

## STUDENT RECORDS

The Board of Trustees recognizes the legal requirement 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 statutes, including the Family Educational Rights and Privacy Act of 1974 (FERPA) and its implementing regulation

The Board also recognizes its responsibility to ensure the orderly retention and disposition of the district's student records in accordance with Schedule ED-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 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 of 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;
- (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 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 Trustees; 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.

The district prohibits volunteers from accessing student information. The district expects that if volunteers discover any information about students in the course of their volunteer duties, they will not re-disclose such information to anyone other than a school official with a legitimate educational interest.

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*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 teacher/superintendent PII 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 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/superintendent 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 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). This notice and 'Bill of Rights' 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 eligible students who enroll during the school year.

The and Parents' Bill of Rights must 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 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 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 Parents' Bill of Rights will inform parents/guardians and students:

5. 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. For purposes of this policy, a school official is a person 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 an attorney, auditor, medical consultant, or therapist); or a parent or student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official performing their tasks. A school official has a legitimate educational interest if the official needs to review a student record in order to fulfill her or her professional responsibilities.
6. 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.
7. of the procedure for exercising the right to inspect, review and request amendment of student records.

8. 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.
9. 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.
10. Of the procedure for exercising the right to inspect, review and request amendment of student records.
11. 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.

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, the district is required to, under federal law, release the information indicated in number 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
- ID number, user ID, or other unique personal identifier used by a student for purpose of accessing or communicating in electronic systems (only if the ID cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the student's identity),
- Address (except information about a homeless student's living situation, as described below)
- Telephone number
- Date and place of birth
- Major course of study
- Participation in school activities or sports
- Weight and height if a member of an athletic team
- Dates of attendance
- Degrees and awards received

- Most recent school attended
- Grade level
- Photograph
- E-mail address
- Enrollment status

Under federal and state law and regulation regarding homeless students, “information about a homeless student’s living situation” must be treated as an education record and not directory information. Such information would include a student’s address, but could also include other information that would disclose a student’s eligibility for services under McKinney-Vento. However, parents/guardians (and eligible students) could still consent to disclosure in the same way as for other education records under FERPA, but could not be compelled to do so. If further guidance or clarification is received, this policy may be amended.

In the meantime, districts should take reasonable steps to provide homeless students with beneficial information they otherwise would have received via directory information. The underlined text below, utilizing the McKinney-Vento liaison is one method. This would be consistent with the liaison’s responsibilities to provide information about educational and related services to homeless students. The district could also allow the parent/guardian to select the school address as the student’s address for purposes of directory information, and act as a pass-through.

Information about 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 or other personally identifiable information will not be considered directory information.

Students who opt out of having directory information shared are still required to disclose 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  
4532, School Volunteers  
5550, Student Privacy  
5151, Homeless Children  
8635, Information and Data Security, Breach and Notification

Ref: Family Educational Rights and Privacy Act, as amended, 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 Part 121 (Data Privacy)  
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/fpco/pdf/reasonablemtd\\_agreement.pdf](http://www2.ed.gov/policy/gen/guid/fpco/pdf/reasonablemtd_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/fpco/index.html>

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## STUDENT RECORDS REGULATION

It is recognized that the confidentiality of student records must be maintained. The following necessary procedures have been adopted to guarantee the protection of student records.

Section 1. Pursuant to the Family Educational Rights and Privacy Act (FERPA) it is the policy of this school district to permit parents/guardians and eligible students to inspect and review any and all official records, files and data directly related to their children (themselves), including all materials that are incorporated into each student's cumulative record folder. For the purpose of this regulation, eligible students are those students who are 18 or older or former students who are attending any school beyond the high school level. The rights created by FERPA transfer from the parents/guardians to the student once the student attains eligible student status.

Section 2. Parents/guardians or the eligible student will have an opportunity for a hearing to challenge the content of their child's school records, to ensure that the records are not inaccurate, misleading, or otherwise in violation of the privacy or other rights of students, and to provide an opportunity for the correction or deletion of any such inaccurate, misleading, or otherwise inappropriate data contained therein.

Section 3. A notice will be in the Student/Parent Handbook informing them of their rights pursuant to FERPA and state law, and will include a Parents' Bill of Rights. See Exhibit 5500-E.1 and 8635-E. The district will provide translations of this notice, where necessary, to parents/guardians and eligible students in their native language or dominant mode of communication. (See Policy 5500 for further information on the notice requirements.)

Section 4. To implement the rights provided for in Sections 1 and 2 the following procedures are adopted:

(a) A parent/guardian or an eligible student who wishes to inspect and review student records must make a request for access to a child's school records, in writing, to the superintendent. Upon receipt of such request, once the district verifies the identity of the parent/guardian or eligible student, arrangements will be made to provide access to such records within 45 days after the request has been received. If the record to which access is sought contains information on more than one student, the parent/guardian or eligible student will be allowed to inspect and review only the specific information about the student on whose behalf access is sought.

1. Before providing access to student records, the district will verify the identity of the parent/guardian or eligible student.
2. The district may provide the requested records to the parent/guardian or eligible student electronically, as long as the parent/guardian or eligible student consents. The district will transmit PII electronically in a way that maintains its confidentiality, using safeguards such as encryption and password protection.

- (b) A parent/guardian or eligible student who wishes to challenge the contents of their child's school records, must submit a request, in writing, identifying the record or records which they believe to be inaccurate, misleading or otherwise in violation of the privacy or other rights of the student together with a statement with the reasons for their challenge to the record to the superintendent.
- (c) Upon receipt of a written challenge, the superintendent will provide a written response indicating either that they:
1. finds the challenged record inaccurate, misleading or otherwise in violation of the child's rights and it will be corrected or deleted,  
or
  2. finds no basis for correcting or deleting the record in question, but that the parent/guardian or eligible student will be given an opportunity for a hearing. Such written response by the superintendent will be provided the parent/guardian or student within 14 days after receipt of the written challenge. The response will also outline the procedures to be followed with respect to a hearing, if desired by the parent/guardian or student.
- (d) Within 14 days of receipt of the response from the superintendent a parent/guardian or eligible student may request, in writing, that a hearing be held to review the determination of the superintendent.
- (e) The hearing will be held within 10 days after the request for the hearing has been received. The hearing will be held by the superintendent of Schools, unless the superintendent has a direct interest in the outcome of the hearing, in which case the superintendent will designate another individual who does not have a direct interest in the outcome of the hearing to hold the hearing.
- (f) The parent/guardian or eligible student will be given a full and fair opportunity to present evidence at the hearing. The parent/guardian or eligible student may, at their own expense, be assisted or represented by one or more individuals of their own choice, including an attorney.
- (g) The hearing officer will make a decision within 14 days after the hearing.
- (h) After the hearing, if the superintendent or the individual designated by the superintendent decides not to amend the record, the district will inform the parent/guardian or eligible student that they have the right to place a statement in the record commenting on the contested information or stating why they disagree with the decision of the district. Any statement placed in the record will be maintained with the contested part of the student record for as long as the record is maintained. Further, the statement will be disclosed by the district whenever it discloses the portion of the record to which the statement relates.

Section 5. Except to the extent that FERPA authorizes disclosure of student

records without consent, student records, and any material contained herein which is personally identifiable, are confidential and will not be released or made available to persons other than parents/guardians or eligible students without the written consent of parents/guardians or eligible student.

Exceptions to FERPA's prior consent requirement include, but are not limited to disclosure:

- (a) To other school officials within the district who have been determined to have legitimate educational interests.
- (b) To officials of another school, school system or postsecondary institution where the student seeks or intends to enroll.
- (c) To authorized representatives of the Comptroller General of the United States, the U.S. Secretary of Education, or state and local education authorities in connection with an audit or evaluation of a federal- or state-supported education program or in compliance with legal requirements related to those programs.
- (d) In connection with a student's application for or receipt of financial aid.
- (e) To state and local officials or authorities in compliance with state law that concerns the juvenile justice system and the system's ability to effectively serve, prior to adjudication, the student whose records are being released.
- (f) To organizations conducting studies for, or on behalf of, education agencies or institutions, in order to develop tests, administer student aid, or improve instruction.
- (g) To accrediting organizations to carry out their accrediting functions.
- (h) To parents of a dependent student, as defined by the Internal Revenue Code.
- (i) To comply with a judicial order or lawfully issued subpoena. Prior to complying with a judicial order or subpoena, the district will make a reasonable effort to notify the parent/guardian or eligible student, unless the district has been ordered not to disclose the existence or content of the order or subpoena.
- (j) In connection with a health or safety emergency.
- (k) To teachers and school officials in other schools who have legitimate educational interests in the behavior or the student when the information concerns disciplinary action taken against the student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community.
- (l) To provide information that the district has designated as directory information.

- (m) To provide information from the school's law enforcement unit records.
- (n) To a court, when the district is involved in legal action against a parent or student, those records necessary to proceed with the legal action.
- (o) To the U.S. Secretary of Agriculture, its authorized representatives from the Food and Nutrition Service, or contractors acting on its behalf, to monitor, evaluate and measure performance of federally-subsidized school food programs, subject to certain privacy protections.
- (p) To any caseworker or representative of a state or local child welfare agency or tribal organization who has the right to access a student's case plan, where the agency or organization is legally responsible for the care and protection of that student, not to be disclosed except as permitted by law.

The district will use reasonable methods to provide access to student educational records to only those authorized under the law and to authenticate the identity of the requestor. The district will use an array of methods to protect records, including physical controls (such as locked cabinets), technological controls (***include those that are applicable:*** such as role-based access controls for electronic records, password protection, firewalls, encryption), and administrative procedures. The district will document requests for and release of records, and retain the documentation in accordance with law.

If the district enters into a contract with a third party that calls for receipt of student PII by the contractor, the agreement will include a data security and privacy plan that includes a signed copy of the Parents' Bill of Rights and addresses the following, among other contractual elements:

1. training of vendor employees regarding confidentiality requirements;
2. limiting access to PII to those individuals who have a legitimate educational interest or need access to provide the contracted services;
3. prohibiting the use of PII for any other purpose than those authorized under the contract;
4. prohibiting the disclosure of PII without the prior written consent of the parent/guardian or eligible student, unless it is to a subcontractor in carrying out the contract, or unless required by statute or court order, in which case they must provide notification to the district (unless notice is prohibited by the statute or court order);
5. maintaining reasonable administrative, technical and physical safeguards to protect PII;
6. using encryption technology to protect PII (personal identification information) while in motion or in its custody to prevent unauthorized disclosure;
7. breach and notification procedures.

The district will, via written agreements, designate authorized representatives who have access to educational records. The written agreement will specify how

the work falls within the exception, what personally identifiable information is to be disclosed, how the educational record will be used, and that the records will be destroyed by the authorized representative once they are no longer needed for that purpose or the agreement expires.

Section 6. Whenever a student record or any material contained therein is to be made available to third persons, other than those covered by the exceptions authorized by FERPA, the parent/guardian or eligible student must file a written consent to such action. The written consent must specify the records to be released, the reasons for such release, and to whom. If the parent or eligible student so requests, the district will provide them with a copy of the records disclosed. In addition, if the parent of a student who is not an eligible student so requests, the district will provide the student with a copy of the records disclosed.

Section 7. Unless specifically exempted by FERPA, all persons requesting access to such records will be required to sign a written form which indicates the legitimate educational interest that such person has in inspecting the records. Such form shall be kept with the student's file and will be maintained with the student's file as long as the file is maintained.

Additional Rights Under New York State Law Related to the Protection of Student Data and Third-Party Contractors

New York State Law offers parents additional rights beyond FERPA in regard to third party contractors and student PII. The district will post on its website and distribute a 'Parents' Bill of Rights for Data Privacy and Security.' The 'Parents' Bill of Rights' will establish the following:

- A. Educational purpose: The use of student personally identifiable information (PII) is for educational or related purposes only.
- B. Transparency: Disclosure of third-party contracts and their privacy provisions.
- C. Authorization: Assurance that proper authorization will be secured prior to the release of PII.
- D. Security: A description of the measures in place to protect PII, without compromising the security plan.
- E. Data Breach Notification: An explanation of the procedures in the event of a data breach.
- F. Complaint Procedure: The district offers a complaint procedure in the event that a parent suspects a breach of student data by a third-party contractor and provides information about lodging a complaint with the New York State Education Department's Chief Privacy Officer.

See policy 8635 (and regulation 8635-R), Information and Data Privacy, Security, Breach and Notification for more information on data security and breaches of PII, and 8635-E for the Parent's Bill of Rights for Data Privacy and Security.

*Retention and Disposition of Student Records*

The Board has adopted the Records Retention and Disposition Schedule ED-1 issued pursuant to Article 57-A of the Arts and Cultural Affairs Law, which contains the legal minimum retention periods for district records. The Board directs all district officials to adhere to the schedule and all other relevant laws in retaining and disposing of student records. In accordance with Article 57-A, the district will dispose of only those records described in the schedule after they have met the minimum retention periods set forth in the schedule. The district will dispose of only those records that do not have sufficient administrative, fiscal, legal or historical value to merit retention beyond the established legal minimum periods.

Adoption: December 10, 1998  
Reviewed: June 9, 2014  
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**NOTIFICATION OF RIGHTS UNDER THE FAMILY  
EDUCATIONAL RIGHTS AND PRIVACY ACT**

Dear Parent or Eligible Student:

This is to advise you of your rights with respect to student records pursuant to the Family Educational Rights and Privacy Act (FERPA). FERPA is a federal law designed to protect the privacy of student records. The law gives parents the following rights:

1. The right to inspect and review the student's education records within 45 days of the day the district receives a request for access.

Parents or eligible students should submit to the superintendent of Schools a written request that identifies the records they wish to inspect. The superintendent will make arrangements for access and notify the parent or eligible student of the time and place where the records may be inspected.

2. The right to request the amendment of the student's education records that the parent or eligible student believes are inaccurate or misleading.

Parents or eligible students may ask the district to amend a record that they believe is inaccurate or misleading by writing the superintendent, clearly identifying the part of the record they want changed, and specifying why it is inaccurate or misleading.

If the district decides not to amend the record as requested by the parent or eligible student, the district will notify the parent or eligible student of the decision and advise them of their right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the parent or eligible student when notified of the right to a hearing.

3. The right to consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that FERPA authorizes disclosure without consent.

One exception which permits disclosure without consent is disclosure to school officials with legitimate educational interests. A school official is a person employed by the district as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel); a person serving on the school board; a person or company with whom the district has contracted to perform a special task (such as an attorney, auditor, medical consultant, or therapist); or a parent or student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks.

A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.

Upon request, the district discloses education records without consent to officials of another school district in which a student seeks or intends to enroll.

4. 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. The Office that administers FERPA is:

U.S. Department of Education  
Student Privacy Policy Office  
400 Maryland Ave, SW  
Washington, DC 20202-8520

## NOTIFICATION OF DIRECTORY INFORMATION DESIGNATIONS

In addition to the rights above, FERPA also gives the school district the option of designating certain categories of student information as directory information. Directory information includes a student's name, address, telephone number, date and place of birth, major course of study, participation in school activities or sports, weight and height if a member of an athletic team, dates of attendance, degrees and awards received, most recent school attended, class schedule, photograph, e-mail address, and class roster.

You may object to the release of any or all of this directory information; however, you must do so in writing within 10 business days of receiving this notice. If we do not receive a written objection, we will be authorized to release this information without your consent. For your convenience, you may note your objections to the release of directory information on the enclosed form and return it to the superintendent.

Sincerely,

SUPERINTENDENT

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