

STUDENT RECORDS REGULATION

The Board recognizes the District's responsibility for maintaining the confidentiality of student records and hereby adopts the following procedures in furtherance of protecting the confidentiality of student records. The terms used herein are defined in the accompanying policy.

Section 1

Pursuant to the Family Educational Rights and Privacy Act (FERPA) and state law it is the policy of the 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, the District may disclose information to parents of eligible students under certain circumstances including when the student is a dependent under the IRS tax code; the student has violated a law or the school's rules regarding alcohol or substance abuse (and the student is under 21); the information is needed to protect the health or safety of the student or other individuals.

Section 2

The District will provide parents/guardians or eligible students an opportunity for a hearing to challenge the content of the student's school records, to ensure 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 inaccurate, misleading, or otherwise inappropriate data contained therein.

Section 3

The District will annually notify parents/guardians of students currently in attendance and eligible students currently in attendance of their rights pursuant to FERPA and state law, and the procedures for exercising those rights. A Parents' Bill of Rights will be posted on the District's website (see 8635-E). The District will effectively notify parents, guardians, and eligible students who have a primary or home language other than English.

Section 4

In an effort to ensure the rights provided for in sections 1 and 2 above, the District will implement the following procedures:

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 Superintendent and/or any designee(s) thereof, including, but not limited to the building principal. Upon receipt of such request, the District will verify the identity of the parent/guardian or eligible student and provide access to such records within forty-five (45) days of receipt of the request. 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 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 Superintendent and/or any designee(s) thereof, including, but not limited to, the Building Principal identifying the record(s) 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 District will provide a written response within a reasonable amount of time following its receipt of the written challenge indicating either:
 - a. A finding that the challenged record is inaccurate, misleading, or otherwise in violation of the student's rights and that the record will be corrected or deleted; or
 - b. A finding that there is no basis for correcting or deleting the record in question, but that the parent/guardian or eligible student may request an opportunity for a hearing. The District's response will also outline the procedures to request such hearing.
4. Within thirty (30) days following receipt of the District's written response, a parent/guardian or eligible student may request, in writing, that a hearing be held to review the challenged record determination.
5. The District will schedule the hearing within a reasonable amount of time following its receipt of the written hearing request. The parent/guardian or eligible student will receive reasonable notice of the date, time, and place of the hearing. The Superintendent shall ensure that the hearing is conducted by an individual who does not have a direct interest in the outcome of the hearing.
6. The parent/guardian or eligible student will be given a full and fair opportunity to present evidence at the hearing relevant to the challenge that the student's educational record is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student. 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 provide the parent/guardian or eligible student a decision in writing within a reasonable time following the hearing. 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.
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.

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 parents 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 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 of 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 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.

In any situation wherein a District staff member has a question as to whether disclosure of a record without consent is permissible in accordance with a FERPA exception, the staff member should contact the Superintendent, the appropriate Assistant Superintendent, and/or the District's legal counsel for guidance prior to disclosure.

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, technological controls, 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 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. Upon written request, the District will provide the parent/guardian or eligible student with a copy of the record(s)

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 record(s) 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.

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 a 'Parents' Bill of Rights for Data Privacy and Security.' The 'Parents' Bill of Rights' will establish the following:

1. Educational purpose: The use of student personally identifiable information (PII) is for educational or related purposes only.
2. Transparency: Disclosure of third party contracts and their privacy provisions.
3. Authorization: Assurance that proper authorization will be secured prior to the release of PII.
4. Security: A description of the measures in place to protect PII, without compromising the security plan.
5. Data Breach Notification: An explanation of the procedures in the event of a data breach.
6. 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 Retention and Disposition Schedule LGS-1 for New York Local Government Records 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.

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