STUDENT RECORDS
(This policy replaces previously approved Board of Education Policy #5125)

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/persons in parental relation 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 will be consistent with state and federal law, including the Family Educational Rights and Privacy Act of 1974 (FERPA) and its implementing regulations.

Student education records maintained in electronic, digital, audio, video, or other formats shall be afforded the same confidentiality and protections as paper records.

The District shall ensure that any technology, including artificial intelligence or automated systems used to process or analyze student educational records, complies with applicable federal and state student privacy laws and District policy.

The Board also recognizes its responsibility to ensure the orderly retention and disposition of the District's student records in accordance with Schedule LGS-1 as adopted by the Board in policy 1120.

The District will use reasonable methods to provide access to student educational records only to those who are 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 law. Furthermore, pursuant to Chapter 56 of the Laws of 2014, the district will execute agreements with third-party contractors who collect, process, store, organize, manage or analyze student personally identifiable information (PII) to ensure that the contractors comply 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

Authorized Representative: an authorized representative is any individual or entity designated by a State or local educational authority or a Federal agency headed by the Secretary, the Comptroller General or the Attorney General to carry out audits, evaluations, or enforcement or compliance activities relating to educational programs.

Educational 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 (e.g., memory joggers);
b) records of the district's law enforcement unit;
c) 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 their professional responsibilities.

Personally, identifiable information (PII): as it pertains to students, 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 a social security number, student identification number, parents name and/or address, a biometric record, etc. This term is fully defined in federal regulations at 34 CFR 99.3.

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 their tasks.

Third party contractor: is any person or entity, other than an educational agency (which includes schools, school districts, BOCES, or the State Education Department), that receives student or teacher/principal PII 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 for or on behalf of such educational agency, or audit or evaluation of publicly funded programs. This includes educational partnership organizations that receive student or teacher/principal PII from a school district to carry out responsibilities under Education law §211-e (for persistently lowest-achieving schools or schools under registration review) and is not an educational agency. This also includes not-for-profit corporations or other nonprofit organizations, other than an educational agency.

Volunteers: Volunteers may be considered school officials for the purposes of access to personally identifiable information if they are under the direct control of the district, are trained in the requirements of law under this policy, have a legitimate educational interest, and the district uses reasonable methods to limit access to only the information necessary to fulfill their volunteer duties. Volunteers may only access the information necessary for the assignment and must not disclose student information to anyone other than a school official with a legitimate educational interest. The Building Principal will provide adequate training on confidentiality of student records

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 (see 8635-E). The

notice and 'Bill of Rights' will also be provided to parents, guardians, and 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 contract with the district and/or the New York State Education Department's Chief Privacy Officer for failure to comply with state law.

In addition, the annual notice and Parents Bill of Rights will inform parents/persons in parental relation and 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 or intends to enroll or is actually enrolled.
3. that personally identifiable information will be released to third party authorized representatives for the purposes of educational program audit, evaluation, enforcement or compliance purposes.
4. that the district, at its discretion, releases directory information (see definition below) without prior consent, unless the parent/guardian or eligible student has exercised their right to prohibit release of the information without prior written consent. Whenever written consent is required under this policy or applicable law, the District may accept an electronic signature or electronic consent that complies with applicable federal and state law. The district will not sell directory information.
5. 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 parent or secondary school student exercise their right to prohibit release of the information without prior written consent. Whenever written consent is required under this policy or applicable law, the District may accept an electronic signature or electronic consent that complies with applicable federal and state law of the procedure for exercising the right to inspect, review and request amendment of student records.
6. that the district will provide information as a supplement to the 'Parents Bill of Rights' about third parties with which the district contracts that use or have access to personally identifiable student data.

The district may also release student education records, or the personally identifiable information contained within, without consent, where permitted under federal law and regulation. For a complete list of exceptions to FERPA's prior consent requirements see accompanying regulation 5500-R, Section 5.

In the absence of the parent or secondary school 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 five (5) 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" include a student's: name, address, telephone number, photograph, grade level, dates of attendance, participation in school activities, and honors/awards.

Information about a homeless student's living situation will be treated as a student educational record and will not be deemed directory information. A parent/guardian or eligible student may elect, but cannot be compelled, to consent to release of a student's address information in the same way they would for other student education records. The district's McKinney-Vento liaison will take reasonable measures to provide homeless students with information on educational, employment, or other postsecondary opportunities and other beneficial activities. The district permits the parent/guardian to select the school's address as the student's address for purposes of directory information.

Social security numbers or other personally identifiable information will not be considered directory information.

Students who opt out of having directory information shared are still required to wear their student ID cards.

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 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-ref: 1120, School District Records
4321, Programs for Students with Disabilities Under IDEA and Part 89
5550, Student Privacy
8635 — Information Security Breach and Notification

Ref: Family Educational Rights and Privacy Act, 20 USC § 1232g;

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34 CFR Part 99
Every Student Succeeds Act (ESSA), Pub. L. 114-95 (2015)
20 USC § 7908
10 USC § 503
Education Law § 225
Public Officers Law § 87(2)(a)
Arts and Cultural Affairs Law, Article 57-A
(Local Government Records Law)
8 NYCRR Part 185 (Records Retention and Disposition Schedule LGS-1)

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