

**RULES AND REGULATIONS  
INTERPRETING BOARD POLICY OF STUDENT RECORDS (216)**

These procedures are designed to protect the rights of the student and his/her family as specified in the Family Educational Rights and Privacy Act of 1974. They are intended to support, as well, the right of access to public documents as indicated in the Pennsylvania Right to Know Law of 1957.

Parents and eligible students who believe these guidelines do not protect their rights as stated in the Family Educational Rights and Privacy Act of 1974 may file a complaint with the United States Department of Education.

Parents are notified annually of the policies and procedures of the District regarding student education records and the rights of parents under both State and Federal law concerning confidentiality of education records of all students. Each year all District personnel are instructed in the implementation of the Federal, State and Local policy requirements regarding collection and use of education records. A current listing is maintained of the names and position of District employees who are authorized to have access to education records.

Informational data collected from students will have prior informed consent from the student and/or parent. This consent is either representational or individual. Representational consent is given through the Board of School Directors. All students and parents are notified before the appropriate district testing program begins each year what group tests will be administered. The district testing program includes group intelligence, aptitude and achievement tests. Individual consent is given by each student and/or parent in writing before individual tests of personality and assessment are administered. Individual consent must also be given before school authorities gather individual family data other than that required for pupil identification. Examples of such data are: ethnic origin, religious belief, family income, husband-wife relations, etc.

- A. **A parent (which includes an adoptive parent)** is a guardian, or an individual illegally acting as a parent of a student in the absence of a parent or guardian.
- B. **An eligible student** is eighteen (18) years old, is emancipated, or is attending an institution of post secondary education. An eligible student does not need the consent of parent. This definition specifically does not refer to "eligible student" as that term is defined under 22 PA Code 14.1

- C. **An emancipated student** is a minor child who is released from legal subjection to his/her parents. A married couple attending high school and living apart from either set of parents and subsisting in whole or in part upon their own earnings should be considered emancipated.
- D. **Destruction** is the physical destruction or permanent removal of personally identifying data from the education records of a student so that the information in those records is no longer personally identifiable.
- E. **Directory information** includes the following information relating to a student: the student/family members' name, address, telephone number, social security number, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, the most recent previous educational agency or institution attended by the student, and other similar information. Directory information may be disclosed for purposes beneficial to the student and the school district only with the approval of the district Superintendent or his designee.

The parent of an eligible student has the right to refuse the disclosure of any or all types of directory information by giving the school written notice within twenty (20) days of publication of the notice. Parents shall be given public notice relative to their rights at the beginning of the school year.

- F. **Disclosure** means permitting access or the release, transfer, or other communication of education records of the student or the personally identifiable information contained therein, by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record.
- G. **Educational Agency** - the term includes the following entities:
  - 1. A school district or an intermediate unit and component part thereof which collects, maintains or uses an exceptional student's education records containing personally identifiable information or from which records or information is obtained
  - 2. An approved private school and components thereof which, with regard to an exceptional student who is enrolled or has been enrolled in the approved private school as an approved placement student according to section 1376 of the Public School Code of 1949 and the regulations, standards and guidelines thereunder, collects, maintains or uses the exceptional student's education records containing personally identifiable information or from which records or information is obtained.
  - 3. The Department and components thereof, to the extent that the Department collects, maintains, or uses an exceptional student's education records containing personally identifiable information, or

- releases records or information.
4. The Scranton State School for the Deaf and components thereof, to the extent that the Scranton State School for the Deaf collects, maintains or uses an exceptional student's education records containing personally identifiable information or releases the records or information.
- H. **Education records** includes the records and information covered under the definition of education records in the Family Educational Rights and Privacy Act (FERPA) and its implementing regulations, including records which are directly related to a student, and are maintained by an educational agency or institution or by a party acting for the agency or institution. They do not include:
- a. Law enforcement records
  - b. Record information of an individual who is no longer a student
  - c. Records kept by a professional for treatment purposes
- I. Students with disabilities are school-aged children within the jurisdiction of the District who have been evaluated and found to have one or more disabilities as defined by law, and who require, because of such disabilities, special education and related services. School-aged children who have identified disabilities but do not require special education may be entitled to accommodations or services or to enroll in courses of study in the District which serve students with disabilities pursuant to other law or Board policy.
- J. **Individualized Education Program (IEP)** is a written plan for the appropriate education of an exceptional student. The IEP shall be based on and be responsive to the results of the multi-disciplinary evaluation.
- K. **Legitimate Educational Interest** describes a purposeful educational involvement with a student in which there is a direct responsibility for providing instruction or supportive services.
- L. **Multi-disciplinary Evaluation (MDE)** is a comprehensive written report sufficient in scope and depth to investigate the student's suspected exceptionality including academic functioning, adaptive behavior, social behavior, learning problems, learning strengths, educational needs, and information obtained as a result of instructional support activities if conducted.
- M. **Personally Identifiable Information** includes:
1. The name of the student, the student's parents/guardians or other family members;
  2. The address of the student or student's family;
  3. A personal identifier, such as the student's social security number, student number, or biometric record;
  4. Other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name;

5. Other information that, alone or in combination, is linked to 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;
6. Information requested by a person who the district reasonably believes knows the identity of the student to whom the education record relates.

**School officials** refer to administrators, teachers, and pupil services personnel who have legitimate educational interest and who are directly responsible for the instruction or the health and safety of students while in attendance at the school.

## II. **CLASSIFICATION OF DATA in Education Records**

A. **Category A Data (DIRECTORY INFORMATION):** Essential to the operation of a School District. Includes official administrative records that constitute the minimum personal data necessary for operation of the educational system.

1. Name, address, telephone number of student and student's social security number
2. Birth date and place of birth
3. Parent/guardian name, address, phone numbers
4. Academic work completed/transcripts
5. Achievement test scores
6. Report cards/grades/progress reports
7. Attendance records
8. Participation in officially recognized activities and sports
9. Class rank
10. Degrees/awards

B. **Category B Data:** Verified information of clear importance, but not absolutely necessary to the school over time, in helping the child or protecting others.

1. Scores on standardized intelligence and aptitude tests
2. Interest inventory results
3. Health data/speech, hearing and vision screenings
4. Family background information
5. Systematically gathered counselor and teacher ratings and observations
6. Job and college applications
7. Verified reports of serious or recurrent behavior patterns which must be unambiguously described and clearly verified before becoming part of any continuing record
8. Disciplinary records/discipline records regarding offenses involving weapons, alcohol, drugs, or other violent acts.

9. Other routinely collected information specified by representational consent
- C. Category C Data: Includes potentially useful information, but not yet verified or clearly needed beyond the immediate present.
1. Permission to conduct a multi-disciplinary evaluation
  2. Comprehensive Evaluation Report (CER)
  3. Family Background Information
  4. Individual intelligence and personality assessments
  5. Psychological, psychiatric and neurological reports.
  6. Parent letter of invitation to Individualized Education Program (IEP) meeting
  7. Individualized Education Program (IEP)
  8. Notification of Recommended Assignment (NORA) with Placement Option sheet
  9. Notice of intent to conduct a multi-disciplinary reevaluation
  10. Testing protocols with respect to psychoeducational testing performed by District personnel
  11. Legal or clinical findings
  12. Reports of agencies and professionals outside the education system
  13. Instructional Support Team (IST) Records
- D. Category D Data: Not in Educational Records or readily accessible to anyone other than the creator. They may include:
1. Records created or maintained by:
    - a. counselors
    - b. psychologists
    - c. school physicians
    - d. psychiatrists
    - e. home and school visitors/social workers
    - f. other professionals whose records are used only in connection with provision of treatment of the student.

### III. MAINTENANCE/DESTRUCTION OF DATA in Educational Records

- A. Category A Data:
1. Kept in perpetuity.
  2. Permanent record card to be micro-filmed five years after date of graduation with information in Category B deleted.
- B. Category B Data:
1. All **unnecessary** Category B data are removed from the student's files

at periodic intervals. For example: records should be destroyed when the student transitions to the middle or senior high school and when the student leaves school.

2. All Category B data are destroyed five years after date of graduation.
3. Each year when student and/or parents are notified in writing regarding the representational consent aspect of the district's pupil record policy, they are informed as to the kinds of data included in Category B and their rights of access.
4. All records of incidents of violence, incidents involving possession of a weapon and convictions or adjudications of delinquency for acts committed on school property are to be maintained at least until student graduates.

C. Category C Data:

1. Data will be reviewed each year and data no longer useful to the District will be destroyed. Upon graduation or after anticipated year of graduation all data will be destroyed.
2. When data are verified and meet the following conditions they will be transferred to Category B.
  - a. The continuing usefulness of the information is clearly demonstrated and
  - b. Validity has been verified. In such cases parents must be notified and the nature of the information explained.
3. The destruction of records of **students with disabilities** is subject to the following condition:
  - a. The district shall store all education records and personally identifiable information of students receiving special education services in such a way as to protect the confidentiality and integrity of the records and information, prevent unauthorized access to and disclosure of records and information, and ensure compliance with other legal and regulatory requirements regarding records retention.
  - b. The district shall maintain, for public inspection, a current listing of the names and positions of those district employees who have access to personally identifiable information.
  - c. In order to comply with state compliance monitoring requirements, the district shall maintain education records for students receiving special education services for at least six (6) years.
  - d. The district shall inform parents/guardians when personally identifiable information collected, maintained, or used is no longer needed to provide educational services to the student. After notice, such information shall be destroyed upon parental request.
  - e. No education record shall be destroyed if there is an outstanding request to inspect or review the record or if a litigation hold exists. Testing protocols with respect to psycho-educational testing performed by District personnel are routinely destroyed within one

year of the date of the testing without prior notification to the parents or eligible student.

- f. The district may maintain a permanent record of the student's name, address, and phone number, his/her grades, attendance record, classes attended, grade level completed, and year completed.
- g. The district shall ensure the destruction of education records in a manner that protects the confidentiality and privacy rights of the student and his/her family.

D. Category D Data:

Maintenance/destruction of Category D data is within the discretion of the individual maintaining the records.

#### IV. ADMINISTRATION OF SECURITY

- A. Each building principal is responsible for record maintenance and access. Annually, the building principal or his/her designee will review all aspects of the pupil records policy and guidelines with his/her staff.
- B. **Records in all categories will be secured in locked files or offices when not in use.**
- C. Request to Amend Education Records:
  - 1. The parent of a student or an eligible student who believes that information contained in the education records of the student is inaccurate or misleading or violates the privacy or other rights of the student may request in writing that the school district amend the record.
  - 2. The school district shall decide whether to amend the education records of the student in accordance with the request within a reasonable period of time, but in no case more than forty-five (45) days after receipt of the request. This determination shall be made by:
    - a. Building a principal or a designee if there is agreement between the parent and building principal to amend the education records.
    - b. The Superintendent or a designee if there is disagreement.
  - 3. If the school district decides to refuse to amend the education records of the student in accordance with the request, it shall so inform the parent of the student or the eligible student of the refusal and the reasons for refusal in writing, and advise the parent of the eligible student of the right to a hearing.
- D. **Formal complaint procedures** - An eligible student or parent may challenge the information contained in Category A and/or the validity of Category C data by registering in writing a formal complaint to the building

principal. If the complaint cannot be resolved to the student's and/or parent's satisfaction, the complainant(s) may appeal in writing to the Superintendent or designee.

A hearing shall be held within 30 days of receiving the written request. The parent or eligible student shall be given notice of the date, place, and time at least five(s) days in advance of the hearing.

1. The Superintendent will schedule and hear all challenges, or should there be a direct interest in the outcome, the case will be referred to the Board of School Directors pursuant to No. 4 (below).
2. The parent or the eligible student may be represented by counsel at his/her own expense and will be afforded a full and fair opportunity to present evidence.
3. Within 30 days after the conclusion of the hearing, the school will make its decision based solely on the evidence presented at the hearing including a summary of the evidence and reasons for the decision. If the complaint is not resolved to the eligible student's and/or parents' satisfaction, the complainants may request a formal hearing in writing to the Secretary of the Board of School Directors within ten (10) days. The Rules of Procedure Governing Hearings of the Board will be followed. If the complaint is not resolved through the hearing process, the eligible student or parents may contact the Secretary of Education, Commonwealth of Pennsylvania, or the Secretary of Education in the Office of Health, Education and Welfare in Washington, D. C.
4. The parent will be notified in writing of the decision including a summary of the evidence and reason for the decision.
5. A parent may place an explanation in the record which is retained as a result of the hearing.
6. The district recognizes that parents/guardians who believe that there is a due process violation relating to an alleged violation of confidentiality may also request a special education due process hearing.

#### V. **DISSEMINATION OF DATA**

The school will maintain a record of requests and disclosures for information from the student's education records of all parties who have obtained access to the student's record. This record, which indicates the legitimate interest the parties have in obtaining information from the student's record, may be inspected by the parent of the student or by the eligible student.

**Discipline records for offenses involving weapons, alcohol, drugs or other violent acts must be sent by certified mail to a new school entity within ten (10) days irrespective of whether or not the parent or student consent.**



A. Category A Data:

The school may, **without consent of parent/guardian or student**, release items in Category A to:

1. All professional personnel of the district (administrators, teachers, counselors, psychologists, social workers, and nurses) who have a legitimate education interest.
2. In compliance with a judicial order or others of administrative agencies where these agencies have the power of subpoena. The District must make reasonable efforts to notify parents and/or students of all such orders and school's compliance.
3. Authorized representatives of the Comptroller General of the United States, the Secretary, Commission and Director of the National Institute of Education, or the Assistant Secretary of Education.
3. Officials of other schools to which a student transfers, upon condition that parents are notified of the transfer, receive a copy of the record if desired and have an opportunity to challenge the record.
5. College and other post graduate schools into which the student seeks to be enrolled.
6. Potential employers.

B. Category B Data:

The school may, **without consent of parents/guardians or students**, release items in Category B to:

1. All professional personnel of the district (administrators, teachers, counselors, psychologists, social workers, and nurses) who have a legitimate education interest.
2. In compliance with a judicial order or others of administrative agencies where these agencies have, the power of subpoena. The District must make reasonable efforts to notify parents and/or students in advance of compliance of all such orders and school's compliance.
3. Authorized representatives of the Comptroller General of the United States, the Secretary, Commission and Director of the National Institute of Education, or the Assistant Secretary of Education.
4. Officials of other schools to which a student transfers. Upon condition that parents are notified of the transfer, receive a copy of the record if desired and have an opportunity to challenge the record.
5. College and other post graduate schools into which the student seeks to be enrolled.

C. Category C Data:

1. All professional personnel of the **school district who have a legitimate educational interest with permission and interpretation** of the appropriate pupil services personnel or building principal.
2. Other individuals or agencies when **written consent** is received from the student or parent, specifying records to be released, and to whom, with a copy to the student or parent if so desired.
3. In compliance with a judicial order, or an order of an administrative agency which has the power to subpoena. The District must make reasonable efforts to notify parent and/or student in advance of the school's compliance with all such orders.
4. Authorized representatives of the Comptroller General of the United States, the Secretary, Commissioner and Director of the National Institute of Education, or the Assistant Secretary of Education.

D. Category D Data:

Records maintained in Category D are not disclosed to anyone other than to the individuals providing the treatment except in compliance with a judicial order, or an order of an administrative agency which has the power to subpoena. The District must make reasonable efforts to notify parent and/or student in advance of the school's compliance with all such orders.

E. State and Local Child Welfare Agencies

The school may, **without consent of parents/guardians or students**, release all educational records to any caseworker or other representative of a state or local child welfare agency who has the legal responsibility for the child's care and protection.

1. The representative of the agency must provide proof that the agency has the legal responsibility for the child's care and protection before the District may disclose any records to such individual. This proof can be in the form of a court order or written notification on agency letterhead.
2. The representative of the agency shall not share the records with any other individual or entity unless that individual or entity is authorized by the welfare agency to receive the records and is engaged in addressing the child's educational needs.

## I. CONFIDENTIALITY

- A. The school or any school personnel may not divulge, in any form to any persons other than to those persons or agencies covered in the above guidelines any information contained in school records.

- B. The school may, without the consent of the parent or eligible student, disclose a student's education record to:
1. Other school officials who have been determined to have legitimate educational interests.
  2. Representatives of the U.S. Comptroller General, Secretary of Education, H.E.W. Secretary, the Commissioner, the Director of N.I.E., the Assistant Secretary of Education, or state educational authorities.
  3. Officials of another school or school system in which the student seeks to enroll, provided parents have been made aware of their right to receive a copy and have an opportunity to challenge the record's content (Annual notice prior to the beginning of the school year shall be given to parents regarding their rights in cases of transfer of record without consent).
  4. Appropriate authorities in an emergency situation in which the health, safety, or welfare of the student is in jeopardy.
  5. State and local officials or authorities to whom information is specifically required to be reported in accord with state statute adopted prior to November 19, 1974.
  6. Parents of a dependent student as defined in section 152 of the Internal Revenue Code of 1954, and
  7. Comply with a judicial order or lawfully issued subpoena provided the school makes a reasonable effort to notify the parent or eligible student in advance. However, when the parent is a party in a child abuse, dependency, or neglect proceeding, the District need not provide notice to the parent before disclosing a child's educational records pursuant to the subpoena or court order.

C. **Confidential, Personal Files of Professionals in the School:** It is recognized that, in some instances, professionals working in the school may maintain personal and confidential files containing notes, transcripts for their use, clinical diagnosis, and other memory aids for their own use with pupils. Any and all data that are considered to be the personal property of the professional are considered confidential to the professional and subject to their professional ethics, and any special arrangements made between the professional and his clients.

## VII. PARENT ACCESS RIGHTS

Parents are permitted in the presence of a school official, to inspect, view or copy educational records relating to their child when the record is collected, maintained or used by the District. The District shall comply with the request without unnecessary delay within forty-five (45) days. State regulations require a response within thirty (30) days for records of exceptional students.

When the request is made by parents of a student with a disability, the District shall permit parents/guardians to inspect and review any education records relating to their child(ren) that are collected, retained, or used by the district in connection with providing special education services to the student.

The district shall comply with a parental request to inspect and review education records without unnecessary delay and before any meeting regarding an Individualized Education Program (IEP); any impartial due process hearing relating to the identification, evaluation, educational placement, or the provision of a free and appropriate public education (FAPE) to a student; a hearing related to the discipline of the student; and a resolution meeting. If copies of records are requested, a fee of \$.25 per page will be charged.

The district shall presume a parent/guardian has authority to inspect and review records relating to his/her child unless it has been provided documentation that the requesting parent/guardian does not have this authority under applicable state law.

A parent's/guardian's right to inspect and review education records includes the right to:

1. A response from the district to reasonable requests for explanations and interpretations of the records;
2. Request that the district provide copies of the records if failure to provide copies would effectively prevent the parent/guardian from exercising the right to inspect and review the records; and
3. Have a representative inspect and review the records.

If an education record includes information on more than one (1) student, the parents/guardians shall have access only to the information relating to their child or shall be informed of the information in the record.

The district shall provide parents/guardians, upon request, a list of the types and locations of education records collected, maintained, or used by the district.

The District shall keep a record of parties who have obtained access to those education records of a student that are collected, including records collected maintained, or used in providing special education to students with disabilities. The **access record** shall include the name of the party, the date access was given and the purpose for which the party was allowed to use the records.

A. The right to inspect, review or copy education records under this section includes:

1. The right of a parent of an eligible child to request of and receive from the District a reasonable explanation of information contained in the education records of the child.
  2. The right of a parent to be provided, on request, with a copy of all or part of the education records of the child.
  3. The right of a parent to designate a representative who will inspect, review or copy the records.
- B. A parent has the right to request a list of the types and the location of child's educational records collected, maintained or utilized by the District.
- C. The District may require the parents to put into writing the following:
1. Their oral requests to inspect, review, copy or receive copies of education records.
  2. Their oral designations of a representative.
  3. Their oral requests for a list under paragraph (B).
- D. If an education record includes information on more than one child, the parents of those children have the right to inspect and review only the information relating to their child or to be informed of that specific information.
1. A parent has the right to copy from or receive a copy of an education record originally containing information on more than one child.
  2. Prior to the parent's copying or receiving a copy of a record on more than one child, the District shall delete, remove or obscure from the record or its copy personally identifiable information concerning any child who is not the child of the parent.
- E. In cases involving separation in which the law views both parents as legal guardians, both the natural parent with whom the child resides and the natural parent with whom the child does not reside enjoy, the same rights and privileges regarding review of and access to student records absent a court order to the contrary.

In case of divorce, unless there are extenuating or limiting circumstances, both natural parents retain the legal right to review of student records. In cases where the divorce decree limits the rights of the non-custodial parent with respect to visitation or knowledge of the child, the non-custodial parent shall be denied access to the child's records. The burden to produce the court order to deny access is on the parent seeking to deny access to protect the interests of the School District, when a divorced non-custodial parent requests access to a

child's records, that parent shall be requested to complete a **RECORDS ACCESS AFFIDAVIT**, a copy of which is made part of this administrative procedure. The completed affidavit shall be retained in the student's permanent record file.

- F. A request for review of the student's records by a parent or student should be directed to the principal in the elementary school and to the counselor in the middle/high school. The principal/counselor will respond to the parent within ten (10) days, citing:
1. The principal's decision as based on the Student Record Guidelines
  2. The appeal procedure
  3. A copy of the parent's request and the principal's response will be sent to the Superintendent or designee.

Approved: 09/14/00  
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