health or safety of the student or other individuals;

13. Information the charter school has designated as "directory information" pursuant to the RELEASE OF DIRECTORY INFORMATION section of this policy.

14. To military recruiting officers pursuant to the MILITARY RECRUITMENT section of this policy.

15. To the parent of a student who is not an eligible student or to the student himself or herself.

16. To appropriate health authorities to the extent necessary to administer immunization programs and for bona fide epidemiologic investigations which the Commissioner of Health determines are necessary to prevent disease or disability to individuals in the public educational agency or institution in which the investigation is being conducted.

17. To volunteers who are determined to have a legitimate educational interest in the data and who are conducting activities and events sponsored by or endorsed by the educational agency or institution for students or former students.

18. To the juvenile justice system information on behavior by a student who is on probation: (1) use of a controlled substance, alcohol or tobacco; (2) assaultive or

threatening conduct that could result in dismissal from school under the Pupil Fair Dismissal Act; (3) possession or use of weapons or look-alike weapons; (4) participation in gang activity; (5) theft; or (6) vandalism or other damage to property provided that the request for access to data must contain an explanation of why access to the data is necessary to serve the student or to protect students or staff. In addition, prior to releasing this data, the director must make a reasonable effort to notify the parent or eligible student of the request and intent to comply with the request.

19. To the director where the student attends, any counselor directly supervising or reporting on the behavior or progress of the subject student, any teacher or administrator who directly supervises or reports on the behavior or progress of the subject student whom the director believes needs the data to work with the student in an appropriate manner, to avoid being needlessly vulnerable, or to protect other persons from needless vulnerability, other charter school employees, substitutes and volunteers who are in direct contact with the student, if determined these individuals need the data to work with the student in an appropriate manner, to avoid being needlessly vulnerable, or to protect other persons from needless vulnerability, information from a disposition order received by the director. Such notice shall include the identity of the student, an outline of the offense, and a description of any conditions of probation about which the school must provide information.

    a. Data received may not be further disseminated except as necessary to serve the student, to protect students or staff, or as otherwise required by law, and only to the following persons:

        (1) the student;

        (2) the student's parent or guardian;

        (3) law enforcement officers; or

        (4) the student probation officer.

20. To the Director where the student attends if it is information from a peace officer's record of children received by a Director/Superintendent under Minn. Stat. § 260B.171, Subd. 5. The Director must place the information in the student's education record. The Director also must notify immediately any learning manager, counselor, or administrator directly supervising the student whom the Director believes needs the information to work with the student in an appropriate manner, to avoid being needlessly vulnerable, or to protect other persons from needless vulnerability. The Director may also notify other school employees, substitutes, and volunteers who are in direct contact with the student if the Director determines that these individuals need the information to work with the student in an appropriate manner, to avoid being needlessly vulnerable, or to protect other persons from needless vulnerability. Such notices from the

Director must identify the student and describe the alleged offense if this information is provided in the peace officer's notice. Peace officer's record information received is private educational data received for the limited purpose of serving the educational needs of the student and protecting students and staff. The information must not be further disseminated by the counselor, learning manager administrator, staff member, substitute, or volunteer except to communicate with the student or the student's parent or guardian as necessary to serve the student, to protect students and staff, or as otherwise required by law.

The Director must delete the peace officer's record from the student's education record, destroy the data, and make reasonable efforts to notify any learning manager, counselor, staff member, administrator, substitute, or volunteer who received information from the peace officer's record if the county attorney determines not to proceed with a petition or directs the student into a diversion or mediation program or if a juvenile court makes a decision on a petition and the county attorney or juvenile court notifies the Director of such action; or

21. To the Secretary of Agriculture, or authorized representative from the Food and Nutrition Service or contractors acting on behalf of the Food and Nutrition Service, for the purposes of conducting program monitoring, evaluations, and performance measurements of state and local educational and other agencies and institutions receiving funding or providing benefits of one or more programs authorized under the National School Lunch Act or the Child Nutrition Act of 1966 for which the results will be reported in an aggregate form that does not identify any individual, on the conditions that: (a) any data collected shall be protected in a manner that will not permit the personal identification of students and their parents by other than the authorized representatives of the Secretary; and (b) any personally identifiable data shall be destroyed when the data are no longer needed for program monitoring, evaluations, and performance measurements.

22. To an agency caseworker or other representative of a State or local child welfare agency, or tribal organization (as defined in 25 U.S.C § 5304), who has the right to access a student's case plan, as defined and determined by the State or tribal organization, when such agency or organization is legally responsible, in accordance with State or tribal law, for the care and protection of the student, provided that the education records, or the personally identifiable information contained in such records, of the student will not be disclosed by such agency or organization, except to an individual or entity engaged in addressing the student's education needs and authorized by such agency or organization to receive such disclosure and such disclosure is consistent with the State or tribal laws applicable to protecting the confidentiality of a student's education records.

C. Nonpublic School Students

The charter school may disclose personally identifiable information from the education records of a nonpublic school student, other than a student who receives shared time

educational services, without the written consent of the parent of the student or the eligible student unless otherwise provided herein, if the disclosure is:

1. Pursuant to a valid court order;

2. Pursuant to a statute specifically authorizing access to the private data; or

3. To appropriate health authorities to the extent necessary to administer immunization programs and for bona fide epidemiological investigations which the commissioner of health determines are necessary to prevent disease or disability to individuals in the public educational agency or institution in which the investigation is being conducted.

## VII. RELEASE OF DIRECTORY INFORMATION

A. Classification:

Directory information is public except as provided herein.

B. Former students:

The charter school may disclose directory information from the education records generated by it regarding an individual who is no longer in attendance within the charter school without meeting the requirements of Paragraph C of this Section.

C. Present Students and Parents:

The charter school may disclose directory information from the education records of a student without prior written consent of the parent of the student or eligible student, except as provided herein. Prior to such disclosure, the charter school shall:

1. Annually, give public notice by any means that are reasonably likely to inform the parents and eligible students of:

   a. the types of personally identifiable information that the charter school has designated as directory information;

   b. the parent's or eligible student's right to refuse to let the charter school designate any or all of those types of information about the student as directory information; and

   c. the period of time in which a parent or eligible student has to notify the charter school in writing that he or she does not want any or all of those types of information about the student designated as directory information.

2. Allow a reasonable period of time after such notice has been given for a parent or eligible student to inform the charter school, in writing, that any or all of the

information so designated should not be disclosed without the parent's or eligible student's prior written consent, except as provided in the DISCLOSURE OF EDUCATION RECORDS section of this policy.

3. A parent or eligible student may not opt out of the directory information disclosures to:

   a. prevent the school from disclosing or requiring the student to disclose the student's name, ID, or school e-mail address in a class in which the student is enrolled; or

   b. prevent the school from requiring a student to wear, to display publicly, or to disclose a student ID card or badge that exhibits information that may be designated as directory information and that has been properly designated by the school as directory information.

4. The school shall not disclose or confirm directory information without meeting the written consent requirements contained in Section VI.A. of this policy if a student's social security number or other non-directory information is used alone or in combination with other data elements to identify or help identify the student or the student's records.

D. Procedure for obtaining nondisclosure of directory information:

The parent's or eligible student's written notice shall be directed to the responsible authority and shall include the following:

1. Name of the student;

2. Home address;

3. School presently attended by student;

4. Parent's legal relationship to student, if applicable; and

5. Specific categories of directory information to be made **not** public without the parent's or eligible student's prior written consent, which shall only be applicable for that school year.

E. Duration:

The designation of any information as directory information about a student will remain in effect for the remainder of the school year unless the parent or eligible student provides the written notifications provided herein.

## VIII. DISCLOSURE OF PRIVATE RECORDS

# TRIO Wolf Creek Distance Learning Charter School #4095

A. Private records: For the purposes herein, education records are records which are classified as private data on individuals by state law and which are accessible only to the student subject of the data and the student's parent if the student is not an eligible student. The charter school may not disclose private records or their contents except as summary data, or except as provided in the DISCLOSURE OF EDUCATION RECORDS section of this policy, without the prior written consent of the parent or the eligible student.

B. Private records not accessible to parent: In certain cases state law intends, and clearly provides, that certain information contained in the education records of the charter school pertaining to a student be accessible to the student alone, and to the parent only under special circumstances, if at all.

1. The responsible authority may deny access to private data by a parent when a minor student who is the subject of that data requests that the responsible authority deny such access. The minor student's request must be submitted in writing setting forth the reasons for denying access to the parent and must be signed by the minor. Upon receipt of such request the responsible authority shall determine if honoring the request to deny the parent access would be in the best interest of the minor data subject. In making this determination the responsible authority shall consider the following factors:

a. whether the minor is of sufficient age and maturity to be able to explain the reasons for and understand the consequences of the request to deny access;

b. whether the personal situation of the minor is such that denying parental access may protect the minor data subject from physical or emotional harm;

c. whether there are grounds for believing that the minor data subject's reasons for precluding parental access are reasonably accurate;

d. whether the data in question is of such a nature that disclosure of it to the parent may lead to physical or emotional harm to the minor data subject; and

e. whether the data concerns medical, dental or other health services provided pursuant to Minn. Stat. §§ 144.341 to 144.347, in which case the data may be released only if the failure to inform the parent would seriously jeopardize the health of the minor.

C. Private records not accessible to student: Students shall not be entitled to access to private data concerning financial records and statements of the student's parent or any information contained therein.

## IX. DISCLOSURE OF CONFIDENTIAL RECORDS

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A. Confidential records: Confidential records are those records and data contained therein which are made not public by state or federal law, and which are inaccessible to the student and the student's parents or an eligible student.

B. Reports under the Maltreatment of Minors Reporting Act: Pursuant to Minn. Stat. § 626.556, reports pertaining to a neglected and/or physically and/or sexually abused child shall be accessible only to the appropriate welfare and law enforcement agencies. In respect to other parties, such data shall be confidential and will not be made available to the parent or the subject individual by the charter school. The data subject, however, may obtain a copy of the report from either the local welfare agency, county sheriff or the local police department subject to the provisions of Minn. Stat. § 626.556, Subd. 11.

Regardless of whether a written report is made under Minn. Stat. § 626.556, Subd. 7, as soon as practicable after a school receives information regarding an incident that may constitute maltreatment of a child in a school facility, the school shall inform the parent, legal guardian, or custodian of the child that an incident occurred that may constitute maltreatment of the child, when the incident occurred, and the nature of the conduct that may constitute maltreatment.

C. Investigative data: Data collected by the charter school as part of an active investigation undertaken for the purpose of the commencement or defense of pending civil legal action, or which are retained in anticipation of a pending civil legal action are classified as protected nonpublic data in the case of data not on individuals, and confidential data in the case of data on individuals.

1. The charter school may make any data classified as protected non-public or confidential pursuant to this subdivision accessible to any person, agency or the public if the charter school determines that such access will aid the law enforcement process, promote public health or safety, or dispel widespread rumor or unrest.

2. A complainant has access to a statement provided by the complainant to the charter school.

3. Parents or eligible students may have access to investigative data of which the student is the subject, but only to the extent the data is not inextricably intertwined with data about other school students, school employees, and/or attorney data as defined in Minn. Stat. § 13.393.

4. Once a civil investigation becomes inactive, civil investigative data becomes public unless the release of the data would jeopardize another pending civil legal action, except for those portions of such data that are classified as not public data under state or federal law. Any civil investigative data presented as evidence in court or made part of a court record shall be public. For purposes of this provision, a civil investigation becomes inactive upon the occurrence of any of the following events:

a. a decision by the charter school, or by the chief attorney for the charter school, not to pursue the civil legal action. However, such investigation may subsequently become active if the charter school or its attorney decides to renew the civil legal action;

b. the expiration of the time to file a complaint under the statute of limitations or agreement applicable to the civil legal action; or

c. the exhaustion or expiration of rights of appeal by either party to the civil legal action.

5. A "pending civil legal action" for purposes of this subdivision is defined as including, but not limited to, judicial, administrative or arbitration proceedings.

D. Chemical Abuse Records: To the extent the school maintains records of the identity, diagnosis, prognosis, or treatment of any student which are maintained in connection with the performance of any drug abuse prevention function conducted, regulated, or directly or indirectly assisted by any department or agency of the United States, such records are classified as confidential and shall be disclosed only for the purposes and under the circumstances expressly authorized by law.

## X. DISCLOSURE OF SCHOOL RECORDS PRIOR TO EXCLUSION OR EXPULSION HEARING

At a reasonable time prior to any exclusion or expulsion hearing, the student, the student's parent or guardian or representative shall be given access to all charter school records pertaining to the student, including any tests or reports upon which the action proposed by the charter school may be based, pursuant to the Minnesota Pupil Fair Dismissal Act, Minn. Stat. §121A..40, et. seq.

## XI. DISCLOSURE OF DATA TO MILITARY RECRUITMENT OFFICERS

A. The charter school must release, without parent or student consent, the names, addresses, and home telephone numbers of students enrolled in grades 11 and 12 to military recruiting officers within 60 days after the date of the request.

B. Data released to military recruiting officers under this provision:

1. May be used only for the purpose of providing information to students about military service, state and federal veterans' education benefits, and other career and educational opportunities provided by the military; and

2. Cannot be further disseminated to any other person except personnel of the recruiting services of the armed forces.

C. A parent or eligible student has the right to refuse the release of the above information to military recruiting officers. To refuse the release of the above information to military

recruiting officers, a parent or eligible student must notify the responsible authority, the director of the charter school, in writing, by October 15th of each year.

The written request must include the following information:

1. Name of student and parent, as appropriate;

2. Home address;

3. Student's grade level;

4. School presently attended by student;

5. Parent's legal relationship to student, if applicable;

6. Specific category or categories of information which are to be released to military recruiters; and

7. Specific category or categories of directory information which are not to be released to the public, including military recruiters.

D. Annually, the charter school will provide public notice by any means that are reasonably likely to inform the parents and eligible students of the parent's or eligible student's right to refuse to release the names, addresses and home phone numbers of students enrolled in the 11th and 12th grades.

E. A parent or eligible student's refusal to release the above information to military recruiting officers does not affect the charter school's release of directory information to the public, which includes military recruiting officers. In order to make any directory information about a student private, the procedures contained in the RELEASE OF DIRECTORY INFORMATION section of this policy also must be followed. Accordingly, to the extent the charter school has designated the name, address, phone number and grade level of students as directory information, absent a request from a parent or eligible student not to release such data, this information will be public data and accessible to military recruiting officers as well as other members of the public.

## XII. LIMITS ON REDISCLOSURE

A. Re-disclosure:

Consistent with the requirements herein, the charter school may only disclose personally identifiable information from the education records of a student on the condition that the party to whom the information is to be disclosed will not disclose the information to any other party without the prior written consent of the parent of the student or the eligible student, except that the officers, employees and agents of any party receiving personally identifiable information under this Section may use the information, but only for the purposes for which the disclosure was made.

B. Re-disclosure not prohibited:

1. Subdivision A of this Section does not preclude the charter school from disclosing personally identifiable information under the DISCLOSURE OF EDUCATION RECORDS section of this policy with the understanding that the party receiving the information may make further disclosures of the information on behalf of the charter school provided:

   a. The disclosures meet the requirements of the DISCLOSURE OF EDUCATION RECORDS section of this policy; and

   b. The charter school has complied with the record keeping requirements of the RESPONSIBLE AUTHORITY; RECORD SECURITY; AND RECORD KEEPING section of this policy.

2. Subdivision A of this section does not apply to disclosures made pursuant to court orders or lawfully issued subpoenas or litigation, to disclosures of directory information, to disclosures to a parent or student, or to parents of dependent students.

C. Classification of disclosed data:

The information disclosed shall retain the same classification in the hands of the party receiving it as it had in the hands of the charter school.

D. Notification:

The charter school shall, except for the disclosure of directory information under the RELEASE OF DIRECTORY INFORMATION section of this policy, or except for disclosures to a parent or student, inform the party to whom a disclosure is made of the requirements set forth in this Section. In the event that the Family Policy Compliance Office determines that a third party improperly re-discloses personally identifiable information from education records, the educational agency or institution may not allow that third party access to personally identifiable information from education records for at least five years.

## XIII. RESPONSIBLE AUTHORITY, RECORD SECURITY; AND RECORD KEEPING

A. Responsible authority:

The responsible authority shall be responsible for the maintenance and security of student records.

B. Record security:

# TRIO Wolf Creek Distance Learning Charter School #4095

The director of the charter school, subject to the supervision and control of the responsible authority, shall be the records manager of the charter school, and shall have the duty of maintaining and securing the privacy and/or confidentiality of student records.

C. Plan for securing student records:

The director shall submit to the responsible authority a written plan for securing students records by September 1 of each school year. The written plan shall contain the following information:

1. A description of records maintained;

2. Titles and addresses of person(s) responsible for the security of student records;

3. Location of student records, by category, in the buildings;

4. Means of securing student records; and

5. Procedures for access and disclosure.

D. Review of written plan for securing student records:

The responsible authority shall review the plans submitted pursuant to Paragraph C of this Section for compliance with the law, this policy and the various administrative policies of the charter school. The responsible authority shall then promulgate a chart incorporating the provisions of Paragraph C which shall be attached to and become a part of this policy.

E. Record keeping:

1. The director shall, for each request for and each disclosure of personally identifiable information from the education records of a student, maintain a record with the education records of the student which indicates:

   a. the parties who have requested or received personally identifiable information from the education records of the student; and

   b. the legitimate interests these parties had in requesting or obtaining the information;

2. In the event the charter school discloses personally identifiable information from an education record of a student pursuant to Paragraph B of the LIMITS ON DISCLOSURE section of this policy, the record of disclosure required under this Section shall also include:

   a. the names of the additional parties to which the receiving party may disclose the information on behalf of the charter school; and

b. the legitimate interests under the DISCLOSURE OF EDUCATION RECORDS section of this policy which each of the additional parties has in requesting or obtaining the information.

3. Paragraph (1) of Record keeping does not apply to requests by or disclosure to a parent of a student or an eligible student, disclosures pursuant to the written consent of a parent of a student or an eligible student, requests by or disclosures to other school officials under Paragraph B1(a) of the DISCLOSURE OF EDUCATION RECORDS section of this policy, or to requests for disclosures of directory information under the RELEASE OF DIRECTORY INFORMATION section of this policy, or to a party seeking or receiving the records as directed by a Federal grand jury or other law enforcement subpoena and the issuing court or agency has ordered that the existence of the contents of the subpoena or the information provided in response to the subpoena not be disclosed.

4. The record of requests of disclosures may be inspected by:

   a. the parent of the student or the eligible student;

   b. the school official or his or her assistants who are responsible for the custody of the records; and

   c. the parties authorized by law to audit the record keeping procedures of the charter school.

5. The school shall record the following information when it discloses personally identifiable information from education records under the health or safety emergency exception:

   a. the articulable and significant threat to the health or safety or a student or other individual that formed the basis for the disclosure; and

   b. the parties to whom the school disclosed the information.

6. The record of requests and disclosures shall be maintained with the education records of the student as long as the charter school maintains the student's education records.

## XIV. RIGHT TO INSPECT AND REVIEW EDUCATION RECORDS

A. <u>Parent of a student, an eligible student or the parent of an eligible student who is also a dependent student:</u>

The charter school shall permit the parent of a student, an eligible student or the parent of an eligible student who is also a dependent student who is or has been in attendance in the charter school to inspect or review the education records of the student, except those

records which are made confidential by state or federal law or as otherwise provided in the DISCLOSURE OF PRIVATE RECORDS section of this document.

B. Response to request for access:

The charter school shall respond to any request pursuant to Subdivision A of this Section immediately, if possible, or within ten (10) days of the date of the request, excluding Saturdays, Sundays and legal holidays. In the event the charter school cannot comply with the request within the initial ten (10) day period, the responsible authority shall so notify the requesting individual and the responsible authority may have an additional ten (10) days within which to comply, excluding Saturdays, Sundays and legal holidays.

C. Right to inspect and review:

The right to inspect and review education records under Subdivision A of this Section includes:

1. The right to a response from the charter school to reasonable requests for explanations and interpretations of records; and

2. If circumstances effectively prevent the parent or eligible student from exercising the right to inspect and review the education records, the charter school shall provide the parent or eligible student with a copy of the records requested, or make other arrangements for the parent or eligible student to inspect and review the requested records.

D. Form of request:

Parents or eligible students shall submit to the charter school a written request to inspect education records which identify as precisely as possible the record or records he or she wishes to inspect.

E. Collection of student records:

If a student's education records are maintained in more than one location, the responsible authority may collect copies of the records or the records themselves from the various locations so they may be inspected at one site. However, if the parent or eligible student wishes to inspect these records where they are maintained, the charter school shall attempt to accommodate those wishes. The parent or eligible student shall be notified of the time and place there the records may be inspected.

F. Records containing information on more than one student:

If the education records of a student contain information on more than one student, the parent or eligible student may inspect and review or be informed of only the specific information which pertains to that student.

G. Authority to inspect or review:

The charter school may presume that either parent of the student has authority to inspect or review the education records of a student unless the charter school has been provided with evidence that there is a legally binding instrument or a state law or court order governing such matters as marriage dissolution, separation or custody which provides to the contrary.

H. Fees for copies of records:

1. The charter school shall charge a reasonable fee for providing copies of records. In determining the amount of the reasonable fee, the charter school shall consider the following:

   a. the cost of materials, including paper, used to provide the copies;

   b. the cost of the labor required to prepare the copies;

   c. any schedule of standard copying charges established by the charter school in its normal course of operations;

   d. any special costs necessary to produce such copies from machine based record keeping systems, including but not limited to computers and microfilm systems; and

   e. mailing costs.

2. The cost of providing copies shall be borne by the parent or eligible student.

3. The responsible authority, however, may not impose a fee for a copy of an education record made for a parent or eligible student if doing so would effectively prevent the parent or eligible student from exercising their right to inspect or review the student's education records.

4. The charter school reserves the right to make a charge for copies such as transcripts it forwards to potential employers or post-secondary institutions for employment or admissions purposes. The fee for such copies and other copies forwarded to third parties with prior consent as a convenience will be from 10¢/copy to actual search/retrieval and copying costs, plus postage, if that is involved.

## XV. REQUEST TO AMEND RECORDS; PROCEDURES TO CHALLENGE DATA

A. Request to amend education records:

# TRIO Wolf Creek Distance Learning Charter School #4095

The parent of a student or an eligible student who believes that information contained in the education records of the student is inaccurate, misleading or violates the privacy or other rights of the student may request that the charter school amend those records.

1. The request shall be in writing, shall identify the item the requestor believes to be inaccurate, misleading or in violation of the privacy or other rights of the student, shall state the reason for this belief, and shall specify the correction the requestor wishes the charter school to make. The request shall be signed and dated by the requestor.

2. The charter school shall decide whether to amend the education records of the student in accordance with the request within a reasonable period of time of receipt of the request.

3. If the charter school decides to refuse to amend the education records of the student in accordance with the request, it shall so inform the parent of the student or the eligible student of the refusal and advise the parent or eligible student of the right to a hearing under Subdivision B of this Section.

B. Right to a hearing:

If the charter school refuses to amend the education records of a student, the charter school shall, on request, provide an opportunity for a hearing in order to challenge the content of the student's education records to ensure that information in the education records of the student is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student. A hearing shall be conducted in accordance with Subdivision C of this Section.

1. If, as a result of the hearing, the charter school decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall amend the education records of the student accordingly, so inform the parent of the student or the eligible student in writing.

2. If, as a result of the hearing, the charter school decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other 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 he or she disagrees with the decision of the charter school, or both.

3. Any statement placed in the education records of the student under Subdivision B of this Section shall:

    a. be maintained by the charter school as part of the education records of the student so long as the record or contested portion thereof is maintained by the charter school; and

b. if the education records of the student or the contested portion thereof is disclosed by the charter school to any party, the explanation shall also be disclosed to that party.

C. Conduct of hearing:

1. The hearing shall be held within a reasonable period of time after the charter school has received the request, and the parent of the student or the eligible student shall be given notice of the date, place and time reasonably in advance of the hearing.

2. The hearing may be conducted by any individual, including an official of the charter school who does not have a direct interest in the outcome of the hearing. The charter school's attorney shall be in attendance to present the charter school board's position and advise the designated hearing officer on legal and evidentiary matters.

3. The parent of the student or eligible student shall be afforded a full and fair opportunity for hearing to present evidence relative to the issues raised under Subdivisions A and B of this Section and may be assisted or represented by individuals of his or her choice at his or her own expense, including an attorney.

4. The charter school shall make a decision in writing within a reasonable period of time after the conclusion of the hearing. The decision shall be based solely on evidence presented at the hearing and shall include a summary of evidence and reasons for the decision.

D. Appeal:

The final decision of the designated hearing officer may be appealed in accordance with the applicable provisions of the Minn. Stat. Chapter 14 relating to contested cases.

## XVI. PROBLEMS ACCESSING DATA

A. The data practices compliance official is the designated employee to whom persons may direct questions or concerns regarding problems in obtaining access to data or other data practices problems.

B. Data practices compliance official means Tracy Quarnstrom, Director.

C. Any request by an individual with a disability for reasonable modifications of the school's policies or procedures for purposes of accessing records shall be made to the data practices compliance official.

## XVII. COMPLAINTS FOR NONCOMPLIANCE WITH FERPA

A. Where to file complaints:

Complaints regarding alleged violations of rights accorded parents and eligible students by FERPA, and the rules promulgated thereunder, shall be submitted in writing to the Family Policy Compliance Office, U.S. Department of Education, 400 Maryland Avenue S.W., Washington, D.C. 20202.

B. Content of complaint:

A complaint filed pursuant to this Section must contain specific allegations of fact giving reasonable cause to believe that a violation of FERPA and the rules promulgated thereunder has occurred.

## XVIII. WAIVER

A parent or eligible student may waive any of his or her rights provided herein pursuant to FERPA. A waiver shall not be valid unless in writing and signed by the parent or eligible student. The charter school may not require such a waiver.

## XIX. ANNUAL NOTIFICATION OF RIGHTS

A. Contents of notice:

The charter school shall give parents of students currently in attendance and eligible students currently in attendance annual notice by such means as are reasonably likely to inform the parents and eligible students of the following:

1. That the parent or eligible student has a right to inspect and review the student's education records;

2. That the parent or eligible student has a right to request the amendment of the student's education records to ensure that those records are not inaccurate, misleading, or otherwise in violation of the student's privacy or other rights;

3. That the parent or eligible student has a right to consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that federal and state law and the regulations promulgated thereunder authorize disclosure without consent;

4. That the parent or eligible student has a right to file a complaint with the U.S. Department of Education regarding an alleged failure by the charter school to comply with the requirements of FERPA, and the rules promulgated thereunder;

5. That the parent or eligible student has a right to obtain a copy of the charter school’s policy regarding the protection and privacy of pupil records; and

6. That copies of the charter school’s policy regarding the protecting and privacy of school records are located at the director's office.

B. Notification to Parents of Students Having a Primary Home Language Other Than English:

The charter school shall provide for the need to effectively notify parents of students identified as having a primary or home language other than English.

C. Notification to Parents or Eligible Students Who are Disabled:

The charter school shall provide for the need to effectively notify parents or eligible students identified as disabled.

## XX. DESTRUCTION AND RETENTION OF RECORDS

Destruction and retention of records by the charter school shall be controlled by state and federal law.

## XXI. COPIES OF POLICY

Copies of this policy may be obtained by parents and eligible students at the office of the Director.

***Legal References:***
Minn. Stat. Ch. 13 (Minnesota Government Data Practices Act)
Minn. Stat. Ch. 14 (Administrative Procedures Act)
Minn. Stat. § 120A.22 (Compulsory Instruction)
Minn. Stat. § 121A.75 (Sharing Juvenile Disposition Order)
Minn. Stat. § 121A.40 to 121A.56 (The Pupil Fair Dismissal Act)
Minn. Stat. § 121A.852 (Military-Connected Youth Identifier)
Minn. Stat. § 144.341-144.347 (Consent of Minors for Health Services)
Minn. Stat. § 260B.171, subds. 3 & 5 (Disposition Order and Peace Officer Records of Children)
Minn. Stat. § 363A.42 (Public Records; Accessibility)
Minn. Stat. § 626.556 (Reporting of Maltreatment of Minors)
Minn. Rules Parts 1205.0100-1205.2000 (Data Practices)
20 U.S.C. Sec. 1232g *et seq.* (Family Educational Rights and Privacy Act)
20 U.S.C. § 6301 *et seq.* (No Child Left Behind)
20 U.S.C. § 7908 (Armed Forces Recruiting Information)
26 U.S.C. §§ 151 and 152 (Internal Revenue Code)
34 C.F.R. §§ 99.1-99.67 (Family Educational Rights and Privacy)
34 C.F.R. § 300.610-300.627 (Confidentiality of Information)

***Cross References:***
Policy 506 (Student Discipline)
Policy 519 (Interviews of Students by Outside Agencies)
Policy 520 (Student Surveys)
MSBA Service Manual, Chapter 13, School Law Bulletin "I" (School Records-Privacy-Access to Data)

# TRIO Wolf Creek Distance Learning Charter School #4095

## Appendix A

**Data Privacy Request Form - 515F**

*School Year:* _____

If any parent/guardian would object to having their student's name, grade, graduation date, Learning Manager, address, telephone number, height, and/or weight (given only if on an athletic or extracurricular participant), picture or video taken and used for public distribution or viewing, or picture/information in the yearbook or on the website; or name released to the Armed Services* please send your completed Data Privacy Request Form to the following address:

TRIO Wolf Creek
Attn: Charter School Director
29678 Karmel Avenue
Chisago City, MN 55013

**Armed Service only- unless opt-out information has been submitted as allowable by law.*

Parent/Guardian's Printed Name: _____

Address: _____

City/Zip: _____ Phone: _(___) _____

**Please keep the above information private with regard to the following student:**

**Student's Name: _____**

☐ **CHECK HERE IF YOU DO NOT WANT INFORMATION RELEASED TO MILITARY ORGANIZATIONS.**

☐ **CHECK HERE IF YOU DO NOT WANT INFORMATION or PICTURE/PHOTO TO BE ON/IN WEBSITE, or NEWSLETTERS.**

*Signature of Parent/Guardian Date:* _____

***Please note that this request must be filled out each school year and received by October 15th to be in effect for the current school year. Thank you.***

*For District Office Use: Date Received:* _____

*CC: Webmaster:* _____ *MARSS:* _____ *Dir:* _____ *Dean:* _____