
Chapter 2 — Confidentiality

Hamden Public Schools maintains records of students requiring special education and related services. The District maintains strict confidentiality of these student records and other personally identifiable information at collection, storage, disclosure, and destruction stages of handling. Parents and other appropriate persons are given proper and needed access to records. Our District establishes and implements policy and procedures which ensure that records are classified, filed, protected, kept confidential, reviewed, and when appropriate, destroyed according to the Individuals with Disabilities Education Act (IDEA), and the Family Educational Rights and Privacy Act (FERPA) and the state's Records Retention Schedule. Parents of students receiving special education and related services are notified annually of the availability of these policies and procedures. The written policies and procedures concerning education records are available to the public in the Superintendent's office.

❖ Generation and Maintenance of Records

Student records are defined as any records, files, documents, and other materials which are maintained in writing, found in computer memory banks, video, or audio tape, film, microfilm, and microfiche by the school system or persons acting for the school system. These records are collected, maintained, or used by the District in order to meet the requirements of IDEA. This includes records that are used for identification, evaluation and educational placement of a student for the provision of free appropriate public education.

Custodian of Records

The District has designated one official, William E. McGraw, Jr., Director of Pupil Personnel Services, who is responsible for ensuring the confidentiality of any personally identifiable information. This person is considered the custodian of records. The custodian of records ensures that all individuals who collect or use personally identifiable information receive training regarding the policies and procedures outlined in IDEA and the Family Educational Rights and Privacy Act, as well as in the District procedures.

Access to Confidential Student Information

Access to student records is only given to parents, a representative of the parents and parties who have been determined by our District to have a legitimate educational need. The District maintains, for public inspection at the Superintendent's office, a current list of the names and positions of those employees within the District who may have access to personally identifiable information.

Record of Access

Our District maintains a record of the parties that have accessed a student's education record. With the exception of parents and authorized employees of our District, everyone who reviews a student's educational record is documented in the record of access. The record of access includes the name of the party having access, the date access was given, and the purpose for which the party was authorized to use the records.

Disciplinary Information

The District includes in the records of a student with a disability a statement of any current or previous disciplinary action that was taken against the student. Our District includes this statement to the same extent that this information is included in nondisabled student's records. The statement may include a description of the disciplinary action taken and any other information that is relevant to the safety of the student and other individuals involved with the student. If the student transfers from one school to another, the transmission of any of the student's records must include the student's current and previous disciplinary action that has been taken against the student.

When the District initiates disciplinary procedures applicable to all students, the District ensures that the special education and disciplinary records of the student with a disability are transmitted for consideration to the person or persons making the final determination regarding the disciplinary action.

Referral to and Action by Law Enforcement and Judicial Authorities

The District reports criminal acts committed by a student with a disability as the District does crimes committed by students without disabilities. The District ensures that when the District reports a crime committed by a student with a disability that copies of the special education and disciplinary records of the student are transmitted for consideration by the appropriate authorities to which the District reports the crimes. The District transmits copies of the student's special education records only to the extent that the Family Educational Rights and Privacy Act permit the transmission.

❖ Parental Rights

Parental Inspection and Review of Educational Records

When reference is made to parent, this also includes eligible students and surrogate parents. Parents have the right to inspect and review all education records pertaining to their child that are collected, maintained or used by the District to meet the requirements of special education law. Our District presumes that the parent has the authority to inspect and review records relating to their child unless the District has been advised that the parent does not have the authority under applicable state law governing such matters as guardianship, separation and divorce.

A request to review and inspect records must be in writing. The District makes records available to parents within ten school days of the request. Records are made available within three school days of the request if information is needed to plan for any due process proceeding or a PPT meeting. A representative of the parent may inspect and review the records.

Our District will provide to parents an explanation and an interpretation of their child's records upon parental request. The District provides to parents, upon request, a list of the types and locations of education records collected, maintained or used by our District.

Cost for Records or Search and Retrieval

In Connecticut, the right to review and inspect the records includes the right to one free copy of the records. Parents are required to submit a written request for the records; the District must comply within five school days of the request. Our District may charge for additional copies if the fee does not effectively prevent parents from exercising their right to inspect and review the records. Our District does not charge parents a fee to *search for* or to *retrieve* the educational records of a special education student.

NOTE: While test instruments are considered education records, any test instrument or portion of a test instrument for which the test manufacturer asserts an ownership or copyright interest may not be copied although they may be reviewed and inspected by parents. Our district retains test protocols for three years and notifies parents before they are destroyed by placing a legal notice in the New Haven register annually.

Limitations of Parents' Rights of Inspection and Review

Review and inspection of student records is restricted to information concerning the parent's own child. If our District maintains education records that include the names of more than one student, the parents of that student have the right to view information pertinent only to their child, or to be informed of that specific information.

❖ Rights of Eligible Students

A student who has attained 18 years of age, an emancipated minor, or a student who is attending a post-secondary education institution has the right of access to his/her educational records and is afforded the right to privacy.

The rights of parents regarding educational records under the Family Educational Rights and Privacy Act of 2003 are transferred to the student at age 18 or when she or he is attending postsecondary education. Because the rights given to parents under IDEA Part B are transferred to a student who reaches age 18, the rights regarding educational records are also transferred to the student.

When a student with a disability reaches age 18 (this includes those students incarcerated in an adult or juvenile, state or local correctional institution, but excludes those who have been determined to be incompetent under State law) our District does the following:

- Provides all required notices to both the student and the parents;
- Transfers to the student all other rights accorded to the parents under IDEA (as revised in 2004) Part B;
- Notifies the student and the parents of the transfer of rights; and
- Transfers the rights regarding education records to the student.

❖ **Surrogate Parent**

The rights of a student are protected by the appointment of a surrogate parent in the following circumstances:

- When the student requires or may require special education **and**
- When the parent cannot be identified after our District has made reasonable efforts to discover their whereabouts **or**
- When the student is under the guardianship of the Commissioner of the Department of Children and Families **or**
- When the Commissioner of the Department of Children and Families is the student's statutory parent, **or**
- When the student is an unaccompanied homeless youth as defined by the McKinney Vento Homeless Assistance Act.

The surrogate parent has legal rights afforded to parents or guardians with respect to special education and related services. The surrogate parent represents the student in all matters relating to the identification, evaluation, and educational placement and the provision of a free appropriate public education to the student. In the above instances, notice to our District is issued from the Department of Children and Families if they have been involved in the student's placement. The District will request from the State Department of Education the assignment of a surrogate parent.

❖ **Amendment of Student Records**

Request for Amendment

Parents or eligible students may request that the custodian of records amend their child's or their own confidential record (if the student is over 18 years of age) if they believe that information in the education record is inaccurate, misleading, or violates the privacy rights of the student. Within a reasonable period of time, the custodian of records will decide whether to amend the information in accordance with the parent's request.

Hearing to Amend Student Records

If the custodian of records refuses to amend the records, parents are informed of the refusal. They are advised of their right to a hearing with the District to challenge the information in the record on the grounds that it is inaccurate, misleading or otherwise in violation of the privacy or other rights of the student. Hearings as a result of a parent request for amendment of a student's special education record are conducted in accordance with the procedures of the Family Educational Rights and Privacy Act.

These procedures are as follows:

- The hearing is held within a reasonable time after the District has received the request for a hearing from the parent or eligible student.
- The District provides the parent or eligible student notice of the date, time and place of the hearing reasonably in advance of the hearing.
- An individual (including an official of the District), who does not have a direct interest in the outcome of the hearing, conducts the hearing.
- The District provides the parent or eligible student a full and fair opportunity to present evidence relevant to the issues raised.
- The parent or eligible student may, at his/her own expense, be assisted or represented by one or more individuals of his or her own choice, including an attorney.
- The District provides to the parents within a reasonable period of time after the hearing a written decision of the hearing.
- The hearing decision will be based solely on the evidence presented at the hearing and will include a summary of the evidence and the reasons for the decisions.

Hearing Decision to Amend the Records

If the decision of the hearing is that the data are inaccurate, misleading or otherwise in violation of the privacy rights of the student, our District will inform the parent or eligible student of this in writing. The record will be revised accordingly.

Hearing Decision to Not Amend the Records

If the hearing finds that the information is not inaccurate, misleading or otherwise in violation of the privacy rights of the student, our District informs the parent or eligible student of the decision. The District also notifies them of their right to place, in the District-maintained student's record, a statement commenting on the contested information or setting forth any reason for disagreeing with the District's decision or both. Any explanation placed in the record of the student shall be maintained by the school system as part of the records of the student as long as the record or contested portion is maintained by the school system. If the District discloses education records to any party, any explanation having been placed in the record will also be disclosed.

❖ Release of Confidential Information

Parent Consent and Record Protection

Our District protects the confidentiality of personally identifiable information at all stages of handling; this includes collection, storage, disclosure and destruction of information. In all cases except where consent is not required under the Family Education Rights and Privacy Act (FERPA), the District obtains parental consent before personally identifiable information is disclosed to anyone other than officials of the District (who our District has determined to have

a legitimate educational interest). This is also true when it is used for any purpose other than meeting a requirement of the IDEA. The District does not release information from education records to other providers of special education and related services (IDEA) without parental consent unless authorized to do so under FERPA and Connecticut State Statute.

Conditions when Prior Consent is not required to Disclose Information

In accordance with the Family Educational Rights and Privacy Act and Section 10-220h of Connecticut Education Law, the District may disclose personally identifiable information from a student's education record without parent/student consent if the disclosure is:

1. To other school officials, including teachers within the educational agency and consultants with whom the District contracts who have been determined by such agency/institution to have legitimate educational interests;
2. To officials of other schools or school systems in which the student seeks or intends to enroll, upon condition that the student's parents be notified of the transfer at the same time that the District transfers the records, receive a copy of the record if desired, and have an opportunity for a hearing to challenge the content of the record. When the new school district informs us in writing that the student is enrolled, the District will transfer the record no later than ten days after receipt of the written notification;
3. To authorized representatives of the Comptroller General of the United States; the Secretary of Education; the U.S. Commissioner of Education; the Director of the National Institute of Education, or the Assistant Secretary of Education; or State Educational Authorities, under certain conditions as described below. The District will provide such authorized representatives access to student or other records, which may be necessary in connection with the audit, evaluation or enforcement of state and federally supported education programs. The District will not permit such representatives to collect personally identifiable data unless specifically authorized to do so by state and federal law;
4. In connection with a student's application for, or receipt of, financial aid;
5. To state and local officials or authorities to whom such information is specifically required to be reported or disclosed pursuant to state statute adopted prior to November 19, 1974;
6. To accrediting organizations in order to carry out accrediting functions;
7. To parents of a dependent student as defined in Section 152 of the Internal Revenue Code of 1986;
8. In connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals. Factors to be taken into account in determining whether personally identifiable information from the education records of a student may be disclosed include:
 - The seriousness of the threat to the health or safety of the student or other individuals;
 - The need for the information to meet the emergency;
 - Whether the parties to whom the information is disclosed are in a position to deal with the emergency; and
 - The extent to which time is of the essence in dealing with the emergency;

9. To comply with a judicial order or lawfully issued subpoena provided that the educational agency makes a reasonable effort to notify the parent or the eligible student in advance of compliance;
10. To organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating or administering predictive tests or student aid programs, and improving instruction; and
11. Between two or more schools in which the student is enrolled or receiving services.

When the District reports the commission of a crime committed by a student with a disability to the appropriate authorities, the District sends copies of the special education and disciplinary records of the student to the appropriate authorities to which the District reports the crime. The District also sends copies of the student's special education and disciplinary records to the extent permitted by the Family Educational Rights and Privacy Act.

❖ **Duration and Destruction of Records**

Our District's special education department informs parents when personally identifiable information, which was collected, maintained or used under IDEA is no longer relevant to the provision of educational services to a student and the District plans to destroy the information. The District reminds parents that they or their child may need the information for Social Security benefits or other purposes in the future. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

Parents may also request that the records be destroyed and if the District is no longer using it to provide education services to the student, the District destroys it. If there is an outstanding request to inspect the records, they will not be destroyed until that request is satisfied. Records of students placed by our District in regional education service centers and approved private special education programs are education records, therefore retention and destruction of this information is our obligation. The District notifies parents/guardians of the location of records that are maintained by these agencies and parents have access to the copy. The District considers records to be no longer needed to provide educational services to a student six years after the student or the student's class graduates from high school.