

(X) Required
(X) Local
(X) Notice

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.

The District will 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 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 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, parent/guardian's 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/guardian 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

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).

Adoption date: 1/10/2022

STUDENT RECORDS REGULATION

It is recognized that the confidentiality of student records must be maintained. The terms used in this regulation are defined in the accompanying policy. The following necessary procedures have been adopted to protect the confidentiality of student records.

Section 1. Pursuant to the Family Educational Rights and Privacy Act (FERPA) and state law 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 that student, including all materials that are incorporated into each student's cumulative record folder.

The rights created by FERPA and state law transfer from the parents/guardians to the student once the student attains eligible student status. However, districts can disclose information to parents/guardians of eligible students under certain circumstances, including when the student is a dependent under the IRS tax code, when the student has violated a law or the school's rules regarding alcohol or substance abuse (and the student is under 21); when the information is needed to protect the health or safety of the student or other individuals.

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

Section 3. A letter will be sent annually to parents/guardians of students currently in attendance and students currently in attendance informing them of their rights pursuant to FERPA and state law, and will include a Parents' Bill of Rights. See Exhibits 5500-E.1 and 8635-E. The district will effectively notify parents, guardians and students who have a primary or home language other than English.

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

1. A parent/guardian or an eligible student who wishes to inspect and review student records must make a request for access to the student's school records, in writing, to the Building Principal. 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 up to 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.
 - a) Before providing access to student records, the district will verify the identity of the parent/guardian or eligible student.
 - b) 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 Personally Identifiable Information (PII) electronically in a way that maintains its confidentiality, using safeguards such as encryption and password protection.
2. A parent/guardian or an eligible student who wishes to challenge the contents of the student's school records must submit a request, in writing, to the Building Principal 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 of the reasons for their challenge to the record.
3. Upon receipt of a written challenge, the Building Principal will provide a written response indicating either that they:
 - a) find the challenged record inaccurate, misleading or otherwise in violation of the student's rights and that the record will be corrected or deleted; or
 - b) 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. The written response by the Building Principal will be provided to the parent/guardian or eligible 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 regarding the request for amendment.

4. Within 14 days of receipt of the response from the Building Principal, a parent/guardian or eligible student may request, in writing, that a hearing be held to review the determination of the Building Principal.
5. 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.
6. 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.
7. The Superintendent or other individual designated by the Superintendent will make a decision in writing within 14 days after the hearing.
8. 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 therein 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 prior written consent of the parents/guardians or eligible student.

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

1. To other school officials within the district who have been determined to have legitimate educational interests.
2. To officials of another school, school system or post-secondary institution where the student seeks or intends to enroll.
3. To authorized representatives of the Comptroller General of the United States, the U.S. Secretary of Education, the U.S. Attorney General, 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.
4. In connection with the student's application for or receipt of financial aid.
5. 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.
6. To organizations conducting studies for, or on behalf of, education agencies or institutions, in order to develop tests, administer student aid, or improve instruction.
7. To accrediting organizations to carry out their accrediting functions.
8. To parent/guardians of a dependent student, as defined by the Internal Revenue Code.
9. To comply with a judicial order or lawfully issued subpoena, including ex parte court orders under the USA Patriot Act. 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, or unless the parent/guardian is the subject of a court proceeding involving child dependency or child abuse and neglect matters, and the order is issued in context of that proceeding.
10. In connection with a health or safety emergency, the district will disclose information when, taking into account the totality of circumstances, a determination is made that there is an articulable and significant threat to the health or safety of the student or other individuals.
11. 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.

12. To provide information that the district has designated as “directory information.”
13. To provide information from the school’s law enforcement unit records.
14. To a court, when the district is involved in legal action against a parent /guardian or student, those records necessary to proceed with the legal action.
15. 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.
16. 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 redisclosed except as permitted by law.

The district will provide access to student educational records to only those authorized under the law. The district will use an array of methods to protect records. 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 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/guardian or eligible student so requests, the district will provide them with a copy of the records disclosed. In addition, if the parent/guardian 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 will be kept with the student's file and will be maintained with the student’s file as long as the file is maintained.

Adoption Date: 1/10/2022

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STUDENT PRIVACY

The Board recognizes its responsibility to enact policies that protect student privacy, in accordance with law. This is particularly relevant in the context of the administration of surveys that collect personal information, the disclosure of personal information for marketing purposes and in conducting physical exams.

Surveys

The Board of Education recognizes that student surveys are a valuable tool in determining student needs for educational services. In accordance with law and Board policy, parent/guardian consent is required for minors to take part in surveys which gather any of the following information:

1. political affiliations or beliefs of the student or the student's parent/guardian;
2. mental or psychological problems of the student or the student's family;
3. sex behavior or attitudes;
4. illegal, anti-social, self-incriminating or demeaning behavior;
5. critical appraisals of other individuals with whom respondents have close family relationships;
6. legally recognized privileged or analogous relationships, such as those of lawyers, physicians and ministers;
7. religious practices, affiliations or beliefs of the student or the student's parent/guardian; or
8. income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program).

In the event that the district plans to survey students to gather information included in the list above, the district will obtain written consent from the parent/guardian in advance of administering the survey. The notification/consent form will also apprise the parent/guardian of their right to inspect the survey prior to their child's participation.

Marketing

It is the policy of the Board not to collect, disclose, or use personal information gathered from students for the purpose of marketing or selling that information or providing it to others for that purpose. This does not apply to the collection, disclosure, or use of personal information collected from students for the exclusive purpose of developing, evaluating, or providing educational products or services for, or to students or educational institutions such as:

- a. College or other postsecondary education recruitment, or military recruitment;
- b. Book clubs, magazines and programs providing access to low-cost literary products;
- c. Curriculum and instructional materials used in schools;
- d. Tests and assessments used to provide cognitive, evaluative, diagnostic, clinical, aptitude, or achievement
- e. information for students or to generate other statistically useful data for the purpose of securing such tests and
- f. assessments, and the subsequent analysis and public release of the aggregate data from such tests and assessments;
- g. Student recognition programs; and
- h. The sale by students of products or services to raise funds for school-related activities.

In the event that such data is collected by the district, disclosure or use of student personal information will be protected by the district pursuant to the requirements of the Family Educational Rights and Privacy act (FERPA). [For guidance regarding the disclosure of "directory information," rather than personal information, see policy 5500, Student Records.]

Inspection of Instructional Material

Parents/guardians shall have the right to inspect, upon request, any instructional material, used as part of the educational curriculum for students. “Instructional material” is defined as: “instructional content that is provided to a student, regardless of format including printed or representational materials, audio-visual materials, and materials in electronic or digital formats (such as materials accessible through the internet). It does not include tests or academic assessments.”

A parent/guardian who wishes to inspect and review such instructional material shall submit a request in writing to the Principal. Upon receipt of such request, arrangements shall be made to provide access to such material.

Invasive Physical Examinations

Prior to the administration of any nonemergency, invasive physical examination or screening that is required as a condition of attendance, administered by the school not necessary to protect the immediate health or safety of the student or other students and not otherwise permitted or required by state law, a student’s parent/guardian will be notified and given an opportunity to opt their child out of the exam. Hearing, vision and scoliosis screenings are not subject to prior notification.

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