

Board of Education Policy

STUDENT RECORDS

The Board of Education recognizes its legal responsibility to maintain the confidentiality of student records. As part of this responsibility, the Board will ensure that eligible students and parents/guardians have the right to inspect and review education records, the right to seek to amend education records and the right to have some control over the disclosure of information from the education record. The procedures for ensuring these rights shall be consistent with state and federal law, including the Family Educational Rights and Privacy Act of 1974 (FERPA) and its implementing regulations.

The Board also recognizes its responsibility to ensure the orderly retention and disposition of the district's student records in accordance with Schedule ED-1 as adopted by the Board in Policy 6950.

The District will use reasonable methods to provide access to student educational records only to those authorized under the law and to authenticate the identity of the requestor. The District will document requests for, and release of, records, and retain the documentation in accordance with the law. Furthermore, pursuant to Chapter 56 of the Laws of 2014, the District will enter into an agreement with any third-party contractor who collects, processes, stores, organizes, manages or analyzes student personally identifiable information (PII) to ensure that such contractor complies with the law in using appropriate means to safeguard the data.

The Superintendent of Schools shall be responsible for ensuring that all requirements under law and the Commissioner's regulations are carried out by the district.

Definitions

Education Record: means those records, in any format, directly related to the student and maintained by the district or by a party acting on behalf of the district, except:

- (a) Records in the sole possession of the individual who made it and not accessible or revealed to any other person except a substitute;
- (b) Records of the district's law enforcement unit;
- (c) Records of treatment created or maintained by a physician, psychiatrist, psychologist or other professional/paraprofessional acting in that capacity;
- (d) Grades on peer-graded papers before they are collected and recorded by a teacher.

Eligible student: a student who has reached the age of 18 or is attending postsecondary school.

Legitimate educational interest: a school official has a legitimate educational interest if they need to review a student's record in order to fulfill his or her professional responsibilities.

Personally identifiable information: is information that would allow a reasonable person in the school or its community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty. Such data might include social security number, student identification number, parents' name and/or address, a biometric record, etc.

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School official: a person who has a legitimate education interest in a student record who is employed by the district as an administrator, supervisor, instructor or support staff member (including health or medical staff and law enforcement unit personnel); a member of the Board of Education; a person or company with whom the district has contracted to perform a special task (such as attorney, auditor, medical consultant or therapist); or a parent or student serving on an official committee, such as disciplinary or grievance committee, or assisting another school official performing his or her tasks.

Third party contractor: is any person or entity, other than an educational agency, that receives student data or teacher or principal data from an educational agency pursuant to a contract or other written agreement for purposes of providing services to such educational agency, including, but not limited to, data management or storage services, conducting studies, or audit or evaluation of publicly funded programs.

Annual Notification

At the beginning of each school year, the district will publish a notification that informs parents, guardians and eligible students currently in attendance of their rights under FERPA and New York State Law and the procedures for exercising those rights. A “Parents’ Bill of Rights for Data Privacy and Security” will be posted on the district website and included in any agreements with third-party contractors. This notice and “Bill of Rights” may be published in a newspaper, handbook or other school bulletin or publication. This notice and “Bill of Rights” will also be provided to parents, guardians, and eligible students who enroll during the school year.

The notice and Parents’ Bill of Rights will include a statement that the parent/guardian or eligible student has a right to:

1. Inspect and review the student’s education records;
2. Request that records be amended to ensure that they are not inaccurate, misleading, or otherwise in violation of the student’s privacy rights;
3. Consent to disclosure of personally identifiable information contained in the student’s education records, except to the extent that FERPA authorizes disclosure without consent; and
4. File a complaint with the United States Department of Education alleging failure of the district to comply with FERPA and its regulations; and/or file a complaint regarding a possible data breach by a third party contractor with the district and/or the New York State Education Department’s Chief Privacy Officer for failure to comply with state law.

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The annual notice and Parents' Bill of Rights will inform parents/guardians and eligible students:

1. That it is the district's policy to disclose personally identifiable information from student records, without consent, to other school officials within the district whom the district has determined to have legitimate educational interests. The notice will define 'school official' and 'legitimate educational interest.'
2. That, upon request, the district will disclose education records without consent to officials of another school district in which a student seeks to or intends to enroll or is actually enrolled.
3. That, upon request, the district will disclose a high school student's name, address and telephone number to military recruiters and institutions of higher learning unless the parents or eligible student exercise their right to prohibit release of the information without prior written consent.
4. Of the procedure for exercising the right to inspect, review and request amendment of student records.
5. That parents and/or eligible students have the right to consent to disclosures of personally identifiable information contained in the student's education records, except for those disclosures which do not require consent pursuant to Federal law.
6. That the district will provide information as a supplement to the Parents' Bill of Rights about any third party with which the district contracts that uses or has access to personally identifiable student data.

The district will provide translations of the annual notice and Parents' Bill of Rights, where necessary, to parents, guardians and eligible students in their native language or dominant mode of communication.

In the absence of the parent or eligible student exercising their right to opt out of the release of information to the military, the district is required to, under federal law, release the information indicated in number three (3) above.

Directory Information

The district has the option under FERPA of designating certain categories of student information as "directory information." The Board directs that "directory information" may include a the student's name, address, telephone number, date of birth, place of birth, major course of study, participation in school activities or sports, weight and height if a member of an athletic team, dates of attendance, degrees and awards received, most recent school attended, class schedule, photograph, e-mail address, and class roster.

Social security numbers, student identification numbers, or other personally identifiable information may not be considered directory information.

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Once the proper FERPA notification is given by the district, a parent/guardian or eligible student will have 14 days to notify the district of any objections they have to any of the “directory information” designations. If no objection is received, the district may release this information without prior approval of the parent/guardian or eligible student for the release. Once the eligible student or parent/guardian provides the “opt-out,” it will remain in effect after the student is no longer enrolled in the school district.

The district may elect to provide a single notice regarding both directory information and information disclosed to military recruiters and institutions of higher education.

Cross-reference: Policy #1120, School District Records
Policy #4321, Programs for Students with Disabilities
Policy #6950, Records Management

Reference: Family Educational Rights and Privacy Act, 20 USC 1232g; 34 CFR Part 99
No Child Left Behind Act, 20 USC §7908
10 USC §503, amended by §544 National Defense Reauthorization Act for FY 2002
Education Law §§ 2-a; 2-b; 2-c; 2-d; and 225
Public Officers Law §87(2) (a)
Arts and Cultural Affairs Law, Article 57-A (Local Government Records Law)
8 NYCRR 185.12 (Appendix I) Records Retention and Disposition, Schedule ED-1
for Use by School Districts and BOCES

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