

POLICY

2015

7240
1 of 4

Students

SUBJECT: STUDENT RECORDS: ACCESS AND CHALLENGE

Student Records

The Board of Education, in compliance with the Family Educational Rights and Privacy Act ("FERPA") and the Protection of Pupil Rights Act, recognizes the right of any parent or legal guardian of any student who has not reached the age of eighteen (18), or any student (an "eligible student") who has reached the age of eighteen (18), to inspect and review such student's education records (which term shall include, without limitation, identifying data, academic work completed, tests and other assessments, grades, standardized achievement test scores, attendance data, scores on standardized cognitive ability, aptitude and psychological tests, interest inventory results, health data, family background information, teacher or counselor observations, and disciplinary records) maintained by any school within the District. Each school in the District shall grant any request to review a student's education records within forty-five (45) days after receipt of such request. Parents, guardians and eligible students shall also have the right to request that a school correct student education records that they believe to be inaccurate or misleading. If the school decides not to amend the records, the parent, guardian or eligible student shall have the right to a formal hearing before the building principal. If, after the hearing, the school still decides not to amend such records, the parent, guardian or eligible student shall have the right to place into the records a statement setting forth his/her view about the disputed information.

The District has designated certain categories of student information as "directory information," which is discussed in policy #7241.

Parents, guardians and eligible students shall be notified of this policy at least annually, at the beginning of the school year, and when students are enrolled for the first time in District schools. The District shall also notify parents, guardians and eligible students within a reasonable period of time after any substantive change to this policy. Parents, guardians and eligible students have the right to file complaints with the United States Department of Education concerning alleged failures to comply with FERPA. Complaints may be sent to the Family Policy Compliance Office, U.S. Department of Education, 400 Maryland Avenue SW, Washington, D.C. 20202-5901.

Access to Student Records

The Superintendent shall develop regulations and procedures as appropriate to comply with the provisions of federal law relating to the availability of student records. The purpose of such regulations and procedures shall be to make available to the parents or guardians of students and noncustodial parent(s) whose rights are not limited by court order or formal agreement, or students who are eighteen (18) years of age or older or who are attending an institution of post-secondary education, student records, and files on students, and to ensure the confidentiality of such records with respect to third parties.

(Continued)

SUBJECT: STUDENT RECORDS: ACCESS AND CHALLENGE (Cont'd.)

Under FERPA, unless otherwise exempted in accordance with law and regulation, the District may release personally identifiable information contained in student records only if it has received a "signed and dated written consent" from a parent or eligible student. Signed and dated written consent may include a record and signature in electronic form provided that such signature:

- a) Identifies and authenticates a particular person as the source of the electronic consent; and
- b) Indicates such person's approval of the information contained in the electronic consent.

Student records are confidential and shall not be released without the written permission of the parent, guardian or eligible student; provided that a school may, without permission, disclose records to the following persons or under the following conditions:

- a) School officials with a legitimate educational interest;
- b) Another school to which a student is transferring (in which case the District shall notify the student's parent or guardian or the eligible student that the District shall be transferring records, and if the parent, guardian or eligible student so requests, a copy of the transferred record shall be made available to that individual);
- c) Specified officials of the Federal and State government for audit or evaluation purposes;
- d) Organizations conducting certain studies for or on behalf of the school;
- e) Accrediting organizations;
- f) To comply with a judicial order or lawfully issued subpoena;
- g) Appropriate officials in cases of health or safety emergencies; and
- h) State and local juvenile justice authorities to the extent permitted by applicable New York State law.

Health and Safety Emergency Exception

The districts shall balance the need to protect students' personally identifiable information with the need to address issues of school safety and emergency preparedness. Under FERPA, if an educational agency or institution determines that there is an articulable and significant threat to the health or safety of a student or other individuals, it may disclose information from education records, without consent, to any person whose knowledge of the information is necessary to protect the health and safety of the student or other individuals during the period of the health or safety emergency. The District may release information from records to appropriate parties including, but not limited to,

(Continued)

SUBJECT: STUDENT RECORDS: ACCESS AND CHALLENGE (Cont'd.)

parents, law enforcement officials and medical personnel. The District's determination that there is an articulable and significant threat to the health or safety of a student or other individuals shall be based upon a totality of the circumstances, including the information available, at the time the determination is made. The District must record the articulable and significant threat that formed the basis for the disclosure and maintain this record for as long as the student's education records are maintained.

Challenge to Student Records

Parents or guardians of a student under the age of eighteen (18), or a student who is eighteen (18) years of age or older or who is attending an institution of post-secondary education, shall have an opportunity for a hearing to challenge the content of the 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.

Education Records

The term "education records" is defined as all records, files, documents and other materials containing information directly related to a student; and maintained by the education agency or institution, or by a person acting for such agency or institution (34 Code of Federal Regulations (CFR) Section 99.3). This includes all records regardless of medium, including, but not limited to, handwriting, videotape or audiotape, electronic or computer files, film, print, microfilm, and microfiche.

In addition, for students who attend a public school district, all records pertaining to services provided under the Individuals with Disabilities Education Act (IDEA) are considered "education records" under FERPA. As such, they are subject to the confidentiality provisions of both Acts.

Personal notes made by teachers or other staff, on the other hand, are not considered education records if they are:

- a) Kept in the sole possession of the maker;
- b) Not accessible or revealed to any other person except a temporary substitute; and
- c) Used only as a memory aid.

Records created and maintained by a law enforcement unit for law enforcement purposes are also excluded.

(Continued)

POLICY

2015

7240

4 of 4

Students

SUBJECT: STUDENT RECORDS: ACCESS AND CHALLENGE (Cont'd.)

Release of Information to the Noncustodial Parent

The District may presume that the noncustodial parent has the authority to request information concerning such parent's child and release such information upon request. If the custodial parent wishes to limit the noncustodial parent's access to the records, it would be the custodial parent's responsibility to obtain and present to the school a legally binding instrument that prevents the release of said information.

Family Educational Rights and Privacy Act of 1974, 20 USC Section 1232g
34 CFR Part 99

NOTE: Refer also to Policy #7643 -- [Transfer Students with Disabilities](#)

Adopted: 6/19/12
Revised: 4/13/15