

Confidentiality of Student Records

603.CMR 23.00
MGI c. 71 Section 34H
Family Educational Rights and Privacy Act (FERPA)



Student Records

- Greater Lowell Technical High School follows all applicable state and federal laws concerning the confidentiality of and access to student records.
- 603 CMR 23.00 contains the Massachusetts regulations with respect to student records.
- MGL c. 71, Section 34H contains the Massachusetts regulations for Noncustodial parents receipt of student information and notice to the custodial parent.
- FERPA is a Federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education.

603 CMR 23.00 and MGL c. 71 Section 34H: Student records

Student Record Log

- A log shall be kept as part of each student's record. If parts of the student record are separately located, a separate log shall be kept with each part. The log shall indicate all persons who have obtained access to the student record, stating:
 - the name, position and signature of the person releasing the information; the name, position and,
 - if a third party, the affiliation if any, of the person who is to receive the information; the date of access; the parts of the record to which access was obtained; and the purpose of such access.

- Unless student record information is to be deleted or released, this log requirement shall not apply to:
 - (a) authorized school personnel who inspect the student record;
 - (b) administrative office staff and clerical personnel who add information to or obtain access to the student record; and
 - (c) school nurses who inspect the student health record.

Access of Eligible Students and Parents

- The eligible student or the parent shall have access to the student record. Access shall be provided as soon as practicable and within ten days after the initial request, except in the case of non-custodial parents.
- Upon request for access, the entire student record regardless of the physical location of its parts shall be made available.
 - a. Upon request, copies of any information contained in the student record shall be furnished to the eligible student or the parent. A reasonable fee, not to exceed the cost of reproduction, may be charged. However, a fee may not be charged if to do so would effectively prevent the parents or eligible student from exercising their right, under federal law, to inspect and review the records.
 - Any student, regardless of age, shall have the right to receive a copy of his/her transcript.
 - b. The eligible student or the parent shall have the right upon request to meet with professionally qualified school personnel and to have any of the contents of the student record interpreted.
 - c. The eligible student or the parent may have the student record inspected or interpreted by a third party of their choice. Such third party shall present specific written consent of the eligible student or parent, prior to gaining access to the student record

Access of Authorized School Personnel

Authorized school personnel shall have access to the student records of students to whom they are providing services when such access is required in the performance of their duties.

The consent of the eligible student or parent shall not be necessary.

Access of Third Parties

No third party shall have access to information in or from a student record without the specific, informed written consent of the eligible student or the parent. The eligible student or parent has the right to designate which parts of the student record shall be released to the third party. A copy of such consent shall be retained by the eligible student or parent and a duplicate placed in the temporary record.

Except for information described below, personally identifiable information from a student record shall only be released to a third party on the condition that he/she will not permit any other third party to have access to such information without the written consent of the eligible student or parent.

- A school may release the following directory information:
 - a student's name,
 - address,
 - telephone listing,
 - date and place of birth,
 - major field of study,
 - dates of attendance,
 - weight and height of members of athletic teams,
 - class,
 - participation in officially recognized activities and sports,
 - degrees, honors and awards, and
 - post-high school planswithout the consent of the eligible student or parent; **provided that** the school gives public notice of the types of information it may release and allows eligible students and parents a reasonable time after such notice to request that this information not be released without the prior consent of the eligible student or parent.

- Upon receipt of a court order or lawfully issued subpoena the school shall comply, provided that the school makes a reasonable effort to notify the parent or eligible student of the order or subpoena in advance of compliance.

- A school may release information regarding a student upon receipt of a request from the Department of Children and Families, a probation officer, a justice of any court, or the Department of Youth Services.

Continued:

- Federal, state and local education officials, and their authorized agents shall have access to student records as necessary in connection with the audit, evaluation or enforcement of federal and state education laws, or programs; provided that except when collection of personally identifiable data is specifically authorized by law, any data collected by such officials shall be protected so that parties other than such officials and their authorized agents cannot personally identify such students and their parents; and such personally identifiable data shall be destroyed when no longer needed for the audit, evaluation or enforcement of federal and state education laws. A school may disclose information regarding a student to appropriate parties in connection with a health or safety emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals. This includes, but is not limited to, disclosures to the local police department and the Department of Children and Families.
- Upon notification by law enforcement authorities that a student, or former student, has been reported missing, a mark shall be placed in the student record of such student. The school shall report any request concerning the records of such child to the appropriate law enforcement authority.
- Authorized school personnel of the school to which a student seeks or intends to transfer may have access to such student's record without the consent of the eligible student or parent, provided that the school the student is leaving, or has left, gives notice that it forwards student records to schools in which the student seeks or intends to enroll. Such notice may be included in the routine information letter required under 603 CMR 23.10.
- School health personnel and local and state health department personnel shall have access to student health records, including but not limited to immunization records, when such access is required in the performance of official duties, without the consent of the eligible student or parent.

Access Procedures for Non-Custodial Parents

A non-custodial parent is eligible to obtain access to the student record unless:

1. The parent has been denied legal custody or has been ordered to supervised visitation, based on a threat to the safety of the student and the threat is specifically noted in the order pertaining to custody or supervised visitation, or
2. The parent has been denied visitation, or
3. The parent's access to the student has been restricted by a temporary or permanent protective order, unless the protective order (or any subsequent order modifying the protective order) specifically allows access to the information contained in the student record, or
4. There is an order of a probate and family court judge which prohibits the distribution of student records to the parent.

Additional information regarding access procedures for non-custodial parents

- The school shall place in the student's record documents indicating that a non-custodial parent's access to the student's record is limited or restricted.
- In order to obtain access, the non-custodial parent must submit a written request for the student record to the school Assistant Superintendent/Principal.
- Upon receipt of the request the school must immediately notify the custodial parent by certified and first class mail, in English and the primary language of the custodial parent, that it will provide the non-custodial parent with access after 21 days, unless the custodial parent provides the Assistant Superintendent/Principal with documentation that the non-custodial parent is not eligible to obtain access.
- The school must delete all electronic and postal address and telephone number information relating to either work or home locations of the custodial parent from student records provided to non-custodial parents. In addition, such records must be marked to indicate that they shall not be used to enroll the student in another school.
- Upon receipt of a court order that prohibits the distribution of information pursuant the school shall notify the non-custodial parent that it shall cease to provide access to the student record to the non-custodial parent.

Amending Student Records

- The student and/or his or her parent/guardian shall have the right to add information, comments, data or any other relevant written material to the student record.
- The above persons have the right to request deletion or amendment of any information contained in the student record.
- They shall also have the right to a conference with the Assistant Superintendent/Principal to make objections known regarding material contained in the record. The Assistant Superintendent/Principal or his/her designee shall make a decision within one week after that conference or after receipt of an objection in writing.
- The Assistant Superintendent/Principal's decision must be in writing and must state the reasons for the decision. If the decision is in favor of the student/parent, then the Assistant Superintendent/Principal will promptly take the necessary steps to put the decision into effect.
- In the event any decision of the Assistant Superintendent/Principal is not satisfactory, the student and his or her parent/guardian may then appeal to the Superintendent in writing for a review of the objections.
- A further appeal is possible to the School Committee if the Superintendent's response is not satisfactory.

The Appeals Process

In the event that any decision of the Assistant Superintendent/Principal or his/her designee regarding any of the provisions contained in 603 CMR 23.00 is not satisfactory in whole or in part to the eligible student or parent, they shall have the right of appeal to the superintendent of schools.

Request for such appeal shall be in writing to the superintendent of schools.

- The Superintendent-Director or his/her designee shall within two weeks after being notified of such appeal (longer should the appellant request a delay) review the issues presented and render a written decision to the appellant, stating the reason or reasons for the decision. If the decision is in favor of the appellant, the superintendent of schools or his/her designee shall promptly take such steps as may be necessary to put the decision into effect.
- In the event that the decision for the appeal of the superintendent of schools or his/her designee is not satisfactory to the appellant in whole or in part, the appellant shall have the right of appeal to the school committee. Request for such appeal shall be in writing to the chairperson of the school committee.
- The school committee shall within four weeks after being notified of such appeal (longer should the appellant request a delay) conduct a fair hearing to decide the issues presented by the appellant.

Appeals continued:

- School officials shall have the burden of proof on issues presented by the appellant.
- The appellant shall have the right to be represented by an advocate of his/her choosing, to cross-examine witnesses, to present evidence, to make a tape or other recording of the proceedings, and to receive a written decision within two weeks after the hearing.
- If the appeal concerns statements by an employee of the school committee, such person(s) shall have the right to be present and to have an advocate of his/her own choosing.
- Nothing in 603 CMR 23.00 shall abridge or limit any right of an eligible student or parent to seek enforcement of 603 CMR 23.00 or the statutes regarding student records, in any court or administrative agency of competent jurisdiction.

FERPA(20 U.S.C. § 1232g; 34 CFR Part 99):

Rights Afforded to Students and Parents

- FERPA is a Federal law that protects the privacy of student education records.
- FERPA gives parents certain rights with respect to their children's education records.
- These rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level.

The rights afforded by FERPA to Students and Parents

- The right to inspect and review the students education records within 45 days of receipt by the school of request for access.
- The right to request the amendment of the students educational records that the parent or eligible student believes are inaccurate, misleading or otherwise in violation of the students privacy rights under FERPA.
- The right to provide written consent before the school discloses personally identifiable information from the students education records except to the extent that FERPA authorizes disclosure without consent.
- The right to file a complaint with the US Department of Education concerning alleged failures by the school to comply with the requirements of FERPA.

Any Questions?

Helpful Links:

[MA DESE Educational Laws and Regulations: 603 CMR 23.00](#)

[MGL c.71, Section 34H](#)

[FERPA](#)

Questions regarding
Student Records
can be made to the

Director of School Counseling
978-441-4955