

Policy # 37

**BYLAW PERTAINING TO STUDENT RECORDS:
POLICIES AND PROCEDURES
(FERPA)**

Definitions

For the purpose of this policy, the school district has used the following definitions of terms:

Student - Any person who attends or has attended a program of instruction sponsored by the school district.

Eligible Student - A student or former student who has reached age 18 or is attending a post-secondary school.

Parent - Either natural parent of a student unless his or her rights under the FERPA (Family Educational Rights and Privacy Act) has been removed by a court order, state statute or legally binding document relating to such matters as divorce, separation or custody that specifically revokes these rights, a guardian, or an individual acting as a parent or guardian in the absence of the student's parent or guardian.

Education Records - Any records (in handwriting, print, tape, film, microfilm, microfiche or other medium) maintained by the school district, an employee of the district or an agent of the district which is related to a student except:

- Any personal records kept by a school staff member which meet the following tests:
 - (a) It was made as a personal memory aid;
 - (b) It is in the personal possession of the individual who made it;
 - (c) Information contained in it has never been revealed or made available to any other person except the maker's temporary substitute.
- Employment records which are used only in relation to a student's employment by the school district. (Employment for this purpose does not include activities for which a student receives a grade or credit in a course).
- Alumni records which relate to the student after he or she no longer attends classes provided by the school district and the records do not relate to the person as a student.

Personal Identifiable Information - Any data or information that makes the subject of the records known. This includes the student's name, the student's parents' or other family member's name, the student's address, the student's social security number, a student number, a list of personal characteristics or any other information which would make the student's identity known.

Annual Notification

Within the first three weeks of each school year, the school district will publish in the legal section of a newspaper having general circulation in the district, a notice to parents and eligible students of their rights under the FERPA in the form shown bellows.

Model Notification of Rights under FERPA for Elementary and Secondary Schools

The Family Educational Rights and Privacy Act (FERPA) affords parents and students who are 18 years of age or older ("eligible students") certain rights with respect to the student's education records. These rights are:

1. The right to inspect and review the student's education records within 45 days after the day the [Name of school ("School")] receives a request for access.

Parents or eligible students should submit to the school principal [or appropriate school official] a written request that identifies the records they wish to inspect. The school official will make arrangements for access and notify the parent or eligible student of the time and place where the records may be inspected.

2. The right to request the amendment of the student's education records that the parent or eligible student believes are inaccurate, misleading, or otherwise in violation of the student's privacy rights under FERPA.

Parents or eligible students who wish to ask the [School] to amend a record should write the school principal [or appropriate school official], clearly identify the part of the record they want changed, and specify why it should be changed. If the school decides not to amend the record as requested by the parent or eligible student, the school will notify the parent or eligible student of the decision and of their right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the parent or eligible student when notified of the right to a hearing.

3. The right to provide written consent before the school discloses personally identifiable information (PII) from the student's education records, except to the extent that FERPA authorizes disclosure without consent.

One exception, which permits disclosure without consent, is disclosure to school officials with legitimate educational interests. A school official is a person employed by the school as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel) or a person serving on the school board. A school official also may include a volunteer or contractor outside of the school who performs an institutional service of function for which the school would otherwise use its own employees and who is under the direct

control of the school with respect to the use and maintenance of PII from education records, such as an attorney, auditor, medical consultant, or therapist; a parent or student volunteering to serve on an official committee, such as a disciplinary or grievance committee; or a parent, student, or other volunteer assisting another school official in performing his or her tasks. A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.

Upon request, the school discloses education records without consent to officials of another school district in which a student seeks or intends to enroll, or is already enrolled if the disclosure is for purposes of the student's enrollment or transfer. [NOTE: FERPA requires a school district to make a reasonable attempt to notify the parent or student of the records request unless it states in its annual notification that it intends to forward records on request.]

4. The right to file a complaint with the U.S. Department of Education concerning alleged failures by the [School] to comply with the requirements of FERPA. The name and address of the Office that administers FERPA are:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

See the list below of the disclosures that elementary and secondary schools may make without consent.

FERPA permits the disclosure of PII from students' education records, without consent of the parent or eligible student, if the disclosure meets certain conditions found in §99.31 of the FERPA regulations. Except for disclosures to school officials, disclosures related to some judicial orders or lawfully issued subpoenas, disclosures of directory information, and disclosures to the parent or eligible student, §99.32 of the FERPA regulations requires the school to record the disclosure. Parents and eligible students have a right to inspect and review the record of disclosures. A school may disclose PII from the education records of a student without obtaining prior written consent of the parents or the eligible student –

- To other school officials, including teachers, within the educational agency or institution whom the school has determined to have legitimate educational interests. This includes contractors, consultants, volunteers, or other parties to whom the school has outsourced institutional services or functions, provided that the conditions listed in §99.31(a)(1)(i)(B)(1) - (a)(1)(i)(B)(2) are met. (§99.31(a)(1))
- To officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll, or where the student is already enrolled if the disclosure is for purposes related to the student's enrollment or transfer, subject to the requirements of §99.34. (§99.31(a)(2))

- To authorized representatives of the U. S. Comptroller General, the U. S. Attorney General, the U.S. Secretary of Education, or State and local educational authorities, such as the State educational agency in the parent or eligible student’s State (SEA). Disclosures under this provision may be made, subject to the requirements of §99.35, in connection with an audit or evaluation of Federal- or State-supported education programs, or for the enforcement of or compliance with Federal legal requirements that relate to those programs. These entities may make further disclosures of PII to outside entities that are designated by them as their authorized representatives to conduct any audit, evaluation, or enforcement or compliance activity on their behalf. (§§99.31(a)(3) and 99.35)
- 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 for the aid, determine the amount of the aid, determine the conditions of the aid, or enforce the terms and conditions of the aid. (§99.31(a)(4))
- To State and local officials or authorities to whom information is specifically allowed to be reported or disclosed by a State statute that concerns the juvenile justice system and the system’s ability to effectively serve, prior to adjudication, the student whose records were released, subject to §99.38. (§99.31(a)(5))
- To organizations conducting studies for, or on behalf of, the school, in order to: (a) develop, validate, or administer predictive tests; (b) administer student aid programs; or (c) improve instruction. (§99.31(a)(6))
- To accrediting organizations to carry out their accrediting functions. (§99.31(a)(7))
- To parents of an eligible student if the student is a dependent for IRS tax purposes. (§99.31(a)(8))
- To comply with a judicial order or lawfully issued subpoena. (§99.31(a)(9))
- To appropriate officials in connection with a health or safety emergency, subject to §99.36. (§99.31(a)(10))
- Information the school has designated as “directory information” under §99.37. (§99.31(a)(11))

Statement of Rights

Parents and eligible students have the following rights under the Family Educational Rights and Privacy Act and this policy:

- (1) The right to inspect and review the student's education records;
- (2) The right to exercise a limited control over other people's access to the student's education records;
- (3) The right to seek to correct the student's education records in a hearing if necessary;
- (4) The right to report violations of the FERPA to the Department of Education; and
- (5) The right to be informed about FERPA rights.

All rights and protections given parents under the FERPA and this policy transfer to the student when the student reaches age 18 or enrolls in a post-secondary school. The student then becomes an eligible student.

Under the No Child Left Behind Act of 2001, schools receiving Title I money must release names, addresses and telephone listings to military recruiters upon request. Parents have the right to request that information not be released to military recruiters without prior written consent.

LOCATION OF EDUCATION RECORDS

Types	Location	Custodian
Cumulative school records	Office of School Principal	School Principal (list the names of schools)
Cumulative School Records (former student)	Office of Superintendent	Superintendent (address of the superintendent's office)
Health Records	Office of School Principal	(See Location Above)
Speech Therapy Records Psychological Records	Office of Education for Disabled Students	District Office (list location)
School Transportation	School Bus Garage	Director of Pupil Transportation (list address)
Special Test Records	Office of School Principal	(See Location Above)
Occasional Records (student education records not identified about such as those in the superintendent's office, in the school attorney's office, in the personal possession of a teacher	Student's School (principal will collect and make available)	School Principal

Procedure to Inspect Education Records

Parents of students and eligible students may inspect and review the student's education records

upon request. In some circumstances, it may be mutually more convenient for the record custodian to provide copies of records. See the schedule of fees for copies.

Since a student's records may be maintained in several locations, the school principals will offer to collect copies of records or the records themselves from locations other than a student's school, so that these records may be inspected at one site. However, if parents and eligible students wish to inspect records where they are maintained, school principals will accommodate their wishes.

Parents or eligible students should submit to the student's school principal a written request which identifies as precisely as possible the record or records he or she wishes to inspect.

The principal (or other custodian) will contact the parent of the student or the eligible student to discuss how access will be best arranged (copies, at the exact location, or records brought to a single site).

The principal (or other custodian) will make the needed arrangements as promptly as possible and notify a parent or an eligible student of the time and place where the records may be inspected. This procedure must be completed in 45 days or less from the receipt of the request for access.

If, for any valid reason such as working hours, distance between records location sites or health, a parent or an eligible student cannot personally inspect and review a student's education records, the school district will arrange for a parent or an eligible student to obtain copies of the records. See below for information regarding fees for copies of records.

When the records contain information about students other than the child or the eligible student involved, a parent or an eligible student may not inspect and review the records of other students.

Fees for Copies of Records

The school district will not deny parents or eligible students any rights to copies of records because of the following published fees. Where the fee represents an unusual hardship, it may be waived in part or entirely by the record custodian. However, the district reserves the right to make a charge for copies such as transcripts it forwards to potential employers or to colleges and universities for employment or admissions purposes.

The FERPA requires a school district to provide copies of records:

- (1) When the refusal to provide copies effectively denies access to the records by a parent or an eligible student;

- (2) At the request of a parent or an eligible student when the school district has provided the records to third parties by the prior consent of the parent or an eligible student; or
- (3) At the request of a parent or an eligible student when the school district has forwarded the records to another school where the student seeks or intends to enroll.

The fee for copies provided under the FERPA may not include the costs for search and retrieval. This fee will be from no cost to 25 cents per page.

The fee for all other copies such as copies of records forwarded to third parties with prior consent or those provided to parents as a convenience will be 25 cents per page plus postage if mailing is involved.

Directory Information

The school district proposes to designate the following personally identifiable information contained in a student's education records as directory information, and it will disclose that information without prior written consent:

- (1) The student's name;
- (2) The student's address;
- (3) The student's telephone listing;
- (4) The student's date and place of birth;
- (5) The student's class designation and major field of study (e.g., first grade, tenth grade, and the like);
- (6) The student's participation in officially recognized activities and sports;
- (7) The student's degrees, achievement awards or honors;
- (8) The student's weight and height if a member of an athletic team;
- (9) Dates of attendance;
- (10) The student's photograph;
- (11) The most recent educational institution attended before the student enrolled in the school district; and
- (12) Electronic mail address.

Within the first three weeks of each school year, the school district will publish in the legal section of a newspaper having general circulation in the district the above list, or a revised list, of the items of directory information it proposes to designate as directory information. For students enrolling after the notice is published, the list will be given to the student's parent or the eligible student at the time and place of enrollment.

After the parents or the eligible students have been notified, they will have two weeks to advise the school district in writing (a letter to the school superintendent's office) of any or all of the items they refuse to permit the district to designate as directory information about that student.

At the end of the two-week period, each student's records will be appropriately marked by the records custodians to indicate the items the district will designate as directory information about that student. This designation will remain in effect until it is modified by written direction of a student's parents or an eligible student.

The district may disclose directory information about former students without following the procedures specified in this paragraph.

Use of Student Education Records

To carry out their responsibilities, school officials will have access to student education records for legitimate educational purposes. The school district will use the following criteria to determine school officials. An official is:

- (1) A person duly elected to the school Board;
- (2) A person certified by the State and appointed by the school Board to an administrative or supervisory position;
- (3) A person certified by the State and under appointment to the school Board as an instructor;
- (4) A person employed by the school Board as a temporary substitute for administrative, supervisory or instructional personnel for the period of his or her performance as a substitute; or
- (5) A person employed by or under appointment to the school Board to perform a special task such as a secretary, a clerk, the school Board attorney or auditor for the period of that person's performance as an employee or contractor.

School officials who meet the criteria listed above will have access to student's records if they have a legitimate educational interest in doing so. A legitimate educational interest is the person's need to know in order to:

- (1) Perform an administrative task required in the school officials position

description approved by the school Board;

- (2) Perform a supervisory or instructional task directly related to the student's education; or
- (3) Perform a service or benefit for the student or the student's family such as health care, counseling, student job placement or student financial aid.

The school district only will release information from or permit access to student's education records with a parent or an eligible student's prior written consent except that the school superintendent or a person designated in writing by the superintendent may permit disclosure:

- (1) When a student seeks or intends to enroll in another school district or in a post-secondary school. The district will not further notify parents or eligible students prior to such a transfer of records. Parents and students have a right to obtain copies of records transferred under this provision.
- (2) When certain Federal and State officials need information in order to audit or enforce legal conditions related to federally supported education programs in the district.
- (3) To parties who provide or may provide financial aid to a student to:
 - (a) Establish the student's eligibility for the aid;
 - (b) Determine the amount of financial aid;
 - (c) Establish the conditions for the receipt of the financial aid;
 - (d) Enforce the agreement between the provider and the receiver of financial aid.
- (4) If a State law adopted before November 19, 1974 required certain specific items of information to be disclosed in personally identifiable form from student records to State or local officials.
- (5) When the school district has entered into a written agreement or contract for an organization to conduct studies on the school district's behalf to develop tests, administer student aid or improve instruction. Such study may not permit personal identifiable information of parents or students by individuals other than representatives of the organization. Such information must be destroyed when no longer needed.
- (6) To accrediting organizations to carry out their accrediting functions.
- (7) To parents of eligible students if the parents claim the student as a dependent

as defined by the Internal Revenue Code.

(8) To comply with a judicial order or lawfully issued subpoena. The district will make a reasonable effort to notify the student's parents or the eligible student before making a disclosure under this provision.

(9) In connection with a health or safety emergency under conditions described below.

(10) If the disclosure is an item of directory information and the student's parents or an eligible student has not refused to allow the district to designate that item as directory information for that student.

(11) Disclosure to a parent of a student who is not an eligible student or the student.

The school district will permit any of its officials to make the needed disclosure from student education records in a health or safety emergency if:

- (1) The official deems it is warranted by the seriousness of the threat to the health or safety of the student or other persons;
- (2) The information is necessary and needed to protect the health and safety of the student or other individuals;
- (3) The persons to whom the information is to be disclosed are qualified and in a position to deal with the emergency; and
- (4) Time is an important and limiting factor in dealing with the emergency. (The health or safety exception shall be strictly construed)

School district officials may release information from student's education records if the student's parents or the eligible student gives his prior written consent for the disclosure. The written consent must include at least:

- (1) A specification of the records to be released;
- (2) The reasons for the disclosure;
- (3) The person or the organization or the class of persons or organizations to whom the disclosure is to be made;
- (4) A parent or an eligible student's signature; and
- (5) The date of the consent and, if appropriate, a date when the consent is to be terminated.

The student's parents or the eligible student may obtain a copy of any records disclosed under this provision.

The school district will not release information contained in student's education records, except directory information, to any third parties except its own officials, unless those parties agree that the information will not be re-disclosed without the parents or eligible student's prior written consent.

Records of Requests for Access and Disclosure Made From Education Records

The school 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 information it discloses and access it permits with some exceptions listed below. These records will be kept with, but will not be a part of, each student's Cumulative School Records. It will be available only to the record custodian, the eligible student, the parents of the student or to Federal, State or local officials for the purpose of auditing or enforcing federally supported educational programs.

The records will include at least:

- (1) The name of the person or agency that made the request;
- (2) The interest the person or agency had in the information;
- (3) The date the person or agency made the request; and
- (4) Whether the request was granted and, if it was, the date access was permitted or the disclosure was made.

The district will maintain these records as long as it maintains the student's education records. Such records may be inspected by the parent or eligible student or the school official or that person's assistant responsible for the custody of the records.

These records will not include requests for access or access granted to parents of the student or to an eligible student, requests for access or access granted to officials of the school district who have a legitimate educational interest in the student, requests for, or disclosure of, information contained in the student's education records if the request is accompanied by the prior written consent of a parent of the student or an eligible student or the disclosure is authorized by such prior consent, or for requests for, or disclosures of, directory information designated for that student.

Procedures to Seek to Correct Education Records

Parents of students and eligible students have a right to seek to change any part of the student's records they believe is inaccurate, misleading or in violation of the student's rights. (NOTE: Under

the FERPA, the district may decline to consider a request to change the grade a teacher assigns for a course).

For the purpose of outlining the procedures to seek to correct education records, the term incorrect will be used to describe records that are inaccurate, misleading or in violation of the student's rights. The term correct will be used to describe records that are accurate, not misleading and not in violation of the student's rights. Also, in this section, the term requester will be used to describe a parent of a student or an eligible student who is asking the school district to correct the records.

To establish an orderly process to review and correct education records for a requester, the district may make a decision to comply with the request for change at several levels in the procedure.

First Level Decision - When a parent of a student or an eligible student finds an item in the student's education records which he or she believes is inaccurate, misleading or in violation of student rights, the parent immediately should ask the record custodian to correct it. If the records are incorrect because of an obvious error and it is a simple matter to make the record change at this level, the record custodian will make the correction. However, if the records are changed at this level, the method and result must satisfy the requester.

If the custodian cannot change the records to the requester's satisfaction or the records do not appear to be obviously incorrect, the custodian will:

- (1) Provide the requester a copy of the questioned records at no cost;
- (2) Ask the requester to initiate a written request for the change; and
- (3) Follow the procedure for a second level decision.

Second Level Decision - The written request to correct a student's education records through the procedure at this level should specify the correction the requester wishes the district to make. It should at least identify the item the requester believes is incorrect and state whether the requestor believes the item:

- (1) Is inaccurate and why;
- (2) Is misleading and why; or
- (3) Violates the student's rights and why.

The request will be dated and signed by the requester.

Within two weeks after the record custodian receives a written request, the custodian will:

- (1) Study the request;
- (2) Discuss it with other school officials (the person who made the records or those who may

have a professional concern about the district's response to the request);

- (3) Make a decision to comply or decline to comply with the request; and
- (4) Complete the appropriate steps to notify the requester or move the request to the next level for a decision.

If, as a result of this review and discussion, the record custodian decides the records should be corrected, the custodian will effect the change and notify the requester in writing that the change has been made. Each such notice will include an invitation for the requester to inspect and review the student's education records to make certain the records are in order and the correction is satisfactory.

If the custodian decides the records are correct, the custodian will make a written summary of any discussions with other officials and of the custodian's findings in the matter. The custodian will transmit this summary and a copy of the written request to the school superintendent.

Third Level Decision - The school superintendent will review the material provided by the record custodian and, if necessary, discuss the matter with other officials such as the school attorney or the school Board (in executive session). The superintendent will then make a decision concerning the request and complete the steps at this decision level. Ordinarily, this level of the procedure should be completed within two weeks. If it will take longer, the superintendent will notify the requester in writing of the reasons for the delay and a date when the decision will be made.

If the superintendent decides the records are incorrect and should be changed, the superintendent will advise the record custodian to make the change. The record custodian will advise the requester of the change as the custodian would if the change had been made at the second level.

If the superintendent decides the records are correct, the superintendent will prepare a letter to the requester which will include:

- (1) The school district's decision that the records are correct and the basis for the decision.
- (2) A notice to the requester that the requestor has a right to ask for a hearing to present evidence that the records are incorrect and that the district will grant such a hearing.
- (3) Instructions for the requester to contact the superintendent, or an official designated by the superintendent, to discuss acceptable hearing officers, convenient times and a satisfactory site for the hearing. (The district will not be bound by the requester's positions on these items but will, so far as possible, arrange the hearing as the requester wishes).
- (4) That the requester may be represented or assisted in the hearing by other parties, including an attorney at the requester's expense.

Fourth Level Decision - After the requester has submitted (orally or in writing) that person's wishes concerning the hearing officer and the time and place for the hearing, the superintendent will, within a week, notify the requester when and where the district will hold the hearing and whom the superintendent has designated as the hearing officer.

At the hearing, the hearing officer will provide the requester a full and reasonable opportunity to present material evidence and testimony to demonstrate that the questioned part of the student's education records are incorrect as shown in the requester's written request for a change in the records (second level).

Within two weeks after the close of the hearing, the hearing officer will submit to the school superintendent a written summary of the evidence submitted at the hearing. Along with the summary, the hearing officer will submit recommendations, based solely on the evidence presented at the hearing, that the records should be changed or remain unchanged.

The school superintendent will prepare the district's decision within three weeks of the hearing. That decision will be based on the summary of the evidence presented at the hearing and the hearing officer's recommendation. The district's decision will be based solely on the evidence presented at the hearing. The superintendent may overrule the hearing officer if the superintendent believes the hearing officer's recommendation is not consistent with the evidence presented. As a result of the district's decision, the superintendent will take one of the following actions:

- (1) If the decision is that the district will change the records, the superintendent will instruct the record custodian to correct the records. The record custodian will correct the records and notify the requester as at the second level decision.
- (a) If the decision is that the district will not change the records, the superintendent will prepare a written notice to the requester which will include:
 - (b) The school district's decision that the records are correct and will not be changed.
 - (c) A copy of the summary of the evidence presented at the hearing and a written statement of the reasons for the district's decision.
 - (d) A statement advising the requester that the requestor may place an explanatory statement which states the reasons the requestor disagrees with the school district's decision or the reasons the requestor believes the records are incorrect in the student's education records.

Final Administrative Step in the Procedure - When the school district receives an explanatory statement from a requester after a hearing, it will maintain that statement as part of the student's education records as long as it maintains the questioned part of the records. The statement will be attached to the questioned part of the records and, whenever the questioned part of the records are disclosed, the explanatory statement also will be disclosed.

Adoption

The Board of Education of the school district adopted this student policy at its March 1, 2017 meeting and thereby directs and authorizes the appropriate school officials to establish and put in effect the procedures to implement the bylaw as of the date of the adoption.

Any other bylaw pertaining to this subject is hereby superseded.

Copies of the policy will be available for parents and eligible students to review in the principal's office of each school building and at the superintendent's office.

Education Law 2-d requires Districts and BOCES to adopt a Parental Bill of Rights relating to student data. The SED Model Form is attached. The FERPA policy, PPRA policy and Parents Bill of Rights must be published on the District's website

First Reading:	February 15, 2017
Second Reading:	March 1, 2017
BOE Adoption:	March 1, 2017