

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 will 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 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 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 Education Law §2-d (“§2-d”) and its implementing regulations 8 NYCRR Part 121 (“Part 121”), 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.

Additionally, pursuant to §2-d and Part 121 the district will only use or disclose student personally identifiable information (including directory information described below) if it benefits students and the district (e.g., improves academic achievement, empowers parents and students with information, and/or advances efficient and effective school operations), except for disclosure required by federal law of the names, addresses and telephone numbers of secondary students to the military and institutions of higher education.

The Superintendent of Schools is 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.

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 their professional responsibilities.

Personally identifiable information (PII): as it pertains to students, is information that, alone or in combination, 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 includes, but is not limited to, a student's: name, address, date and place of birth, mother's maiden name, family member's name and address, social security number, student identification number, a biometric record, etc. This term is fully defined in federal regulations at 34 CFR section 99.3. The State Chief Privacy Officer has determined that student and parent phone numbers are considered PII.

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.

Annual Notification

At the beginning of each school year, the district will publish a notification that informs parents, guardians and students currently in attendance of their rights under FERPA and New York 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 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.

The annual notice 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. 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 exercises their right to prohibit release of the information without prior written consent.
6. of the procedure for exercising the right to inspect, review and request amendment of student records.

Additionally, the district will include in the annual FERPA notification either its process, or where the process is located, for the parents/guardians and eligible students to file complaints about breaches or unauthorized releases of student data required by §2-d and Part 121.

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

The district will 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 or institutions of higher education, 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 (except information about a homeless student’s living situation, as described below)
- Date and place of birth
- Participation in school activities or sports
- Dates of attendance

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.

Social security numbers will not be considered directory information.

Students who opt out of having directory information shared are still required to [*specify as appropriate*: wear, display or disclose] their student ID cards.

The district will notify parents/guardians and eligible students of the types of information designated as directory information, that they have the right to object to (or “opt out” of) any or all of the district’s designations for that student, and that they may notify the district at any time during the year that they opt out of a directory information designation. Unless and until an objection is received, the district may release this information without prior approval of the parent/guardian or student for the release, as long as such release is permitted by §2-d and Part 121. 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.

When considering the release of student information, including directory information, the district is required by Law §2-d and Part 121 to further protect student PII. The district will not sell PII, use or disclose PII for marketing or commercial purposes, or facilitate use or disclosure by another party for marketing or commercial purposes or permit another party to do so. Any use or release of PII must conform to the requirements of §2-3 and Part 121. The district will also

publish a Parents Bill of Rights for Data Privacy on its website that includes the elements required by law, and supplemental information for third-party contractors receiving PII. See policy 8635 and regulation 8635-R for more information.

Cross-ref:

1120, School District Records
4321, Programs for Students with Disabilities Under IDEA and Part 89
4532, School Volunteers
5550, Student Privacy Under the Protection of Pupil Rights Amendment (PPRA)
5151, Homeless Children
8635, Information and Data Privacy, Security, Breach and Notification

Ref:

Family Educational Rights and Privacy Act, as amended, 20 USC 1232g; 34 CFR Part 99
Elementary and Secondary Education Act, as amended, 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 Part 121 (Data Privacy)
8 NYCRR §185.15 (Appendix L), Records Retention and Disposition Schedule LGS-1 for New York Local Government Records
“Guidance for Reasonable Methods and Written Agreements,”
http://www2.ed.gov/policy/gen/guid/fpc/pdf/reasonablemt_agreement.pdf
Parents’ Bill of Rights for Data Privacy and Security, July 29, 2014:
<http://www.p12.nysed.gov/docs/parents-bill-of-rights.pdf>
Family Policy Compliance Office/Student Privacy Policy Office website:
<http://www2.ed.gov/policy/gen/guid/fpc/index.html>

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