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R 8330 STUDENT RECORDS

A. Definitions (N.J.A.C. 6A:32-2.1)

1. "Access" means the right to view, make notes, and/or reproduce a student record.
2. "Adult student" means a person who is at least eighteen years of age or is an emancipated minor.
3. "Days in membership" means the number of school days in session in which a student is enrolled. A student's membership begins on the first possible day of attendance following enrollment during the school year, notwithstanding the actual day the student was recorded as present for the first time.
4. "Health history" means the record of a person's past health events obtained in writing, completed by the individual or the individual's physician.
5. "Mandated student records" means student records that school districts compile pursuant to State statute, regulation, or authorized administrative directive.
6. "Parent" means the natural or adoptive parent, legal guardian, surrogate parent appointed pursuant to N.J.A.C. 6A:14-2.2, or a person acting in place of a parent (such as a grandparent or stepparent with whom the student lives or a person legally responsible for the student's welfare). Unless parental rights have been terminated by a court of appropriate jurisdiction, the parent retains all rights pursuant to N.J.A.C. 6A:32. In addition, a resource family parent may act as a parent pursuant to the provisions of N.J.A.C. 6A:32 if the parent's authority to make educational decisions on the student's behalf has been terminated by a court of appropriate jurisdiction.
7. "Permitted student records" means records that the Board of Education has authorized, by resolution adopted at a regular public meeting, to be collected to promote the educational welfare of students.
8. "Personally identifiable information" means, but is not limited to:
 - a. The student's name;
 - b. The name of the student's parent(s) or other family members;

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- c. The address of the student or the student's family;
 - d. The email address of the student, the student's parent(s), or other family members;
 - e. The telephone number of the student, the student's parent(s), or other family members;
 - f. A personal identifier, such as the student's Social Security number, student number, or biometric record;
 - g. A photo of the student;
 - h. The location and times of class trips;
 - i. Other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name;
 - j. Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community who does not have personal knowledge of the relevant circumstances to identify the student with reasonable certainty; or
 - k. Information requested by a person who the district, or private agency that provides educational services by means of public funds, reasonably believes knows the identity of the student to whom the student record relates.
9. "Physical examination" means the assessment of an individual's health, in accordance with the requirements at N.J.A.C. 6A:16-2.2.
10. "School contact directory for official use" means a compilation by a district that includes the following information for each student: name, address, telephone number, date of birth, and school of enrollment. The directory may be provided for official use only to judicial, law enforcement, and medical personnel.
11. "Student discipline record" means information regarding all disciplinary actions taken against a student by a school district pursuant to N.J.S.A. 18A:36-25.1.b. and that is maintained in a student's record.
12. "Student information directory" means a publication of the Board that includes information relating to a student. It shall be used only by

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authorized school district personnel and for designated official use by judicial, law enforcement, and medical personnel and not for general public consumption. The information shall be the student's: name; grade level; date and place of birth; dates of school attendance; major field of study; participation in officially recognized activities; weight and height relating to athletic team membership; degrees; awards; the most recent educational agency attended by the student; and other similar information.

13. "Student record" means information related to an individual student gathered within or outside the school district and maintained within the school district, regardless of the physical form in which it is maintained. Essential in this definition is the idea that any information that is maintained for the purpose of second-party review is considered a student record. Therefore, information recorded by certified school personnel solely as a memory aid and not for the use of a second party is excluded from this definition. In the absence of any "information related to an individual student," the document(s) no longer meets the definition of "student record."

B. General Considerations (N.J.A.C. 6A:32-7.1)

1. The Board shall compile and maintain student records and regulate access in accordance with the Federal Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g, and 34 CFR Part 99, disclosure, or communication of information contained in student records in a manner that assures the security of the records in accordance with the provisions of N.J.A.C. 6A:32-7.
2. Student records shall contain only information that is relevant to the education of the student and is objectively based on the personal observations or knowledge of the certified school personnel who originate(s) the record.
3. The district shall provide annual, written notification to parents, adult students, and emancipated minors of their rights in regard to student records and student participation in educational, occupational, and military recruitment programs. Copies of the applicable State and Federal laws and Board policies shall be made available upon request. The Board shall make every effort to notify parents and adult students in their dominant language.
4. Nonadult students may assert rights of access only through their parent(s). However, nothing in N.J.A.C. 6A:32-7 or in Policy 8330 or this Regulation shall be construed to prohibit certified school personnel

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from disclosing, at their discretion, student records to nonadult students or to appropriate persons in connection with an emergency, if the information contained in the record is necessary to protect the health or safety of the student or other persons.

5. The parent or adult student shall have access to the student's records and have access to, or be specifically informed about, only the portion of another student's record that contains information about the student.
 6. All anecdotal information and assessment reports collected on a student shall be dated and signed by the individual who originated the data.
 7. The Superintendent or designee shall require all student records of currently enrolled students to be reviewed annually by certified school personnel to determine the education relevance of the information contained therein. The reviewer shall cause information no longer descriptive of the student or educational program to be deleted from the records, except that prior notice shall be given for students with disabilities in accordance with N.J.A.C. 6A:14, Special Education. The deleted information shall be disposed of and not be recorded elsewhere. No record of any such deletion shall be made.
 8. No liability shall be attached to any member, officer, or employee of the Board permitting access or furnishing student records in accordance with N.J.A.C. 6A:32-7.
 9. When the parent's or adult student's dominant language is not English or the parent or adult student is deaf, the school district shall provide interpretation of the student records in the dominant language of the parent or adult student.
 10. Student health records shall be maintained separately from other student records. Student health records also shall be maintained according to the requirements of N.J.A.C. 6A:32-7 until such time as graduation or termination, whereupon the health history and immunization record shall be removed from the student's health record and placed in the student's mandated record.
- C. School Contact Directory for Official Use (N.J.A.C. 6A:32-7.2)
1. The Board shall compile and maintain a school contact directory for official use that is separate and distinct from the student information directory.

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2. School personnel shall provide information from the school contact directory for official use only to judicial and law enforcement personnel, and to medical personnel currently providing services to the student in question. Upon request from a court, other judicial agency, law enforcement agency, or medical service provider currently providing services to the student in question, school personnel shall promptly verify the enrollment of a student and provide the requester with all information about the student that is contained in the school contact directory for official use.
 3. A parent, adult student, or emancipated minor shall notify, in writing, the Superintendent or designee of their request to exclude any information from the school contact directory for official use.
- D. Mandated and Permitted Student Records (N.J.A.C. 6A:32-7.3)
1. Mandated student records shall include the following:
 - a. The student's name, address, telephone number, date of birth, name of parent(s), gender, standardized assessment results, grades, record of daily attendance, classes attended, grade level completed, year completed, and years of attendance;
 - b. Descriptions of the student's progress according to the Board's student performance data;
 - c. History and status of physical health compiled in accordance with State regulations, including immunizations and results of any physical examination(s) given by qualified district employees;
 - d. Records pursuant to rules and regulations regarding the education of students with disabilities; and
 - e. All other records required by N.J.A.C. 6A.
 2. Permitted student records are those student records not mandated pursuant to N.J.A.C. 6A:32-7.3, but authorized by the Board to promote the student's educational welfare and include the following as authorized by this Board upon adoption of Policy 8330 and this Regulation. These records may include, but are not limited to:
 - a. Personally authenticated observations, assessments, ratings, and anecdotal reports recorded by teaching staff members in

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the performance of their professional responsibilities and intended for review by another person, provided the record is dated and signed by the originator. Information recorded solely as a memory aid for the originator becomes a student's record when it is reviewed by any other person, including a substitute;

- b. Information, scores, and results obtained from standardized tests or by approved tests conducted by professional personnel;
- c. Educationally relevant information provided by the parent or adult student;
- d. Any correspondence with the student and/or the student's parents;
- e. Driver education certificate;
- f. Emergency notification form;
- g. New student registration form;
- h. Withdrawal or transfer form;
- i. Change of schedule form;
- j. Records of the student's co-curricular and athletic activities and achievements;
- k. Class rank;
- l. Awards and honors;
- m. Notations of additional records maintained in a separate file;
- n. The statement from a student's parent, adult student, or emancipated minor regarding a contested portion of the record;
- o. Entries indicating review of the file by an authorized person.

E. Maintenance and Security of Student Records (N.J.A.C. 6A:32-7.4)

1. The Superintendent or designee shall be responsible for the security of student records maintained in the district and shall devise procedures/regulations for assuring that access to student records is limited to authorized persons.

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2. The Board may store all student records either electronically or in paper format.
 - a. When student records are stored electronically, proper security and backup procedures shall be administered.
 3. Student health records, whether stored on paper or electronically, shall be maintained in accordance with N.J.A.C. 6A:32-7.1(I).
 4. Records shall be accessible during the hours in which the school program is in operation.
 5. Mandated student records required as part of programs established through State-administered entitlement or discretionary funds from the U.S. Department of Education shall be maintained for a period of five years after a student's graduation or termination from the district, or to age twenty-three, whichever is longer. The mandated student records shall be disposed of in accordance with N.J.S.A. 47:3-15 et seq.
 6. Any district or school website shall not disclose any personally identifiable information about a student, in accordance with N.J.S.A. 18A:36-35.
- F. Access to Student Records (N.J.A.C. 6A:32-7.5)
1. Only authorized organizations, agencies, or persons, as defined in N.J.A.C. 6A:32-7.5, shall have access to student records, including student health records. Access to student records shall be provided to persons authorized such access under N.J.A.C. 6A:32-7.1(g) within ten days of a request, but prior to any review or hearing conducted in accordance with N.J.A.C. 6A.
 2. The district may charge a reasonable fee for reproduction of student records, not to exceed the schedule of costs set forth at N.J.S.A. 47:1A-5, provided that the cost does not effectively prevent parents or adult students from exercising their rights under N.J.A.C. 6A:32-7 or other Federal and State rules and regulations regarding students with disabilities, including N.J.A.C. 6A:14.
 3. The district shall control access to, disclosure of, and communication regarding information contained in student health records to assure access only to people permitted by Federal and State statute and regulations or as stated in N.J.A.C. 6A:32-7.5(e) and F.5. below.

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4. Access to, and disclosure of, a student health record shall meet the requirements of FERPA, 20 U.S.C. §1232g, and 34 CFR Part 99.
5. Organizations, agencies, and persons authorized to access student records shall include only the following:
 - a. The student who has written permission of a parent and the parent of a student under the age of eighteen, regardless of whether the child resides with the parent, except pursuant to N.J.S.A. 9:2-4;
 - (1) The place of residence shall not be disclosed; and
 - (2) Access shall not be provided if denied by a court;
 - b. Students at least sixteen years of age who are terminating their education in the district because they will graduate secondary school at the end of the term or no longer plan to continue their education;
 - c. An adult student and/or a parent who has the written permission of an adult student, except that the parent shall have access without the adult student's consent, as long as the adult student is financially dependent on the parent and enrolled in the public school system, or if the adult student has been declared legally incompetent by a court of appropriate jurisdiction. The parent of a financially dependent adult student may not disclose information contained in the adult student's record to a second or third party without the adult student's consent;
 - d. Certified school district personnel who are assigned educational responsibility for the student shall have access to the general student record but not to the student health record except under conditions permitted in N.J.A.C. 6A:16-2.4;
 - e. Certified educational personnel who have assigned educational responsibility for the student and who are employed by agencies listed below shall have access to the general student record, but not to the student health record, except under conditions permitted at N.J.A.C. 6A:16-2.4:
 - (1) An approved private school for students with disabilities;

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- (2) A State facility;
 - (3) Accredited nonpublic schools in which students with disabilities have been placed pursuant to N.J.S.A. 18A:46-14; or
 - (4) Clinics and agencies approved by the New Jersey Department of Education;
- f. To fulfill its legal responsibility, the Board shall have access through the Superintendent or designee to information contained in the student's record. Information shall be discussed in executive session, unless otherwise requested by the parent or adult student;
- g. Secretarial and clerical personnel under the direct supervision of certified school personnel shall be permitted access to portions of the record to the extent necessary for the entry and recording of data and the conducting of routine clerical tasks. Access shall be limited only to student files in which such staff are directed to enter or record information, and shall cease when the specific assigned task is completed;
- h. Accrediting organizations to carry out their accrediting functions;
- i. The Commissioner of Education and New Jersey Department of Education staff members who are assigned responsibility that necessitates the review of such records;
- j. Officials of other Boards of Education within the State or other educational agencies or institutions where the student is placed, registered, or seeks to enroll, subject to the following conditions:
 - (1) Original mandated student records that schools have been directed to compile by New Jersey statute, regulation, or authorized administrative directive shall be forwarded to the receiving district, agency, or institution with written notification to the parent or adult student;
 - (2) Original mandated student records that the Board has required shall be forwarded to the receiving district, agency, or institution only with the written consent of

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the parent or adult student, except where a formal sending-receiving relationship exists between the districts;

- (3) All records to be forwarded, including disciplinary records as specified at N.J.S.A. 18A:36-19a., shall be sent to the Superintendent of the school district to which the student has transferred, or the Superintendent's designee, within ten school days after the transfer has been verified by the requesting district;
 - (4) The Superintendent or designee shall request, in writing, all student records from the school district of last attendance within two weeks from the date that the student enrolls in the new school district;
 - (5) Upon request, the Superintendent or designee of the school district of last attendance shall provide a parent(s) or an adult student with a copy of the records disclosed to other educational agencies or institutions; and
 - (6) Proper identification, such as a certified copy of the student's birth certificate or other proof of the student's identity pursuant to N.J.S.A. 18A:36-25.1, shall be requested at the time of enrollment in a new school district;
- k. Officials of the United States Department of Education assigned responsibilities that necessitate review of such records;
 - l. Officers and employees of a State agency responsible for protective and investigative services for students pursuant to N.J.S.A. 9:6-8.40. Whenever appropriate, the Board shall ask the State agency for its cooperation in sharing the findings of an investigation;
 - m. Agency caseworkers or other representatives of a State or local child welfare agency who have the right to access a student's case plan when the agency or organization is legally responsible, in accordance with State law, for the care and protection of the student, consistent with 20 U.S.C. §1232g(b)(1)(L);

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- n. Organizations, agencies, and persons from outside the school if they have the written consent of the parent or adult student. Organizations, agencies, and persons shall not transfer student record information to a third party without the written consent of the parent or adult student;
 - o. Organizations, agencies, and individuals outside the school, other than those specified in N.J.A.C. 6A:32-7.5, upon the presentation of a court order; and
 - p. Bona fide researchers who explain to the Superintendent the nature of the research project and the relevance of the records sought. Prior to the release of records to a researcher, the Superintendent or designee, shall receive from the researcher written assurance that the records will be used under strict conditions of anonymity and confidentiality.
6. Nothing in N.J.A.C. 6A:32-7, Policy 8330, and this Regulation shall be construed to prohibit school personnel from disclosing information contained in the student health record to students or adults in connection with an emergency, if such knowledge is necessary to protect the immediate health or safety of the student or other persons.
7. In complying with N.J.A.C. 6A:32-7, Policy 8330, and this Regulation, the Board shall adhere to the requirements pursuant to the Open Public Records Act (OPRA), N.J.S.A. 47:1A-1 et seq., and FERPA, 20 U.S.C. §1232g; 34 CFR Part 99.
- a. When responding to OPRA requests from any party, including parties other than those listed in N.J.A.C. 6A:32-7.5(e) and F.5. above, the Board may release, without consent, records removed of all personally identifiable information, as such documents do not meet the definition of a student record. Before making any release, the Board shall have made a reasonable decision that a student's identity cannot be determined whether through single or multiple releases, or when added to other reasonably available information.
- G. Conditions for Access to Student Records (N.J.A.C. 6A:32-7.6)
- 1. All authorized organizations, agencies, and persons defined in N.J.A.C. 6A:32-7 as listed below shall have access to a student record, subject to the following conditions:

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- a. No student record shall be altered or disposed of during the time period between a request to review the record and the actual review of the record.
- b. Authorized organizations, agencies, and persons from outside the school whose access requires the consent of parents or adult students shall submit to the Superintendent or designee, the request in writing, together with any required authorization.
- c. The Superintendent or designee shall be present during the period of inspection to provide interpretation of the records, where necessary, and to prevent their alteration, damage, or loss. In every instance of inspection of student records by persons other than parents, student(s), or individuals who have assigned educational responsibility for the individual student, an entry shall be made in the student record of the name(s) of persons granted access, the reason access was granted, the time and circumstances of inspection, the records inspected, and the purposes for which the data will be used.
- d. Prior to disclosure of student records to organizations, agencies, or persons outside the district pursuant to a court order, the Superintendent or designee shall give the parent or adult student at least three days' notice of the name of the requesting agency and the specific records requested unless otherwise judicially instructed. The notification shall be provided in writing, if practicable. Only records related to the specific purpose of the court order shall be disclosed.
 - (1) Notice to the parent shall not be required when the parent is party to a court proceeding involving child abuse and neglect or dependency matters, consistent with 20 U.S.C. §1232g(b)(2)(B).
- e. A record may be withheld from a parent or from an adult student only when the district obtains a court order or is provided with evidence that there is a court order revoking the right to access. Only that portion of the record designated by the court shall be withheld. When the district has or obtains evidence of such court order, the parent or adult student shall be notified in writing within five days of the request that access to the record has been denied and that the person has the right to appeal this decision to the court issuing the order.

H. Rights of Appeal for Parents and Adult Students (N.J.A.C. 6A:32-7.7)

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1. Student records are subject to challenge by parents and adult students on grounds of inaccuracy, irrelevancy, impermissible disclosure, inclusion of improper information, or denial of access to organizations, agencies, and persons. The parent or adult student may request:
 - a. Expungement of inaccurate, irrelevant, or otherwise improper information from the student record;
 - b. Insertion of additional data, as well as reasonable comments regarding the meaning and/or accuracy of the student record;
 - c. The immediate stay of disclosure pending final determination of the challenged procedure as described in N.J.A.C. 6A:32-7; and/or
 - d. Immediate access to student records for organizations, agencies, and persons denied access, pending final determination of the challenged procedure, as described in N.J.A.C. 6A:32-7.
2. To request a change in the student record or to request a stay of disclosure pending final determination of the challenged procedure, a parent or adult student shall notify, in writing, the Superintendent of the specific issues relating to the student record.
 - a. Within ten school days of notification, the Superintendent or designee shall notify the parent or adult student of the district's decision. If the district disagrees with the request, the Superintendent or designee shall meet with the parent or adult student to resolve the issues set forth in the request.
 - b. If the matter is not satisfactorily resolved, the parent or adult student has ten school days to appeal the district's decision.
 - c. If an appeal is made to the Board, the Board shall render a decision within twenty school days.
 - d. The decision of the Board may be appealed to the Commissioner pursuant to N.J.S.A. 18A:6-9 and N.J.A.C. 6A:3, Controversies and Disputes. At all stages of the appeal process, the parent or adult student shall be afforded a full and fair opportunity to present evidence relevant to the issue.

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- e. A record of the appeal proceedings and outcome shall be made a part of the student record with copies made available to the parent or adult student.
 - 3. Appeals relating to student records of students with disabilities shall be processed in accordance with the requirements of N.J.A.C. 6A:32-7.7(b) and I.2. above.
 - 4. Regardless of the outcome of an appeal, a parent or adult student shall be permitted to place in the student record a statement commenting upon the information in the student record or setting forth any reasons for contesting a portion of the student record, including the decision made in the appeal. The parent's or adult student's statement shall be maintained as part of the student record, as long as the contested portion of the student record is maintained. If the contested portion of the student record is disclosed to any party, the statement commenting upon the information shall also be disclosed to that party.
- I. Retention and Disposal of Student Records (N.J.A.C. 6A:32-7.8)
- 1. A student record is considered to be incomplete and not subject to the provisions of the Destruction of Public Records Law, N.J.S.A. 47:3-15 et seq., while the student is enrolled in the district.
 - a. The Board shall retain the student health record and the health history and immunization record according to the School District Records Retention Schedule, as determined by the New Jersey State Records Committee.
 - 2. Student records of currently enrolled students, other than the records described at N.J.A.C. 6A:32-7.8(f) and I.5. below, may be disposed of after the information is no longer necessary to provide educational services to a student. The disposition shall be carried out only after the parent or adult student has been notified in writing and written permission has been granted, or after reasonable attempts to notify the parent or adult student and to secure permission have been unsuccessful.
 - 3. Upon graduation or permanent departure of a student from the district:
 - a. The parent or adult student shall be notified in writing that a copy of the entire student record will be provided to them upon request.

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- b. Information in student records, other than that described at N.J.A.C. 6A:32-7.8(f) and I.5. below, may be disposed of, but only in accordance with the Destruction of Public Records Law, N.J.S.A. 47:3-15 et seq. The disposition shall be carried out only after the parent or adult student has been notified in writing and written permission has been granted, or after reasonable attempts to notify the parent or adult student and to secure permission have been unsuccessful and prior written authorization has been obtained from the New Jersey State Records Committee in the New Jersey Department of the Treasury.
- 4. No additions shall be made to the record after graduation or permanent departure without the prior written consent of the parent or adult student.
- 5. The district of last enrollment, graduation, or permanent departure of the student from the district shall keep, for one hundred years, a mandated record of a student's name, date of birth, name of parents, gender, health history and immunization, standardized assessment results, grades, attendance, classes attended, grade level completed, year completed, and years of attendance.

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