

JRA - STUDENT RECORDS and ACCESS (FERPA)

Category: Recommended

Mentioned Policies: ILD

- A. **General Statement.** It is the policy of the School Board that all school district personnel will follow the procedures outlined herein as they pertain to the maintenance of student records. Furthermore, it is the policy of the School Board that all school district personnel will follow the provisions of the Family Educational Rights Privacy Act (FERPA) and its corresponding regulations.
- B. **"Education Record".** For the purposes of this policy and in accordance with FERPA, the term "educational record" is defined as all records, files, documents and other material containing information directly related to a student; and maintained by the school district; or by such other agents as may be acting for the school district. Such records include, but are not limited to, completed forms, printed documents, handwriting, videotape, audiotape, electronic or computer files, film, print, microfilm and/or microfiche. Educational records do not include records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute.
- C. **"Directory Information".** For the purposes of this policy, and in accordance with the provisions of FERPA and New Hampshire RSA 189:1-e, the term "directory information" means:
1. Student name(s), address(es), telephone number(s), and date(s) of enrollment;
 2. Parent/guardian name(s) and address(es);
 3. Student grade level, enrollment status and dates of attendance;
 4. Student photograph(s);
 5. Student participation in recognized school activities and sports;
 6. Athletic team member weight and height;
 7. Post-high school plans; and
 8. Student diploma(s), certificate(s), award(s), or honor(s) received.

Except for elements of a student's directory information which the student's parent or an eligible student has notified the District not to disclose, the District may release or disclose student directory information without prior consent of the student's parent/eligible student. Within the first three weeks of each school year, the District will provide notice to parents/eligible students of their rights under FERPA and that the District may publish directory information without their prior consent. Parents/eligible students will be given until September 30th to notify the District in writing of any or all directory information

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items that they refuse to permit the District to release or disclose. Notice from a parent/eligible student that any or all directory information shall not be released will only be valid for that school year and must be re-issued each school year.

- D. **"Personally Identifiable Information"**. "Personally identifiable information" is defined as data or information which makes the individual who is the subject of a record known, including information such as: a student's name; the student's or student's family's address; the name of the student's parent or other family members; a personal identifier such as a student's Social Security number; the student's date of birth, place of birth, or mother's birth name. "Personally identifiable information" also includes 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 a reasonable certainty; or other information requested by a person whom the District reasonably believes knows the identity of the student to whom the education record relates.
- E. **FERPA Definition of "Parent"**. For the purposes of this policy, the term parent shall mean and include a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian, and all of their plural or singular forms.
- F. **Annual Notification/Rights of Parents and Eligible Students**. Within the first four weeks of each school year the District will publish notice to parents and eligible students of their rights under State law, Federal law, and this policy. The District will send a notice listing these rights home with each student. The notice will include:
1. The rights of parents or eligible students to inspect and review the student's education records;
 2. The intent of the District to limit the disclosure of information in a student's record, except: (a) by the prior written consent of the parent or eligible student; (b) as directory information; or (c) under certain, limited circumstances, as permitted by law;
 3. The right of a student's parents or an eligible student to seek to correct parts of the student's educational records which he/she believes to be inaccurate, misleading, or in violation of student rights; this includes a hearing to present evidence that the records should be changed if the District decides not to alter them according to the parent's or eligible student's request;
 4. The right of any person to file a complaint with the United States Department of Education if the District violates FERPA; and
 5. The procedure that a student's parents or an eligible student should follow to obtain copies of this policy.

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- G. **Procedure To Inspect Education Records.** Parents or eligible students may inspect and review that student's education records. In some circumstances, it may be more convenient for the record custodian to provide copies of records.

Since a student's records may be maintained in several locations, the school Principal may offer to collect copies of records or the records themselves from locations other than a student's school, so that they may be inspected at one site. If parents and eligible students wish to inspect records where they are maintained, school Principals will determine if a review at that site is reasonable.

Although not specifically required, in order that a request is handled in a timely manner, parents/eligible students should consider submitting their request in writing to the school Principal, identifying as precisely as possible the record or records that he/she wishes to inspect. The Principal will contact the parents or the eligible student to discuss how access is best arranged for their inspection or review of the records (copies, records brought to a single site, etc.).

The Principal will make the needed arrangements as soon as possible and notify the parent or eligible student of the time and place where the records may be inspected. **This procedure must be completed within fourteen (14) days of when the request for access is first made.** *Note: the fourteen (14) day limit is required under New Hampshire RSA 189:66, IV, in contrast to the forty-five (45) day period otherwise allowed under FERPA.*

If for any valid reason such as the parent's working hours, distance between record location sites or the parent or student's health, a parent or eligible student cannot personally inspect and review a student's education records, the Principal may arrange for the parent or eligible student to obtain copies of the records.

When records contain information about students other than a parent's child or the eligible student, the parent or eligible student may not inspect and review the records of the other students. If such records do contain the names of other students, the Principal will seek consultation with the Superintendent and/or the District's attorney to determine how best to proceed. ***Where practicable, it may be necessary to prepare a copy of the record which has all personally identifiable information on other students redacted, with the parent or eligible student being allowed to review or receive only a copy of the redacted record. Both the original and redacted copy should be retained by the District.***

- H. **Procedures To Seek To Correction of Education Records.** Parents of students or eligible students have a right to seek to change any part of the student's records which they believe is inaccurate, misleading, or in violation of student rights. FERPA and its regulations use both "correct/ion" and "amend." For the purposes of this policy, the two words (in all of their respective forms) shall mean the same thing unless the context suggests otherwise. To establish an orderly process to review and correct (amend) the

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education records for a requester, the following processes are established.

1. **First-level decision.** When a parent or eligible student finds an item in the student's education records that he/she believes is inaccurate, misleading or in violation of student rights, he/she should submit a written request asking the building Principal to correct it. If the records are incorrect because of clear error and it is a simple matter to make the change, the Principal should make the correction. If the records are changed to the parent's/eligible student's satisfaction, both parties shall sign a document/form stating the date the records were changed and that the parent/eligible student is satisfied with the correction.

If the Principal believes that the record should not be changed, he/she shall:

- a. Provide the requester with a copy of the questioned records at no cost;
 - b. Ask the parent/eligible student to initiate a written appeal of the denial of the request for the change, which will be forwarded to the Superintendent;
 - c. Forward the written appeal to the Superintendent; and
 - d. Inform the parents/eligible student that the appeal has been forwarded to the Superintendent for a decision.
2. **Second-level decision.** If the parent/eligible student wishes to challenge the Principal's decision to not change the student record, he/she may appeal the matter to the Superintendent. The parent/eligible student shall submit a written request to the Principal asking that the matter be appealed to the Superintendent. The Principal will forward the appeal to the Superintendent.

The Superintendent shall, within ten (10) business days after receiving the appeal:

- a. Review the request;
- b. Discuss the request with other school officials;
- c. Make a decision whether or not to make the requested correction to the educational record;
- d. Schedule a meeting with the parents/eligible student if the Superintendent believes such a meeting would be necessary; and
- e. Notify the parents/eligible student of the Superintendent's decision on their request to correct the student's educational record.

If the Superintendent determines the records should be corrected, he/she will make the change and notify the parents/eligible student in writing that the change has been made. The letter stating the change has been made will include an invitation for the parent/eligible student to inspect and review the records to verify that the records have been corrected and the correction is satisfactory. If the records are changed to the parent's/eligible student's satisfaction, both parties shall sign a document/form stating the date the records were changed and that the parent/eligible student is satisfied with the correction.

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If the Superintendent determines the records will not be corrected, he/she will notify the parents/eligible student in writing of his/her decision. Such a letter will also notify the parents/eligible student of their right to an appeal hearing before the School Board.

3. **Third-level decision.** If the parents or eligible student are not satisfied with the Superintendent's decision, they may submit a written request for a hearing before the School Board. The parents/eligible student shall submit the request for a hearing with the Superintendent within ten (10) business days of the date of the Superintendent's written decision in Section H.2, above. The Superintendent will inform the School Board of the request for a hearing and will work with the School Board to schedule a hearing within forty five (45) days of receipt of the request. Once the meeting is scheduled, the Superintendent will inform the parents/eligible student in writing of the date, time, and place of the hearing.

The hearing will be held in a non-public session consistent with the provisions of RSA 91-A:3, unless the parent/eligible student requests that the hearing be held in public session. The School Board will give the parent/eligible student a full and fair opportunity to present evidence relevant to the issues raised under their request. The parents/eligible student may be assisted or represented by one or more individuals of their own choice, including an attorney.

The School Board will issue its final decision in writing within thirty (30) days of the hearing, and will notify the parents/eligible student thereof via certified mail, return receipt requested. The School Board will base its decision solely on the evidence presented at the hearing. The School Board's written decision will include a summary of the evidence and the reasons for its decision.

If the School Board determines that the student record should be corrected, it will direct the Superintendent to do so as soon as possible. The Superintendent will then contact the parents/eligible student for a meeting so they can review and inspect the records to verify that they have been corrected. At this meeting, both parties shall sign a document/form stating the date the records were corrected and that the parent/eligible student is satisfied with the correction.

The School Board's decision will be final, except as otherwise provided by law.

4. **Parent/Eligible Student Explanation to be Included in Record.**
Notwithstanding the resolution of any request to correct a student's record(s), in accordance with section (a)(2) of FERPA, a parent or eligible student may insert into that student's educational record a written explanation regarding the content of the record.
- I. **Disclosure of Student Records and Student Information.** In addition to directory information, the District may disclose student records and student information without consent to the following parties on the condition that the recipient agrees not to permit any other party to have access to the released information without the written consent of

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the parents of the student, and under the conditions specified.

1. *School officials with a legitimate educational interest.* A school official may only access student records when the school official has a legitimate educational interest.
 - a. *"School officials"* means persons employed or used by the District to perform institutional services and functions, and includes such persons as teachers, instructional aides, administrators, including health or medical staff, school resource officers, and third parties such as contractors, attorneys, consultants, and volunteers. Such third party school officials may access student records provided such persons are:
 1. Under the District's direct control with respect to the use and maintenance of education records; and
 2. Prohibited from disclosing the information to any other party without the prior written consent of the parent/eligible student, or as otherwise authorized by law.
 - b. "Legitimate educational interest" includes performing a task or engaging in an activity related to (i) one's regular duties or professional responsibilities, (ii) a student's education, (iii) the discipline of a student, (iv) a service to or benefit for a student, (v) measures to support student success, and (vi) the safety and security of the campus.
2. *Other schools into which a student is transferring or enrolling*, upon condition that the student's parents be notified of the transfer, receive a copy of the record if desired, and have an opportunity for a hearing to challenge the content of the record. This exception continues after the date that a student has transferred
3. *Officials for audit or evaluation purposes.*
4. *Appropriate parties in connection with financial aid.*
5. *Organizations conducting certain studies for, or on behalf of, the School District.* Student records or student information will only be provided pursuant to this paragraph if the study is for the purpose of: developing, validating or administering predictive tests; administering student aid programs; or improving instruction. The recipient organization must agree to limit access to the information and to destroy the information when no longer needed for the purpose for which it is released. Additionally, any such studies must comply with the provisions of Board policy ILD.
6. *Accrediting organizations.*
7. *Judicial orders or lawfully issued subpoenas*, upon condition that parents and the student are notified of all such orders or subpoenas in advance of compliance therewith by the District, except when a parent is a party to a court proceeding involving child abuse or neglect or dependency. The Principal shall consult with the Superintendent and legal counsel as needed to ensure compliance with the judicial order and applicable law.

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8. *Health and safety emergencies.*

- J. **Maintenance of Student Records and Data.** The Principal of each building is responsible for record maintenance, access, and destruction of all student records. All school district personnel having access to records shall place great emphasis upon privacy rights of students and parents.

All entries into student records must be dated and signed by the person accessing such records.

The principal will ensure that all records are maintained in accordance with applicable retention schedules as may be established by law.

- K. **Disclosures Made From Education Records.** The District will maintain an accurate record of all requests for it to disclose information from, or to permit access to, a student's education records and of the information it discloses and persons to whom it permits access, with some exceptions listed below. This record is kept with, but is not a part of, each student's cumulative school records. It is available only to the record custodian, the eligible student, the parent(s) of the student or to federal, state, or local officials for the purpose of auditing or enforcing federally supported educational programs.

The record includes:

1. The name of the person who or agency which made the request;
2. In the event of a health and safety emergency, 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 parties to whom the agency or institution disclosed the information;
3. Whether the request was granted and, if it was, the date access was permitted or the disclosure was made;
4. The date on which the person or agency made the request; and
5. The interest which the person or agency has in the information.

The District will maintain this record as long as it maintains the student's education record. The records do not include requests for access or information relative to access which has been granted to parent(s) of the student or to an eligible student; requests for access or access granted to officials of the District who have a legitimate educational interest in the student; requests for, or disclosures of, information contained in the student's education records if the request is accompanied by the prior written consent of a parent/eligible student or if the disclosure is authorized by such prior consent or for requests for, or disclosures of, directory information designated for that student.

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The records of a request for the correction of an educational record, including any appeal of a denial of that request, if the educational record is ultimately corrected shall not be treated as part of the educational record of the student and shall be preserved separately

District Policy History:

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Final Adoption: October 12, 2010

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Legal References:

NH Statutes	Description
RSA 189:1-e	<u>Directory Information</u>
RSA 189:66	<u>Data Inventory and Policies Publication</u>
RSA 91-A:5,III	<u>Exemptions, Pupil Records</u>

Federal Regulations	Description
34 CFR. Part 99	<u>Family Educational Rights and Privacy Act Regulations</u>

Federal Statutes	Description
20 U.S.C. §1232g	<u>Family Educational Rights and Privacy Act (FERPA)</u>

Legal References Disclaimer: These references are not intended to be considered part of this policy, nor should they be taken as a comprehensive statement of the legal basis for the Board to enact this policy, nor as a complete recitation of related legal authority. Instead, they are provided as additional resources for those interested in the subject matter of the policy.