

Chicago Public Schools Policy Manual

Title: PARENT & STUDENT RIGHTS TO ACCESS TO AND CONFIDENTIALITY OF STUDENT RECORDS

Section: 706.3

Board Report: 16-0928-PO1

Date Adopted: September 28, 2016

Policy:

THE CHIEF EXECUTIVE OFFICER RECOMMENDS THE FOLLOWING:

That the Board amend Board Report 08-0123-PO2 Policy on Parent and Student Rights of Access to and Confidentiality of Student Records. This amendment is necessary to align this policy with the district's current procedures and organizational structure.

PURPOSE: To promote a legally consistent and appropriate policy for parent and student rights to access and confidentiality of student records.

POLICY TEXT:

I. **SCOPE OF THE POLICY:** This policy shall be followed by Chicago public schools, networks and central office departments. Each principal and administrator with his/her staff shall assume the responsibility for safeguarding the confidentiality and protection of student records.

II. DEFINITIONS

- A. **Directory Information** – Information such as a student's name, address, telephone number, date and place of birth, honors and academic awards, dates of attendance and information concerning school-sponsored activities, organizations, and athletics. Directory information is generally not considered harmful or an invasion of privacy if released.
- B. **Student** - Any person enrolled or previously enrolled in a school.
- C. **School** - Any public preschool, day care center, kindergarten, nursery, elementary or secondary educational facility or any other elementary or secondary educational agency or institution and any person, agency or institution which maintains school student records from more than one school, but does not include a private or non-public school.
- D. **State Board** - The Illinois State Board of Education.
- E. **Student Record** - Any writing or other recorded information, whether in paper or electronic form, concerning a student and by which a student may be individually identified, maintained by a school or at its direction or by an employee of a school, regardless of how or where the information is stored. The following shall not be deemed student records: (i) personal notes created by teachers or other school personnel for their exclusive use, unless such notes are disclosed for purposes of serving the student's needs at school, (ii) information or records maintained by school law enforcement and safety personnel, and (iii) records maintained to manage school or District operations and otherwise subject to the Board's policy on the maintenance of business records.

The Student Record is comprised of: the Permanent Student Record, the Temporary Student Record and if applicable, the Temporary Special Education Record.

- 1. **Permanent Student Record** - Information that consists of the following, whether in paper or electronic form:
 - a. Student Elementary Transcript (including grades and attendance);
 - b. Student High School Transcript (including grades, attendance, and state standardized test scores);

- c. Student Health Record (consisting of health records required for enrollment and continuing enrollment, e.g. immunization, health exams, vision and dental exam);
- d. Student Registration Card; and
- e. Student Birth Certificate.

2. Temporary Student Record

Any document or data record, whether in paper or electronic form, identifying a particular student and of clear relevance to the education of the student, that does not otherwise qualify as a Permanent Student Record. Temporary Student Records include, but are not limited to, a student's cumulative folder, cumulative record card, enrollment records, elementary school state assessment scores, special education records (as defined below), bilingual education records, program participation records, records of disciplinary infractions, DCFS reports, reports of a serious student injury and other information, and correspondence of clear relevance to the education of the student, including electronic correspondence (e.g. e-mail).

3. Temporary Special Education Record

Information that consists of any document or data record, whether in paper or electronic form related to the identification, evaluation or placement of a student for special education services or 504 Plan or to the implementation of a student's Individualized Education Program (IEP) or 504 Plan and include, but are not limited to, the IEP and the 504 Plan in all their parts, parent notices, referrals, planning and meeting records including assessment assignments, progress notes, manifestation determination reports, behavior plans, health-related information (e.g. medication logs), transition plans, and service plans for private school students.

- F. **Parent** - A person who is the natural or adoptive parent of the student or other person who has the primary responsibility for the care and upbringing of the student.

III. GENERAL RIGHTS AND PRIVILEGES

All rights and privileges accorded parent(s) in this policy shall become exclusively those of the student upon the student's 18th birthday, graduation from secondary school, marriage, or entry into the military, whichever occurs first, unless the parent or the Department of Children and Family Services continues as the student's guardian beyond the age of 18.

IV. RIGHT TO INSPECT AND COPY RECORDS

A parent or any person specifically designated as a representative by a parent shall have the right to inspect and copy any and all school student records of that parent's child, including all material that is incorporated into each student's temporary and permanent record, with the exception of certain mental health records as described below. A non-custodial parent is entitled to review and copy school student records of his or her child unless that parent is prohibited by an order of protection or court order specifically prohibiting such access pursuant to the Illinois Domestic Violence Act of 1986. The parent's request to inspect and copy student records must be granted within a reasonable time, in no case later than 15 school days after the date of such request. If the records contain information concerning more than one student, the parent may inspect, review or be informed of only the specific information about his or her child. Either the school or parent may require that a qualified professional be present to interpret the information contained in the student record.

A student below the age of 18 shall also have the right to inspect and copy his or her own Permanent Student Record.

Pursuant to the Mental Health and Developmental Disabilities Confidentiality Act, a parent may not have access to mental health or diagnostic records of his or her child if the child is 12 years of age or older without a court order unless the child has been informed of the request for access and does not object or if the mental health professional finds no compelling reason for denying such access.

Before any student record is destroyed or deleted, the parent shall be given reasonable prior notice and an opportunity to copy the record/information proposed to be destroyed or deleted. Parent(s) shall have the right to insert a statement of reasonable length in their child's school student record setting forth their position on disputed information contained in that record. A copy of that statement shall be included in any subsequent dissemination of the information in dispute.

The school may not charge a fee to search for or retrieve student records, but may charge a fee of no more than \$.35 per page for the copying of student records. No parents or students shall be denied copies of student records due to their inability to bear the cost of copying.

V. CONFIDENTIALITY OF RECORDS

A. Non-Disclosure Requirement

As a general rule, student records are confidential. Student records must not be disclosed without prior parental consent, except as provided in section B. below. **To disclose or release any student information (including addresses or special education status) to third parties, except as described in this policy, is a violation of state and federal law, punishable by fine and/or liability for civil damages and attorneys fees.**

B. Exceptions to the Non-Disclosure Requirement

Student records or information contained therein may be released, transferred, disclosed or otherwise disseminated without the written consent of the student's parent(s) as delineated below.

Note: Parent(s) must be notified in writing prior to the release of records and provided an opportunity to inspect, copy and challenge the content of the records when the records are to be released pursuant to paragraphs (3), (4) and (8).

1. To a parent or student or person specifically identified as a representative by the parent.
2. To an employee or official of the school or school district or State Board with a current demonstrable educational or administrative interest in the student. An "employee" or "official" who may have a demonstrable educational or administrative interest include members of the Chicago Board of Education, network or administrative employees, or school employees. A "demonstrable educational or administrative interest" may include academic, disciplinary, or administrative concerns, but must be evaluated on a case-by-case basis.
3. To an official records custodian or official with similar responsibilities of a public preschool, day care center, kindergarten, nursery, elementary or secondary school in which the student has enrolled or intends to enroll, upon the request of such official or student. At the time of transferring, if a student is serving a suspension or expulsion for knowingly possessing in a school building or on school grounds a weapon, defined in the Gun Free Schools Act, for knowingly possessing, selling or delivering in a school building or on school grounds a controlled substance or cannabis, or for battering a staff member, and if the period of suspension or expulsion has not expired at the time the student attempts to transfer, any school student records required to be transferred shall include the date and duration of the period of suspension or expulsion.
4. To any person as specifically required by state or federal law.
5. In connection with the student's application for, or receipt of, financial aid.
6. To authorized representatives of the Comptroller General of the United States; the United States Secretary of Education; the United States Attorney General, for law enforcement purposes; the administrative head of an educational agency or

State educational authorities, to have access to student records or other records which may be necessary in conjunction with an audit and evaluation of a supported educational program, or in connection with the enforcement of legal requirements which relate to such programs; provided, that, except when collection of personally identifiable data is specifically authorized by law, data collected by such official with respect to individual students shall not include information (including social security number) which would permit the personal identification of such students or their parent(s) after the data so obtained has been collected.

7. To any person for the purposes of research, provided that such research is for or on behalf of the Board of Education. Further, such research must be to develop, validate or administer predictive tests, administer student aid programs, or improve instruction.
8. Pursuant to a court order, provided that the parent(s) are given prompt written notice of the receipt of the order, the terms of the order, the nature and substance of the information to be released in compliance with such order, and the right to inspect, copy, and challenge the contents of the student records.
9. To appropriate persons, in connection with an emergency, if the knowledge of such information is necessary to protect the health or safety of the student or other persons.
10. Copies of the special education and disciplinary records shall be transmitted to appropriate law enforcement and judicial authorities for consideration when a crime is committed by a student with a disability.
11. To juvenile authorities who request information prior to adjudication of the student, when necessary in the discharge of their official duties.
12. To a governmental agency or social service agency contracted by a governmental agency, for an investigation pursuant to compulsory student attendance laws.

C. Release of Directory Information to the Public and Opt Out

Schools officials, such as principals and assistant principals, may disclose Directory Information about students to the public through posting (e.g. website, bulletin board, newsletter) or to specific parties through written requests. Prior to releasing Directory Information, however, school officials must notify the parent/guardian about what Directory Information is to be released/posted and allow a reasonable amount of time for them to opt out of the disclosure. School Officials shall adhere to the following steps regarding the release of Directory Information:

1. Upon receiving a request for release/posting of Directory Information, school officials must decide what type of Directory Information, if any, shall be included in the disclosure.
2. Prior to disclosing the Directory Information, school officials must notify the parent/guardian in writing about the type information that is planned for release and the opportunity to opt out of such disclosure.
3. Parents/Guardians shall be notified of their right to opt out of the release of Directory Information to the public prior to the release of such information. If a parent/guardian submits a request to opt-out of a disclosure, school officials shall refrain from including such student's Directory Information in the disclosure.

D. Release of Directory Information to Institutions of Higher Education and Military Recruiters and Opt Out

The Board shall provide institutions of higher education and military recruiters with contact information for high school juniors and seniors (name, address and telephone number) in accordance with federal and state law and the requirements specified in Board's Recruiter Access Policy. A student, or a student's parent or guardian, may opt out of the release of such contact information to institutions of higher education or military recruiters by submitting a signed, written opt-out request in accordance with the Board's Recruiter Access Policy.

E. Record of Release

Each school shall maintain a record of all persons, agencies or organizations which have requested or obtained access to the records of a student, indicating specifically the legitimate educational or other interest that each person, agency or organization has in seeking this information. In addition, a record of release of any student records must be made and kept as a part of the student record for the life of the student record and must include the nature of the information released, the name and signature of the official records custodian releasing the information, the name and title of the person making the request, the date of the release, and a copy of any consent to the release. This record shall be available only to parent(s), to the school officials responsible for records maintenance, and to individuals authorized by law to audit the operation of the system.

If school or other Board personnel have any questions concerning access or disclosure of school student records, they should contact the Law Department of the Board at (773) 553-1700.

VI. Challenging the Content of Student Records

Parent(s) may review or challenge information contained in their child's record.

If the parent(s) feels that information contained in their child's records (other than academic grades) is inaccurate, misleading, irrelevant, or that it violates the child's or family's privacy, parent(s) may make a written request to the school that such information be amended. If the school does not make the amendments requested, the parents have the right to an informal meeting with the principal or principal's designee within fifteen (15) school days from the date of the request for such a meeting. This written request should list the particular records that the parent(s) want to amend and the reasons for the requested amendment.

If the principal or the principal's designee denies the request to amend the record, parents may appeal in writing to the network chief or the chief's designee. The written appeal must be made within ten (10) schools days from the date of the school's denial to amend the record.

If the network chief denies the parent's appeal, the parent has the right to request a formal hearing by submitting a written request to the Executive Director of Policy and Procedures, Chicago Public Schools, Chief Education Office, 42 West Madison Street, Chicago, Illinois 60602. A hearing officer, not employed in the attendance center in which the student is enrolled, shall be appointed by the school district within a reasonable time, but no later than fifteen (15) school days after the informal conference, unless an extension of time is agreed upon by the parent(s) and school officials. After the hearing, if the school district still decides not to amend the record, the parent or eligible student has the right to place a statement of reasonable length with the record commenting on the contested information in the record. A copy of that statement shall be included in any subsequent dissemination of the information in dispute.

Either party shall have the right to appeal the decision of the local hearing officer to the Illinois State Board of Education (ISBE) Principal Communications Consultant, Problem Resolution Office, 100 West Randolph Street, Suite 14-300, Chicago, Illinois 60601-3405 within twenty (20) school days after such a decision is transmitted.

The school shall be responsible for implementing the decision of the Principal Communications Consultant, Problem Resolution Office. The final decisions of the Principal Communications Consultant, Problem Resolution Office may be appealed to the Circuit Court of Cook County.

VII. POSTSECONDARY SCHOOL REQUESTS

No student records, including student disciplinary records, shall be released to postsecondary education institutions in the course of a student's application to such institutions or in response to requests from such institutions. Student disciplinary records that should not be disclosed include records about any infraction resulting in suspension, reassignment, or expulsion or any information about criminal arrest or adjudication. Student disciplinary record information shall only be disclosed to postsecondary education institutions when expressly directed to do so by a parent/guardian or as required by law.

VIII. COMPLIANCE WITH SUBPOENAS AND COURT ORDERS FOR STUDENT RECORDS

The Board shall respond to all student records subpoenas and court orders pursuant to the Illinois School Student Records Act and the Family Education and Rights to Privacy Act. The Board will not release any student records unless (1) it has authorization for such release by written consent of the parent, or (2) the release is authorized by one of the exceptions listed in Section III above, or (3) the release is made pursuant to a lawful court order. School officials or employees must send all student records subpoenas or court orders to the Board's Law Department and must follow Board procedures for processing student records requests. Any school employee or Board official shall consult the Law Department at (773) 553-1700 if they have any questions about this process.

Amends/Rescinds:

Amends 08-0123-PO2

Cross References:

06-1025-PO1; 04-0623-PO3; 01-0725-PO2; 74-1095-1

Legal References:

The Family Education Rights and Privacy Act of 1974, 20 U.S.C. 1232(g); Individuals with Disabilities Education Act, 20 U.S.C. 1401 et seq.; The No Child Left Behind Act of 2001, 20 U.S.C. §7908; Illinois School Student Records Act, 105 ILCS 10/1 - 105 ILCS 10/10; Illinois Administrative Code, 23 Ill. Admin. Code 375.10 et seq; Local Records Act, 50 ILCS 205/1 et seq.; Mental Health and Developmental Disabilities Confidentiality Act, 740 ILCS 110/1 et seq. Gun Free Schools Act (20 U.S.C. 8921 et seq.); 105 ILCS 5/2-3.13a