

Policy Information

Series 6000 - Students

Student Records: Access, Publication and Challenge

Policy # 6420

POLICY

2017 6420

Students

SUBJECT: STUDENT RECORDS: ACCESS, PUBLICATION AND CHALLENGE

This policy guides the Genesee, Livingston, Steuben, Wyoming BOCES (the "Partnership") as to compliance with and implementation of the Family Educational Rights and Privacy Act of 1974 (FERPA). FERPA and this policy address the subjects of access to education records and the dissemination of information from education records. If this policy conflicts with FERPA in any respect, FERPA overrides the conflicting policy provision.

Definition of Education Record

The term "education records" is defined as all records, files, documents and other materials containing information directly related to a student; and maintained by the Partnership, or by an entity acting for the Partnership. Such records include but are not limited to grades, standardized test scores, attendance data, psychological tests, student interest inventories, health data, family background information and student discipline records.

In addition, all records pertaining to services provided under the Individuals with Disabilities Education Act (IDEA) are considered "education records" under FERPA.

Personal notes made by teachers or other staff, on the other hand, are not considered education records if they are:

- a. Kept in the sole possession of the maker;
- b. Not accessible or revealed to any other person except a temporary substitute; and
- c. Used only as a memory aid.

Records created and maintained by a law enforcement unit for law enforcement purposes are also excluded from the definition of "education record."

Persons Entitled to Student Information

Parents (including noncustodial parents whose rights are not limited by court order or formal agreement) and guardians of students who are attending a Partnership educational program, as well as eligible students are entitled to inspect and review student education records. An "eligible student" is a student who is 18 years of age or older or who is attending a postsecondary institution.

Publication and Release of Student Information: Written Consent Not Required

The Partnership may publish or release student information or records without written consent as follows:

a. Directory Information

In general, directory information is information that would not ordinarily be considered harmful or an invasion of privacy if disclosed. In particular, the Partnership designates the following as directory information:

1. Student honors, awards, degree earned and past projects completed,
2. Student names, the Partnership activities they participate in, their photograph and video recordings of the students,
3. Student academic programs, courses, statements and interviews,
4. Student grade level, dates of attendance and home school.

Directory information does not include student test scores, grades, special education classification or disciplinary records.

An eligible student, parent or legal guardian may prohibit the release of directory information using the Notice and Declination form attached to this policy or by using any substantial equivalent of that form.

The District Superintendent or his designee may amend the form from time to time without amendment of this policy, provided that the form is consistent with the terms of this policy.

In the absence of a signed and submitted Notice and Declination form, the Partnership by its administration, teachers and other staff may release directory information in any manner and to any publication or other public outlet, including but not limited to Partnership newsletters, the Partnership website, teacher websites, print or television media, flyers, advertisements, in video used for professional development or for obtaining teacher certification, on Facebook, on Twitter and in any other social media.

The Partnership will publish this policy on its website to inform parents, guardians and eligible students of the definition of directory information and of the parent's, guardian's and eligible student's right to refuse the release of student directory information. Also, via the Partnership's student intake process, parents, guardians and eligible students will be given a plain language "Student Records Notice," and a Notice and Declination form by which the parent, guardian or eligible student may opt out of the disclosure of Directory Information.

b. To School Officials Who Have a Legitimate Educational Interest

To other school officials, including teachers, within the Partnership whom the Partnership has determined to have legitimate educational interest. An educational interest includes the behavior of a student and disciplinary action taken against such student for conduct that posed a significant risk to the safety or well-being of the student, other students or other members of the school community. A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his/her professional responsibility.

c. To Another Educational Institution

The Partnership may disclose any and all educational records, including disciplinary records and records that were created as a result of a student receiving special education services under Part B of DEA, to another school or postsecondary institution at which the student seeks or intends to enroll, or after the student has enrolled or transferred, so long as the disclosure is for purposes related to the student's enrollment or transfer. Parental consent is not required for transferring education records if the school's annual FERPA notification indicates that such disclosures may be made. In the absence of information about disclosures in the annual FERPA notification, school officials must make a reasonable attempt to notify the parent about the disclosure, unless the parent initiated the disclosure. Additionally, upon request, schools must provide a copy of the information disclosed and an opportunity for a hearing.

d. For Health and Safety Emergency Reasons

The Partnership must balance the need to protect students' personally identifiable information with the need to address issues of school safety and emergency preparedness. Under FERPA, if the Partnership determines that there is an articulable and significant threat to the health or safety of a student or other individuals, it may disclose information from education records, without consent, to any person whose knowledge of the information is necessary to protect the health and safety of the student or other individuals during the period of the health or safety emergency. The Partnership may release information from records to appropriate parties including, but not limited to, parents, law enforcement officials and medical personnel. The Partnership's determination that there is an articulable and significant threat to the health or safety of a student or other individuals shall be based upon a totality of the circumstances, including the information available, at the time the determination is made.

e. To Juvenile Justice Systems

Information may be disclosed 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. In such cases the official or authority must certify in writing that the information will not be disclosed to any other party except as provided under law without prior written consent.

f. To Foster Care Agencies

The Partnership may release records to an agency caseworker or other representative of a state or local child welfare agency, who has the right to access a student's case plan, when the agency or organization is legally responsible, for the care and protection of the student. This does not give a child welfare agency the right to look into any non-foster care student's records, without parental consent, when there has been a mere allegation of abuse or neglect, absent an order or subpoena (see below).

g. Pursuant to a Subpoena or Court Order

When the Partnership receives a subpoena or court order for the release of records the Partnership must make a reasonable effort to notify the parent/guardian or eligible student of the order or subpoena in advance of compliance. This allows the parent/guardian or eligible student to seek protective action against the subpoena or order before the release of the records.

The Partnership may disclose a student's records without first notifying parents/guardians or eligible students if the disclosure is:

1. Based on a subpoena in which the court orders not to reveal to any person the existence or contents of the subpoena or any information furnished pursuant to the subpoena;
2. Pursuant to a judicial order in cases where the parents are a party to a court proceeding involving child abuse or neglect or dependency matters, and the order is issued in the context of that proceeding; or
3. Made to a court (with or without an order or subpoena) when the Partnership is involved in a legal action against a parent or student and the records are relevant to the matter

h. For Financial Aid Purposes

Pertinent information may be released in connection with the determination of eligibility, amount, conditions and enforcement of terms of a student's financial aid.

i. To Accrediting Organizations

Disclosure of a student's records may be made to an organization in which that student seeks accreditation, in order to carry out their accrediting function.

j. To Parents of a Dependent Student

Even when a student turns 18 years of age or older the Partnership may disclose education records to that student's parents, without the student's consent, if the student is claimed as a dependent for federal income tax purposes by either parent.

k. For Other Lawful Purposes

Any disclosure of information or records permitted by law shall not be deemed to be in conflict with this policy regardless of whether such disclosure is or is not specifically authorized by this policy.

Release of Information to the Noncustodial Parent

The Partnership may presume that noncustodial parents have the authority to request information concerning his or her child and release such information upon request. If the custodial parent wishes to limit the noncustodial parent's records access, he or she will obtain and present to the school a legally binding instrument that prevents the release of said information.

Publication and Release of Student Information: Written Consent Required

Other than as above provided or as permitted by law, the Partnership will release personally identifiable information (PII) contained in student education records only if it has received signed consent from a parent or eligible student. The signed written consent must state the records that may be disclosed, the purpose of the disclosure and the party or class of parties to whom disclosure may be made.

A student, parent or legal guardian may consent to the release of education records using the Consent form attached to this policy or by using any substantial equivalent of that form. The District Superintendent or his designee may amend the form from time to time without amendment of this policy, provided that the form is consistent with the terms of this policy.

Challenge to Student Records

Parents or guardians of a student under the age of eighteen (18), or a student who is eighteen (18) years of age or older or who is attending an institution of post-secondary education, shall have an opportunity for a hearing to challenge the content of the school records, to ensure that the records are not inaccurate, misleading, or otherwise in violation of the privacy of students, and to provide an opportunity for the correction or deletion of any such inaccurate, misleading, or otherwise inappropriate data contained therein.

Board Approved
11/21/95
3/26/96
9/20/16



**Genesee Valley Educational Partnership
Student Information Notice and Declination**

The Genesee Valley Educational Partnership takes great pride in our students. We celebrate their activities and accomplishments. We share those activities and accomplishments with the public in many ways, including through our own flyers and newsletters, as well as through newspapers, on the Partnership website, on teacher

websites, on video recordings used for professional development and to obtain teacher certification, and on social media such as Facebook, Twitter and podcasts. We love to tell our story.

In the process of telling our story, sometimes we release background information about the students who participate. That information is called, "directory information." More specifically, directory information includes:

1. Student honors, awards, degree earned and past projects completed,
2. Student names, the Partnership activities they participate in, their photograph and video recordings of the student,
3. Student academic programs, courses, statements and interviews, and
4. Student grade level, dates of attendance and home school.

Directory information does not include more private information such as student test scores, grades, special education classification or student discipline records.

The Partnership does not share information that we feel is of a personal or private nature. However, some eligible students¹, parents or legal guardians may still prefer that even the directory information listed above not be shared or publicized. In that case, the eligible student, parent or legal guardian may prohibit the release of the student's directory information by completing this form and returning it to the Principal at the student's campus.

**DO NOT SIGN AND RETURN THIS FORM
Unless You Want to Prohibit the Sharing of Your Student's Directory Information**

Dear Principal _____ Please do not share or publicize this student's
Directory Information:

Student name (print)

Date

Parent/Guardian/Eligible Student Name (print)

Parent/Guardian/Eligible Student Name (signature)

1) An "eligible student" is a student who is 18 years of age or older or who is attending a postsecondary institution.

Written Consent to the Release of Education Records

Under the Family Educational Rights and Privacy Act ("FERPA") (20 U.S.C. § 1232g; 34 CFR Part 99), a parent must provide written consent prior to the Partnership disclosing personally identifiable information ("PII") in a student's educational records.

Student's Name: _____ Date of Birth: _____

1. Provider(s)/Organization(s) to Whom PII will be Disclosed:

2. PII Records to be Disclosed:

3. Purpose of Disclosure of PII Records to the Listed Providers:

PARENT/LEGAL GUIRDIAN'S NAME

SIGNATURE CONSENTING
TO PII RELEASE

DATE

*** FURTHER INFORMATION:**

If the disclosure of PII records is for the purpose of billing Medicaid for covered services provided pursuant to a Medicaid-eligible student's individualized education program (IEP) prepared in accordance with the Individuals with Disabilities Education Act (IDEA), then the parent has the right to revoke the above consent to the release of PII records at any time. This revocation is not retroactive.

Please send this form (or any subsequent revocation request) to the student's principal.

