

Students

Student Education Records; Access, Confidentiality, and Amendment

I. DEFINITIONS

1. **“Education records”** Records directly related to a student which are collected, maintained or used by the District. It includes information recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche. The term does not include records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record. Furthermore, this term does not include the records of a law enforcement unit of the District
2. **“Directory information”** means one or more of the following items: student's name, address, telephone number, date and place of birth, major field of study, participation in officially recognized activities and sports, photograph, grade levels, electronic mail address, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous public or private school attended by the student.
3. **“Parent”** means a natural parent, an adopted parent, or legal guardian or an individual acting as a parent in the absence of a parent or guardian. If parents are divorced or legally separated, both the parent granted custody and the parent not granted custody have the legal right of access to the academic, medical, hospital or other health records of the child, unless a court order prohibits access.

Whenever a student has attained eighteen (18) years or is attending an institution of post-secondary education, the permission or consent required of, and the rights accorded to, the parents or guardian of the student shall thereafter only be required of, and accorded to, the student. The parents of such a student may continue to have access to education records or personally identifiable information without the prior written consent of their child if the child is their legal dependent (as defined by the U. S. tax code, section 152 of the Internal Revenue Code of 1986) or if the disclosure is in connection with health or safety emergency.

4. **“School official”** School officials are broadly defined as persons who are employed by the District in an administrative, counseling, supervisory, academic, student support services, research position, or a support person to these positions as well as certain contractors, consultants, volunteers or other parties engaged to perform a special task or service for the District. Using this criteria, the term “school official” includes, but is not limited to the following: employees of the school district such as the superintendent, administrators,

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DEFINITIONS (continued)

supervisors, teachers, school nurses, medical advisors, psychologists, social workers, guidance counselors, occupational therapists, speech and language therapists, paraprofessionals, support or clerical staff, security personnel, school resource officers, members of the Board of Education, attorneys who represent the District, accountants, auditors, bus contractors, medical or educational consultants or therapists; or a person serving on a Board of Education committee or as a hearing officer in discipline cases.

5. **“Disclosure”** means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records, to any party, by any means including oral, written, or electronic means except the party identified as the party that provided or created the record.
6. **“Personally identifiable information”** The term includes, but is not limited to: the student's name; name of the student's parent or other family members; address of the student or student's family; a personal identifier, such as the student's social security number, student number, or biometric record (measurable characteristic such as handwriting, fingerprints, retina or iris pattern, voiceprints, DNA sequence, facial characteristics); other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name; other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or information requested by a person who the school district reasonably believes knows the identity of the student to whom the education record relates.
7. **“Access”** means a personal inspection and review of a record or an accurate copy of a record, an oral description or communication of a record or an accurate copy of a record and a request to release a copy of any record.
8. **“Student”** means a person who is or was enrolled in a school.
9. **“Eligible student”** means a student who has attained eighteen (18) years or is attending an institution of post-secondary education.

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II. ACCESS

A. Parents have the right to inspect and review their child's education records.

1. Access rights of non-custodial parent
The District gives full rights of access to either parent, unless it has been provided with evidence that there is a court order or legally binding document relating to such matters as divorce, separation, or custody that specifically revokes these rights.
2. Parents' access rights when student is age 18 or older
When a student reaches the age of majority (18), the rights accorded to, and consent required of parents transfer from the parents to the student. The parents of such a student may continue to have access to education records or personally identifiable information without the prior written consent of their child if the child is their legal dependent (as defined by the U. S. tax code, section 152 of the Internal Revenue Code of 1986) or if the disclosure is in connection with health or safety emergency.
3. Surrogate parent
A surrogate parent (person appointed by the Commissioner of Education pursuant to Connecticut General Statutes §10-94g to advocate for a student with a disability in the educational decision-making process) of any child shall have the same right of access as the natural parents or guardian to all records concerning the child.

B. Procedure to inspect, review and request copies of education records:

1. Written request
A parent or eligible student may request to inspect, review or obtain copies of a student's education records. All requests shall be made in writing and submitted to the principal of the student's school. For students who receive special education, a copy of the request should also be submitted to the Director of Pupil Personnel and Special Services. The school shall also respond to reasonable requests for explanations and interpretations of the records.

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ACCESS (continued)

B. Procedure to inspect, review and request copies of education records: (continued)

2. Time for District to respond to request
The District shall comply with a request for access to records from a parent or eligible student within a reasonable period of time and without unnecessary delay, but not more than 45 days after it has received the request. If the student who is the subject of the request receives special education, the District shall comply with a request for records before any meeting regarding an individualized education program or any due process proceeding and no later than ten (10) school days after the request has been made.
3. Fee for copy of education records
 - a. Standard fee for copies:
The fee for copies of education records is fifty (50) cents per page.
 - b. Waiver of fee:
If the imposition of the fee effectively prevents a parent from exercising the right to inspect and review the student's education records, the fee shall be waived.
 - c. No fee for search:
The District will not charge a fee to search for or to retrieve the education records of a student.
 - d. One free copy for students receiving special education:
If the student who is the subject of the request receives special education, the parents have the right to one free copy of those records. A request for the free copy shall be made in writing.
4. Situations where access to records and information may be limited:
 - a. Records relate to more than one student:
If the education records of a student contain information on more than one student, the parents may only have access to the specific information about their child.
 - b. Privileged communications between student and professional employee:
Administrators, teachers and nurses are not required to disclose information concerning a student's alcohol or drug problem if the information was revealed during a communication made privately and in confidence by the student to the professional employee.

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ACCESS (continued)

B. Procedure to inspect, review and request copies of education records: (continued)

- c. Access to copyrighted instruments:
Any test instrument or portion of a test instrument for which the test manufacturer asserts a proprietary or copyright interest shall not be copied. The parent may review and inspect such information at the location where the records are kept if the records have been retained (state law allows test protocols to be discarded at the discretion of the school administration). The District shall respond to reasonable requests from the parent for explanations and interpretations of the copyrighted material.
- d. Confidential HIV-related information:
If the education records include confidential HIV-related information (whether a person has been counseled regarding HIV infection, has been the subject of an HIV-related test, or has HIV infection, HIV-related illness or AIDS, or information which identifies or reasonably could identify a person as having one or more of such conditions), such information may not be released without a written authorization specifically allowing for the disclosure of confidential HIV-related information.

III. CONFIDENTIALITY

A. Written consent required to disclose information

- 1. Requirements for the written consent
Before the District discloses education records or personally identifiable information from a student's educational records to persons other than the parent or eligible student, the parent or eligible student shall provide a signed and dated written consent. The written consent shall specify the records that may be disclosed; state the purpose of the disclosure; and identify the party or class of parties to whom the disclosure may be made.
- 2. Sufficiency of identification
The District uses reasonable methods to authenticate the identity of parents, students, school officials, and any other parties to whom personally identifiable information from education records is disclosed. "Signed and dated written consent" may include a record and signature in electronic form that identifies and authenticates a particular person as the source of the electronic consent; and

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CONFIDENTIALITY (continued)

A. Written consent required to disclose information (continued)

indicates such person's approval of the information contained in the electronic consent.

3. Copy of records disclosed

If a parent or eligible student so requests, the District shall provide him or her with a copy of the records disclosed subject to payment of appropriate fees.

B. Exceptions to the requirement for written consent of parent or eligible student

FERPA and its federal regulations give the District discretion to disclose education records or personally identifiable information from education records without the prior written consent of a parent or eligible student in a number of situations. Among these exceptions are the following:

1. Parents of eligible students

The disclosure is to the parents of an eligible student who is a dependent as defined in section 152 of the Internal Revenue Code of 1986.

2. School officials who have a legitimate educational interest:

The disclosure is to other school officials, including teachers who have legitimate educational interests.

a. Criteria for determining who constitutes a "school official"

School officials are broadly defined as persons who are employed by the District in an administrative, counseling, supervisory, academic, student support services, research position, or a support person to these positions. Contractors, consultants, volunteers or other parties to whom the District has outsourced its functions may also be considered as "school officials" provided that such persons or entities perform a function for which the District would otherwise use employees, are under the direct control of the District with respect to the use and maintenance of education records and are subject to the same requirements regarding redisclosure as any other recipient of such information.

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CONFIDENTIALITY (continued)

B. Exceptions to the requirement for written consent of parent or eligible student (cont'd.)

b. Examples of school officials

Using the criteria in section (a), the term "school official" includes, but is not limited to the following: employees of the school district such as the superintendent, administrators, supervisors, teachers, school nurses, medical advisors, psychologists, social workers, guidance counselors, occupational therapists, speech and language therapists, paraprofessionals, support or clerical staff, security personnel; school resource officers, members of the Board of Education; attorneys who represent the District, accountants, auditors, bus contractors, medical or educational consultants or therapists; or a person serving on a Board of Education committee, or as a hearing officer in discipline cases.

c. What constitutes a "legitimate educational interest"

A legitimate educational interest exists where access to information in a student's education records is necessary for a school official to fulfill his or her professional responsibility.

3. Directory Information:

The disclosure is information deemed to be "directory information" by the District and the parent or eligible student has not refused disclosure of such directory information. The term "directory information" refers to information that would not generally be considered harmful or an invasion of privacy if disclosed.

a. Definition of "directory information:"

The District considers the following categories to fall within the definition of directory information: the student's name, address, telephone listing, electronic mail address, photograph, date and place of birth, major field of study, grade level, dates of attendance, participation in officially recognized activities and sports, weight and height of members of athletic teams, degrees, honors and awards received, and the most recent school previously attended.

b. "Directory information" does NOT include either of the following: a student's social security number; a student identification number that, by itself, may be used to gain access to education records.

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CONFIDENTIALITY (continued)

B. Exceptions to the requirement for written consent of parent or eligible student (cont'd.)

- c. Annual notice of right to refuse disclosure of directory information:
On an annual basis, the school district shall provide parents and eligible students with notice of the right to refuse to let the District designate any or all of the above types of information about the student as directory information. The annual notice shall give the parent or eligible student two weeks to notify the District in writing that he or she does not want any or all of those types of information about the student designated as directory information.

4. Recruiters- Military and Colleges

The disclosure of name, address, and telephone listing is to recruiters and the parent or eligible student has not requested that prior written consent be obtained.

- a. Access to certain information:
Upon a request made by military recruiters or an institution of higher education, the school district will provide access to secondary school students' names, addresses, and telephone listings.
- b. Annual notice of right to refuse recruiter access to information:
A secondary school student or the parent of the student may request that the student's name, address, and telephone listing not be released to recruiters without prior written consent. On an annual basis, the school district shall provide parents and eligible students with notice of the right to file such a request.

5. Student's new school:

The District will forward education records to other agencies or institutions that have requested the records and in which a student seeks or intends to enroll or is already enrolled so long as the disclosure is for purposes related to the student's enrollment or transfer. This includes the transfer of disciplinary records with respect to a suspension or expulsion. When such records are requested without a written consent of a parent or eligible student, notification of the transfer of records shall be sent to the parent or eligible student at the same time that the records are transferred.

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CONFIDENTIALITY (continued)

B. Exceptions to the requirement for written consent of parent or eligible student (cont'd.)

6. Health or safety emergency
The school district may disclose education records or personally identifiable information from such records to appropriate parties (including the parents of an eligible student) if knowledge of the information is necessary to protect the health or safety of the student or other individuals. In making the decision to disclose information under this exception, the district must look at the totality of the circumstances. Disclosure is permitted where there is an articulable and significant threat to the health or safety of students, staff or other individuals. The disclosure should be limited to parties who need the information to address the emergency situation. The amount of information disclosed shall be narrowly tailored to the specific need and limited to the duration of the emergency. Disclosures for health and safety emergencies must be recorded in the student's education records (see "Recordkeeping").
7. Financial Aid
The disclosure is in connection with financial aid for which the student has applied or which the student has received, if the information is necessary to determine eligibility, amount or conditions for the aid or enforce the terms and conditions of the aid.
8. Judicial order or subpoena:
The disclosure is necessary to comply with a judicial order or lawfully issued subpoena. Unless the law requires otherwise, the school district must make a reasonable effort to notify the parent or eligible student of the order or subpoena in advance of compliance so that the parent or eligible student may seek protective action.
9. Organizations conducting studies
The disclosure is to organizations conducting studies for, or on behalf of the school district to develop, validate, or administer predictive tests; administer student aid programs; or improve instruction as long as specific conditions are met as provided by law. This exception shall only apply when the District has entered into a written agreement with the organization as required by FERPA.

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CONFIDENTIALITY (continued)

B. Exceptions to the requirement for written consent of parent or eligible student (cont'd.)

10. Certain federal and state officials:
The disclosure is to authorized representatives of the Comptroller General of the United States; the Attorney General of the United States; the Secretary of the U.S. Department of Education; or state and local educational authorities.
11. Criminal justice involvement or dangerousness:
The disclosure is to state and local officials related to the juvenile justice system's ability to effectively serve the student whose records are released or about information received from state or local officials. This includes the following:
 - a. Physical assaults upon school employees by students
School Principals shall report physical assaults made by a student upon a school employee to the local police when such assaults occur on school property or while the employee was in performance of school duties and the employee files a written report with the Principal.
 - b. Students on probation
For students who are on probation, the school district may release information to the courts as long as officials and authorities to whom the records are disclosed certify in writing to the school district that the information will not be disclosed to any other party, except as provided under State law, without the prior written consent of the parent of the student.
 - c. Arrested students
When the Superintendent of Schools receives notice of a student's arrest from law enforcement authorities, the Superintendent may disclose such information to the Principal of the school that the student attends. The Superintendent shall maintain the written report of the arrest in a secure location. The Principal may disclose such information only to special services staff or a consultant (such as a psychiatrist, psychologist or social worker) for the purpose of assessing the risk of danger posed by such child and determining appropriate placement, educational plan or disciplinary action.

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CONFIDENTIALITY (continued)

B. Exceptions to the requirement for written consent of parent or eligible student (cont'd.)

- d. Potentially dangerous students
When the Superintendent of Schools receives notice from the Department of Children and Families regarding a student's potential dangerousness, the Superintendent shall notify the Principal of the school that the student attends. The Principal may disclose such information only to special services staff or a consultant (such as a psychiatrist, psychologist or social worker) for the purpose of assessing the risk of danger posed by such child and determining appropriate placement, educational plan or disciplinary action.
- e. Registered sex offenders
The disclosure concerns sex offenders and other individuals required to register under the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. 14071, and the information was provided to the school district under 42 U.S.C. 14071 and applicable Federal guidelines.
- f. State operated detention facility or community detention facility
Upon the request of a state operated or community detention facility, the board of education shall disclose the student's educational records. If the student's parent/guardian did not give prior written consent for the disclosure of such records, the board shall send notification of such disclosure to the parent or guardian at the same time that it discloses the records.

IV. AMENDMENT

The District recognizes its responsibility to permit parents and eligible students to seek amendment of the student's education records that the parent or eligible student believes to be inaccurate, misleading, or otherwise in violation of the student's privacy rights.

A. Request for amendment of education records:

1. A parent or eligible student must submit a request for amendment of education records in writing to the school principal. The request should clearly identify the part of the record they want changed and specify why it is inaccurate, misleading or in violation of the privacy rights of the student.

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AMENDMENT (continued)

Request for amendment of education records (continued)

2. The school will respond within a reasonable amount of time after receiving the request. If school officials decide not to amend the record as requested by the parent or eligible student, they will notify the parent or eligible student of their right to a hearing regarding the request for amendment.

B. Hearing requirements:

1. The District shall hold the hearing within a reasonable time after it has received the request for the hearing from the parent or eligible student.
2. The District shall give the parent or eligible student notice of the date, time, and place, reasonably in advance of the hearing.
3. The hearing may be conducted by any individual, including an official of the District, who does not have a direct interest in the outcome of the hearing.
4. The District shall give the parent or eligible student a full and fair opportunity to present evidence relevant to the issues raised in the request for amendment. The parent or eligible student may, at their own expense, be assisted or represented by one or more individuals of his or her own choice, including an attorney.
5. The District shall make its decision in writing within a reasonable period of time after the hearing.
6. The decision must be based solely on the evidence presented at the hearing, and must include a summary of the evidence and the reasons for the decision.
 - a. If the decision is in favor of the parent or eligible student, the education record shall be amended.
 - b. If the decision is that the information in the education record is not inaccurate, misleading, or otherwise in violation of the privacy rights of the student, the District shall inform the parent or eligible student of the right to place a statement in the record commenting on the contested information in the record or stating why he or she disagrees with the decision of the District, or both.

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AMENDMENT (continued)

B. Hearing requirements (continued)

When such a statement is placed in the education records of a student the District shall: maintain the statement with the contested part of the record for as long as the record is maintained; and disclose the statement whenever it discloses the portion of the record to which the statement relates.

V. RECORDS MANAGEMENT

A. Safeguarding confidentiality

The District shall use reasonable methods to protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.

1. **Warning recipients of records about redisclosure of information**
The District will inform parties receiving a disclosure of education records that they may use the information only for the purposes for which the disclosure was made and that they are obligated to not disclose the information to any other party without the prior consent of the parent or eligible student. This warning regarding further disclosure of education records need not be given to the parent or eligible student or party receiving directory information.
2. **School officials' access to education records**
The District shall use reasonable methods to ensure that school officials obtain access to only those education records in which they have legitimate educational interests.
3. **Additional requirements for safeguarding the records of students receiving special education**
 - a. The Director of Pupil Personnel and Special Services is the person responsible for ensuring the confidentiality of any personally identifiable information.
 - b. District personnel who collect or use personally identifiable information will receive instruction regarding confidentiality of student records and information.

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V. RECORDS MANAGEMENT (continued)

Safeguarding Confidentiality (continued)

- c. The Superintendent of Schools, or his/her designee, shall maintain, for public inspection, a current listing of the positions of those employees within the agency who may have access to personally identifiable information.
- d. Upon request, the District shall provide parents with a list of the types and locations of education records collected, maintained, or used by the agency.

B. Recordkeeping Requirements

- 1. List of requests and disclosures of education records disclosure of personally identifiable information from the education records of each student.
 - a. This record shall be kept with the education records of the student.
 - b. There is no requirement to record requests made by or disclosures given to the following parties: the parent or eligible student; school officials with a legitimate educational interest; a party with written consent from the parent or eligible student; a party seeking directory information; and *some* types of subpoenas or court orders.
 - c. This list may be inspected by the parent or eligible student, school personnel who are responsible for the custody of the records or have a legitimate educational interest and federal, state or local authorities responsible for auditing the recordkeeping procedures.
- 2. Information that must be documented in this record
 - a. For each request or disclosure this record must include the names of the parties requesting or receiving information from education records, the date access was given and the purpose the parties had in requesting or obtaining the information.

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RECORDS MANAGEMENT (continued)

B. Recordkeeping Requirements (continued)

- b. In cases where personally identifiable information regarding a student has been disclosed due to a health or safety emergency, the record of the disclosure must include the articulable and significant threat to the health or safety of a student or other individuals that formed the basis for the disclosure and the names of the parties to whom the District disclosed the information.
- c. If the District discloses personally identifiable information to a party and authorizes the party to redisclose information on behalf of the District pursuant to 34 C.F.R. 99.33(b), the District shall record the names of the additional parties to which the receiving party may disclose the information and the legitimate interests under 34 C.F.R. 99.31 which the additional parties have in obtaining the information.

Legal References

Connecticut General Statutes:

- 1-210(b) Access to public records. Exempt records.
- 7-109 Destruction of documents.
- 10-15b Access of parent or guardians to student's records.
- 10-94i. Rights and liabilities of surrogate parents
- 10-154a Professional communications between teacher or nurse and student.
- 10-209 Records not to be public.
- 10-220h Transfer of student records
- 10-221b Boards of education to establish written uniform policy re: treatment of recruiters.
- 10-233g Reports of principals to police authority concerning physical assaults upon school employees by students
- 10-233h Arrested students. Reports by police, disclosure, confidentiality.
- 10-233i Students placed on probation by a court
- 10-233k Notification of school officials of potentially dangerous students
- 11-8b Transfer or disposal of public records.
- 19a-583. Limitations on disclosure of HIV-related information
- 46b-56 (e) Orders re custody, care, education, visitation and support of children.
 - R.C.S.A. 10-76a-1 Definitions and 10-76d-18 Education records and reports
 - Connecticut Public Records Administration, Schedule M8 - Disposition of Education Records

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Legal References (continued)

- 20 U.S.C. 1232g, Family Educational Rights and Privacy Act of 1974
34 C.F.R. Part 99 (FERPA regulations)
- 20 U.S.C. 1412(a)(8) and 1417(c), Individuals with Disabilities Education Act
34 C.F.R. 300.610-627 (IDEA regulations)
- 29 U.S.C. 794 Section 504 of the Rehabilitation Act of 1974
34 C.F.R. 104.36 (Section 504 regulations)
- 20 U.S.C. 7908 Armed Forces recruiter access to students and student recruiting information.
(Part of No Child Left Behind Act)
- 20 U.S.C. 7165 Transfer of School Disciplinary Records
- 29 U.S.C. 503 Access to secondary schools

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NEW MILFORD PUBLIC SCHOOLS
New Milford, Connecticut