

## STUDENT RECORDS AND PRIVACY

In compliance with the Family Educational Rights and Privacy Act (FERPA) and the Protection of Pupil Rights Amendment (PPRA), the Board of Education is committed to protecting the rights and privacy interests of parents/guardians and students.

### **Confidentiality**

The Board recognizes its legal responsibility to maintain the confidentiality of student records. As part of this responsibility, the Board will ensure that eligible students and parents/guardians have the right to inspect and review education records, the right to seek to amend education records, and the right to have some control over the disclosure of information from the education record. The procedures for the confidentiality of student records shall be consistent with federal statutes, including FERPA and its implementing regulations, and New York State law and the Regulations of the Commissioner of Education.

The District shall not provide any personally identifiable information to any shared learning infrastructure service provider (SLISP) or data dashboard operator outside of the District, provided that the term SLISP shall not include Boards of Cooperative Educational Services (BOCES) operated by Regional Information Services (RICS).

The District will use reasonable methods to provide access to student educational records only to those authorized under the law and to authenticate the identity of the requestor. The District will document requests for and release of records, and retain the documentation in accordance with the law.

The Superintendent shall be responsible for ensuring that all requirements under the law and the Commissioner's regulations are carried out by the District.

### **Definitions**

**Authorized Representative:** an authorized representative is any individual or entity designated by a state or local educational authority or federal agency headed by the Secretary, Comptroller General, or Attorney General to carry out audits, evaluations, or enforcement or compliance activities relating to education programs.

**Education Record:** records in any format that are directly related to the student and maintained by the District or by a party acting on behalf of the District, except:

- a) Records in the sole possession of the individual who created them and not accessible or revealed to any other person, except a substitute (e.g., memory joggers);
- b) Records of the District's law enforcement unit;
- c) Grades on peer-graded papers before they are collected and recorded by a teacher.

Eligible student: a student who has reached the age of 18 or is attending postsecondary school.

Legitimate educational interest: a school official has a legitimate educational interest if they need to review a student's record in order to fulfill their professional responsibilities.

Personally identifiable information: information that would allow a reasonable person in the school or its community to identify the student with reasonable certainty, without personal knowledge of the relevant circumstances. Such information might include Social Security number, student identification number, parent's name and/or address.

School official: a person who has a legitimate educational interest in a student record who is employed by the District as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel); a member of the Board of Education; a person or company with whom the District has contracted to perform a special task (such as an attorney, auditor, medical consultant or therapist); a parent or student serving on an official committee or assisting another school official in performing their tasks.

Third Party Contractor: is any person or entity, other than an educational agency, that receives student data or teacher or principal data from an educational agency pursuant to a contract or other written agreement for purposes of providing services to such educational agency, including data management or storage services, conducting studies or audit or evaluation of publicly funded programs.

### **Annual Notification**

At the beginning of each school year, the District shall publish a notice to parent(s) or guardian(s) and eligible students currently in attendance of their rights under FERPA and the procedures for pursuing them. A Parents' Bill of Rights for Data Privacy and Security will be posted on the District website and included in any agreements with third-party contractors (see Exhibit 5500-E). The notice and Parents' Bill of Rights may be published in a newspaper, handbook or other school bulletin or publication. The notice and Parents' Bill of Rights will also be provided to parents, guardians, and students who enroll during the school year.

The notice shall include a statement of the parent or eligible students' rights as required by FERPA and the PPRA, including but not limited to the District's ability to release, without consent, directory information. Directory information includes, but is not limited to, the student's:

- Name;
- Address, except for a homeless student's living situation;
- Telephone number;
- Date and place of birth;
- Major field of study;
- Participation in school activities or sports;
- Weight and height, if a member of an athletic team;
- Dates of attendance;
- Degrees and awards received;
- Most recent educational institution attended;
- Grade level; and
- Enrollment status.

Parents and eligible students may choose not to allow the District to release directory information.

In addition, the notice will inform parents/guardians and students that:

- upon request, the District will disclose education records without consent to officials of another school district in which a student seeks to or intends to enroll or is actually enrolled;
- personally identifiable information will be released to third party authorized representatives for the purposes of educational program audit, evaluation, enforcement, or compliance purposes;
- the procedure for exercising the right to inspect, review and request amendment of student records.

The District shall arrange to provide translations of this notice, where necessary, to parents and eligible students in their native language or dominant mode of communication.

### **Information regarding Homeless Students**

Information about a homeless student's living situation shall be treated as a student educational record, and shall not be deemed directory information. A parent, guardian, or eligible student may elect to consent to release of a student's address information in the same way as for release of other student education records, but they cannot be compelled to do so. The District's liaison for homeless students shall take reasonable measures to provide these students with information regarding educational, employment, or other postsecondary opportunities and beneficial activities.

### **Release of Information to Non-Custodial Parent**

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

### **Student Surveys**

The PPRA governs the administration to students of a survey, analysis, or evaluation, unless specifically excluded by law, which concerns one or more of the following eight protected areas:

1. Political affiliations or beliefs of the student or the student's parent/guardian;
2. Mental or psychological problems of the student or the student's family;
3. Sexual behavior or attitudes;
4. Illegal, anti-social, self-incriminating, or demeaning behavior;
5. Critical appraisals of other individuals with whom respondents have close family relationships;
6. Legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers;
7. Religious practices, affiliations, or beliefs of the student or student's parent/guardian; and
8. Income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program).

PPRA also regulates marketing surveys and other areas of student privacy, parental access to information, and the administration of certain physical examinations to minors. PPRA does not supersede any of the requirements of the Family Educational Rights and Privacy Act (FERPA).

The rights provided to parents/guardians under PPRA transfer from the parent/guardian to the student when the student turns 18 years old or is an emancipated minor under applicable state law.

### **Parental Notification**

The District shall provide for notice of the adoption or continued use of this policy directly to the parents/guardians of students enrolled in the District. The District shall provide such notice at least annually, at the beginning of the school year, and after any substantive change in this policy, and will include the approximate dates during the year when surveys are scheduled, or expected to be scheduled, for administration.

The notification shall offer an opportunity for parents/guardians to opt their child out of participation in the following activities:

- a) The administration of any survey containing one or more of the eight protected areas listed above; and
- b) Any non-emergency, invasive physical examination or screening that is required as a condition of attendance; administered by the school and scheduled by the school in advance; and not necessary to protect the immediate health and safety of the student, or of other students. The term "invasive physical examination" means any medical examination that involves the exposure of private body parts, or any act during such examination that includes incision, insertion, or injection into the body, but does not include a hearing, vision or scoliosis screening.

In the event that the District does not identify the specific or approximate dates of the activities or surveys to be administered in the general annual notification, it shall "directly" notify, such as through U.S. Mail or e-mail, the parents/guardians of students who are scheduled to participate in the specific activities or surveys prior to participation and provide an opportunity for the parent/guardian to opt his/her child out of participation and/or receive parental/guardian consent as enumerated above.

### **Surveys Funded by the U.S. Department of Education**

The District shall make instructional materials available for inspection by parents/guardians if those materials will be used in connection with any DOE-funded survey, analysis, or evaluation in which their children participate. The term "instructional material" means instructional content that is provided to a student, regardless of its format, including printed or representational materials, audiovisual materials, and materials in electronic or digital formats (such as materials accessible through the Internet). The term does not include academic tests or academic assessments.

In addition, the District shall obtain express prior written parental/guardian consent before minor students are required to participate in any DOE-funded survey, analysis, or evaluation that reveals information concerning any of the eight protected areas.

## **Surveys Funded by Sources Other than U.S. Department of Education**

The Board of Education directs the Superintendent to develop regulations consistent with this policy regarding the following:

1. The right of the parent/person in parental relation to inspect, upon request, a survey created by a third party (i.e., by a party other than the DOE) before the survey is administered or distributed by a school to a student any applicable procedures for granting a request by a parent for reasonable access to such survey within a reasonable period of time after the request is received.
2. Arrangements to protect student privacy in the event of the administration or distribution of a survey to a student containing one or more of the eight protected areas, including the right of the parent/guardian of the student to inspect, upon request, any survey containing one or more of the eight protected areas.
3. The right of a parent of a student to inspect, upon the request of the parent, any instructional material used as part of the educational curriculum for the student any applicable procedures for granting a request by a parent for reasonable access to instructional material within a reasonable period of time after the request is received.
4. The administration of physical examinations or screenings that the District may administer to a student.

This policy does not apply to any physical examination or screening that is permitted or required by State law, including physical examinations or screenings that are permitted without parental notification. With respect to such permitted or required examinations or screenings, the District incorporates, by reference, applicable Board policies addressing student health services.

This policy is not intended to preempt applicable provisions of State law that require parental/guardian notification.

## **Marketing Surveys**

Unless mandated/authorized in accordance with Federal or State law and/or regulation, this policy of the Board of Education prohibits the collection, disclosure, or use of personal information collected from students for the purpose of marketing or for selling that information (or otherwise providing that information to others for that purpose), unless otherwise exempted pursuant to law as noted below. Questions regarding the collection, disclosure, or use of personal information collected from students for such marketing purposes may be referred to the General Counsel as deemed necessary by the Superintendent/designee.

This prohibition does not apply to the collection, disclosure, or use of personal information collected from students for the exclusive purpose of developing, evaluating, or providing educational products or services for, or to, students or educational institutions as permitted by law.

Cross-ref: Board Policy 1120 – School District Records  
Board Policy 5331 – Students Rights and Responsibilities  
Board Policy 1240.1 Recruiting in Schools  
Board Policy 5405 – Local Wellness Policy  
Board Policy 5500 – Education of Homeless Students

Ref: Family Educational Rights and Privacy Act of 1974, as amended  
20 USC 1232g 34 CFR Part 99  
No Child Left Behind Act, 20 USC §7908 (Military Recruiter Access)  
10 USC §503 as amended by §544 of the National Defense Reauthorization Act for FY  
2002

Education Law §§2-a; 2-b; 2-c; 2-d; 225  
Public Officers Law §87(2)(a)  
Arts and Cultural Affairs Law, Article 57-A (Local Government Records Law)  
8 NYCRR 185.12 (Appendix I) Records Retention and Disposition, Schedule  
ED-1 for use by School Districts and BOCES “Guidance for Reasonable Methods and  
Written Agreements”  
[http://www2.ed.gov/policy/gen/guid/fpc/pdf/reasonablemtd\\_agreement.pdf](http://www2.ed.gov/policy/gen/guid/fpc/pdf/reasonablemtd_agreement.pdf)  
Parents’ Bill of Rights for Data Privacy and Security, July 29, 2014:  
<http://www.p12.nysed.gov/docs/parents-bill-of-rights.pdf>  
Family Policy Compliance Office website:  
<http://www2.ed.gov/policy/gen/guid/fpc/index.html>

Adopted June 22, 2011 pursuant to Resolution No. 2010-11: 909; Amended April 23, 2015  
pursuant to Resolution No. 2014-15: 626; Amended April 26, 2018 pursuant to Resolution No.  
2017-18: 816.