

## Policy Information

### Series 5000 - Students

#### Progress

#### Student Records - Confidentiality and Parental Access to Student Records

Policy # 5125.2

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 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 law. Furthermore, the District will execute agreements with third party contractors and consultants, who collect, process, store, organize, manage or analyze student personally identifiable information (PII) to ensure that the contractors/consultants comply with the law in using appropriate means to safeguard the data.

The Superintendent of Schools shall be responsible for ensuring that all requirements 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.

*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 (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 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.

*School official:* a person who has a legitimate educational 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/consultant:* 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 audits or evaluations 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/consultants. The notice and "Bill of Rights" may be published in other appropriate publications as well. This notice 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 students who enroll during the school year.

The notice will include a statement that the parent/guardian or eligible student has a right:

1. To inspect and review the student's education records;
2. To request that records be amended to ensure that they are not inaccurate, misleading, or otherwise in violation of the student's privacy rights;
3. To 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. To 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/consultant with the District and/or the New York State Education Department's Chief Privacy Officer for failure to comply with state law.

The annual notice and "Parents' Bill of Rights" will inform parents/guardians 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 to 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.
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 exercises their right to prohibit release of the information without prior written consent. The district will not sell directory information.
6. Of the procedure for exercising the right to inspect, review and request amendment of student records.
7. That the district will provide information as a supplement to the "Parents' Bill of Rights" with third parties with which the district contracts that use or have access to personally identifiable student data.

The district may release student education records, or the personally identifiable information contained within, without consent, where permitted by federal law and regulation.

The district shall effectively notify parents, guardians and students who have a primary or home language other than English.

In the absence of the parent or secondary school student exercising their right to opt out of the release of information to the military and/or institutions of higher learning, the district is required to, under federal law, release the information indicated in number five (5) above.

### Directory Information and Limited Directory Information

Directory information is information that generally would not be considered harmful if released from a student's record. Limited directory information means that the District may limit disclosure of its designated directory information to specific parties, for specific purposes, or both.

The Board designates the following as "directory information":

- Student's Name
- Participation in officially recognized school activities or sports
- Weight and height of members of athletic teams
- School of attendance
- Most recent/previous school attended
- Degrees and awards received
- Photographs or videotapes created in conjunction with school sponsored activities for use by the School District and media.

In addition to the above designated "directory information", the Board designates the following information as "limited directory information" and may be disclosed only to parent-teacher organizations, other organizations with an official relationship with the School District whose primary purpose is to benefit the School District and governmental agencies.

- Student's address
- Student's telephone listing

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, display or disclose their student ID cards.

Once the proper FERPA notification is given by the district in the Parent Handbook or other similar publication, a parent/guardian or student will have 14 days to notify the district of any objections they have to the "directory information"/"limited directory information" designations. If no objection is received, the district may release this information without prior approval of the parent/guardian or 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 the annual notice/directory information and information disclosed to military recruiters and institutions of higher education.

### **Policy References:**

Ref:

Family Educational Rights and Privacy Act, 20 USC 1232g; 34 CFR Part 99

No Child Left Behind Act, 20 USC §7908 (Military Recruiter Access)

10 USC §503 as amended by §544 of the National Defense Reauthorization Act for FY 2002

Education Law §§2-a; 2-b; 2-c; 2-d; 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

"Guidance for Reasonable Methods and Written Agreements,"

[http://www2.ed.gov/policy/gen/guid/fpc/pdf/reasonablemtd\\_agreement.pdf](http://www2.ed.gov/policy/gen/guid/fpc/pdf/reasonablemtd_agreement.pdf)

Parents' Bill of Rights for Data Privacy and Security

<http://www.p12.nysed.gov/docs/parents-bill-of-rights.pdf>

Family Policy Compliance Office website:

<http://www2.ed.gov/policy/gen/guid/fpc/index.html>

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5000 - Students

## **Student Records - Confidentiality and Parental Access to Student Records** Regulation Info 5125.2R

## **DEFINITIONS**

For the purposes of this Regulation, the School District has used the following definitions of terms:

**Student** - any person who attends or has attended the School District.

**Eligible Student** - a student or former student who has reached age 18 or is attending a post-secondary school.

**Parent** - either natural parent of a student, a guardian or an individual designated to act as a parent or guardian in the absence of the student's parent or guardian.

**Education Records** - any record (in handwriting, print, tapes, film or other medium) maintained by the School District or an agent of the School District which is directly related to a student, **except**:

1. A personal record kept by a school staff member if it is kept in the personal possession of the individual who made the record, and information contained in the record has never been revealed or made available to any other person except the maker's temporary substitute.
2. An employment record which is used only in relation to a student's employment by the School District and which is maintained in the normal course of business.
3. Alumni records which contain information about a student after he or she is no longer in attendance at the School District and the records do not relate to the person as a student.

In addition, an eligible student may be refused access to psychiatric or treatment records; however, an eligible student may designate a physician or other appropriate professional who the school must permit to inspect the records.

**FERPA** - Family Educational Rights and Privacy Act of 1974, as amended.

## **ANNUAL NOTIFICATION**

Parents and eligible students in attendance at the School District will be notified of their FERPA rights and the District's policy and procedures governing access to records, annually, by publication in their child's student handbook. In addition, the School District shall send home a bulletin listing these rights, which will be included with a packet of material provided parents or an eligible student when the student enrolls during the school year. This notice shall include:

1. The right of the student's parent or eligible student to inspect and review the student's education records within 45 days from the date of the District's receipt of the request;
2. The right to request the amendment of the student's education records that the parent or eligible student believes are inaccurate or misleading;
3. The right to receive notice of any decision by the School District not to amend a student's education records, as requested by the parent or eligible student, and the right to a hearing regarding the School District's denial of a request for an amendment;
4. The right to consent to disclosure of personally identifiable information contained in the student's education records, except to the extent that FERPA authorizes disclosure without consent (e.g., directory information, upon request to another school district in which a student seeks or intends to enroll);
5. The right to file a complaint with the U.S. Department of Education concerning alleged failures by the District to comply with the requirements of FERPA;
6. The right to obtain a copy of this policy and the locations where they may be obtained.

This notice shall be provided to non-English speaking parents in their native language.

**PROCEDURE TO INSPECT EDUCATION RECORDS**

Parents of students or eligible students may inspect and review the student's education records upon request. Such request shall be in writing, to the Superintendent of Schools or designee, identifying as precisely as possible, the record or records which s/he wishes to inspect. The student's records will be made available for review promptly, and in any event within 45 days of such written request. The parent or eligible student will be notified of the time and place where the records may be inspected. The School District may require that an official be present during such inspection. No documents may be removed from school premises.

When a record contains information about students other than a parent's child or the eligible student, the parent or eligible student may not inspect and review the portion of the record which pertains to other students.

**REFUSAL TO PROVIDE COPIES**

The School District will not provide a parent or eligible student with a copy of the student's education record unless failure to do so would effectively prevent the parent or eligible student the right to inspect and review the records.

If the record involves answers to a standardized test, the School District will not provide a parent or eligible student a copy of standardized test questions.

Copies of student education records shall be provided, upon a parent's request, when:

1. Records are transferred to another school;
2. Information is released to a third party designated by the parent or eligible student;
3. Failure to do so would effectively deny the right of inspection.

A parent or eligible student may permit any third person to inspect the student's educational records. Such consent must be in writing, signed and dated, and must specify:

1. Which records are to be disclosed;
2. The purpose or purposes of disclosure; and
3. The individual(s) or group(s) to whom disclosure should be made.

Any third party to whom such records have been made available shall sign a written statement that s/he will not further release such records without the consent of the parent or eligible student.

**FEES FOR COPIES OF RECORDS**

The fee for copies will be 25 cents per page (or actual cost of reproduction), and postage, if any.

**DISCLOSURE OF EDUCATION RECORDS**

The School District shall disclose information from a student's education records only with the written consent of the parent or eligible student, except:

1. To school personnel (including administrators, teachers, support staff, board members and persons employed by or under contract with the School District to perform a special task, such as school attorney, auditor, medical consultant, therapist) within the School District who have a legitimate educational interest in the records. A legitimate educational interest shall include performing a task which is specified in his or her job description or by contract, performing a task related to a student's 'education or the discipline of a student, or providing a service or benefit related to the student or student's family, such as health care, counseling or job placement.
2. To school officials of another school in which a student seeks or 'intends to enroll, upon request of such school official.

3. To certain o of the U.S. Department of Education, the U.S. Comptroller General, and the State and local educational authorities, in connection with certain state or federally supported education programs.
4. In connection with a student's request for or receipt of financial aid, as necessary, to determine the eligibility, amount or conditions of the financial aid, or to enforce and terms and conditions of aid.
5. If required by a State law requiring disclosure that was adopted prior to November 19, 1974.
6. To organizations conducting certain studies for or on behalf of the School District for the purpose of developing, validating or administering predictive tests student aid programs and instruction.
7. To accrediting organizations to carry out their accrediting functions.
8. To parents of a dependent student who claim the student as a dependent for income tax purposes.
9. To comply with a judicial order or a lawfully issued subpoena, provided that a reasonable effort is made to notify the parent or eligible student prior to compliance.
10. To appropriate parties in a health or safety emergency.

#### **RECORD OF REQUESTS FOR DISCLOSURE**

The School District shall maintain a record of all requests for and/or disclosure of information from a student's education records, excluding requests of school officials and requests for directory information. The record will indicate the name of the party making the request, any additional parties to whom it may be disclosed, and the legitimate interest the party had in requesting or obtaining the information. The record may be reviewed by the parent or eligible student.

#### **CORRECTION OF EDUCATION RECORDS**

A parent or eligible student has the right to challenge the contents of the student's education records and to ask to have the records corrected:

1. The parent or eligible student shall submit a request to the Superintendent of Schools, in writing, to amend the record. The record or part of record sought to be amended shall be identified and the reason why s/he believes the record is inaccurate, misleading or violates the privacy or other rights of the student, shall be specified.
2. The School District may comply with the request or decided not to comply. The Superintendent shall provide a written response within ten (10) working days of receipt of the written challenge, indicating whether or not the challenged material will be corrected or deleted. If the request is denied, the Superintendent shall advise the parent or eligible student of their right to a hearing to challenge the decision.
3. Upon request, the School District will, arrange for a hearing before an impartial hearing officer and notil the parent or eligible student, reasonably in advance, of the date, place and time of the hearing. The hearing officer may be an official of the School District.
4. The parent or eligible student will be afforded a full and fair opportunity to present evidence relevant to the issues raised in the original request to amend the student's education records. The parent or eligible student may be assisted by one or more individuals, including an attorney.
5. The hearing officer will prepare a written decision based solely on the evidence presented at the hearing, summarizing the evidence presented and stating the reasons for the decision.

6. If the hearing officer decides that the challenged information is inaccurate, misleading or in violation of the student's right of privacy, the School District will amend the record and notify the parent or eligible student, in writing, that the record has been amended.

7. If the hearing officer decides that the challenged information is not inaccurate, misleading or in violation of the student's right of privacy, the School District will notify the parent or eligible student of his/her right to place a statement in the student's education record explaining the challenged information and/or setting forth reasons for disagreeing with the decision. This statement shall be maintained as part of the student's education records as long as the contested portion is maintained. If the School District discloses the contested portion of the records, it will also disclose the statement.

### **COMPLAINT PROCEDURE**

A person may file a complaint with the U.S. Department of Education if s/he feels that the School District has violated FERPA, by sending a written complaint to:

Family Policy Compliance Office  
U.S. Department of Education  
600 Independence Avenue, S.W.  
Washington, D.C. 20202-4605

### **TYPES, LOCATIONS AND CUSTODIANS OF EDUCATION RECORDS**

The following is a list of the types of records that the School District maintains, their locations and their custodians:

[NOTE: THESE ARE ILLUSTRATIVE ONLY AND WOULD BE FILLED IN BY YOU.].

<b>TYPE</b>	<b>LOCATION</b>	<b>CONTACT PERSON</b>
Cumulative School Record	School Building Office	Building Principal
Cumulative School Records (Former Students)	Office of Director of Pupil Personnel Services	Director of Pupil Personnel Services
Health Reports	School Nurse's Office	School Nurse
Speech Therapy Records	Special Education Office	Director of Pupil Personnel Services
Psychological Records	Special Education Office	Director of Pupil Personnel Services
Transportation Records	School Bus Garage	Director of Transportation
Occupational and Physical Therapy Records	Special Education Office	Director of Pupil Personnel Services
District Standardized Testing	School Building Office	Building Principal
Educational Evaluations	Special Education Office	Director of Pupil Personnel Services
Guidance Files Counselor	Building Guidance Office	Building Principal or

Occasional Records  
(student educational  
records not identified above)

School Building Office

Building Principal

### **DIRECTORY INFORMATION**

The School District designates the following items as Directory Information: student's name, major field of study, participation in recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received. The School District may disclose any of these items without prior written consent, unless notified to the contrary, in writing, by the parent or eligible student by end of the first 30 days of the school year.

The School District's policy regarding release of Directory Information shall apply equally to military recruiters, the media, colleges and universities, and prospective employers.

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