

AMEND BOARD REPORT 04-0623-PO3
POLICY ON PARENT AND STUDENT RIGHTS OF ACCESS TO
AND CONFIDENTIALITY OF STUDENT RECORDS

THE CHIEF EXECUTIVE OFFICER RECOMMENDS THE FOLLOWING:

That the Board ~~adopt an~~ amended Board Report 04-0623-PO3 Policy on Parent and Student Rights of Access to and Confidentiality of Student Records. This amendment is necessary to permit the release of student directory information earlier in the school year for high school seniors, after parents and students have been allowed a reasonable amount of time to opt out. This will enable colleges and universities to effectively recruit senior students. High school senior parents and students may opt out of providing student directory information to colleges and universities and military recruiters until December 15th of their senior year. All other high school students and parents may opt out until March 15th.

PURPOSE:

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

SCOPE OF THE POLICY:

This policy shall be followed by Chicago public schools, areas and central office departments. Each principal and administrator with his/her staff shall assume the responsibility for safeguarding the confidentiality and protection of student record files.

BACKGROUND:

As a school district, the Board of Education of the City of Chicago is regulated by the Illinois School Student Records Act [105 ILCS 10/1 et seq.] and the Family Educational Rights and Privacy Act of 1974, as amended [20 U.S.C.1232(g)] as well as the No Child Left Behind Act ("NCLB") of 2001, the Illinois Administrative Code [23 Ill. Admin. Code 375.10 et seq.], the Local Records Act [50 ILCS 205/1 et seq.] and other applicable laws.

The Board has assigned overall responsibility for administration of the maintenance of student records in the Chicago Public Schools to the Secretary of the Chicago Board of Education. All questions related to records retention, records management and records destruction should be directed to the Secretary. The student's record shall contain student information which will enable both schools and parents to understand the information and aid the student in using the information to further his or her education.

DEFINITIONS [105 ILCS 10/2]

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.

Student - Any person enrolled or previously enrolled in a school.

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. This policy also applies to Chicago Public School students enrolled in charter schools and students placed by the Board in tuition placement facilities.

State Board - the Illinois State Board of Education.

School Student Record - Any writing or other recorded information 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 school student records under the

Illinois School Student Records Act: *writings or other recorded information maintained by an employee of a school or other person at the direction of a school for his or her exclusive use; provided that all such writings and other recorded information are destroyed not later than the student's graduation or permanent withdrawal from the school; and provided further that no such records or recorded information may be released or disclosed to any person except a person designated by the school as a substitute unless they are first incorporated in a school student record and made subject to all of the provisions of the Illinois School Student Records Act. School student records shall not include information maintained by law enforcement professionals working in the school.*

In the context of Chicago Public Schools, The Student Record can be a document such as the Registration Card or several documents within a folder such as the Student Health Folder (Medical Record) and the Special Education Folder and the Student Temporary "Cumulative" Folder.

Student Permanent Record - *The minimum personal information necessary for use by a school in the education of the student and contained in a school student record. Such information may include the student's name, birth date, address, grades and grade level, parent(s)' names and addresses, attendance records, and such other entries as the State Board may require or authorize. The Illinois School Code requires that the highest scores and performance levels attained by the student from the Prairie State Achievement Examination be included in the student's permanent record [105 ILCS 5/2-3.64 (a)]. The student's permanent record must also include the record of release of permanent record information in accordance with Section 6(c) of the Student Records Act [105 ILCS 10/6(c)].*

The Illinois State Board of Education further defines a "Student Permanent Record" as consisting of the basic identifying information listed above plus the student's birth place, and gender; academic transcript, including grades, class rank, graduation date, grade level achieved and scores on college entrance examinations; attendance records; accident reports and health record. The permanent record may also include honors and awards received; and information concerning participation in school sponsored activities or athletics, or offices held in school-sponsored organizations.

Student Temporary Record - *All information contained in a school student record but not contained in the Student Permanent Record. Such information may include family background information, intelligence test scores, aptitude test scores, psychological and personality test results, teacher evaluations, and other information of clear relevance to the education of the student, all subject to regulations of the State Board.*

In addition, the Student Temporary Record shall include information regarding serious disciplinary infractions that resulted in expulsion, suspension, or the imposition of punishment or sanction. For purposes of this provision, serious disciplinary infractions means: infractions involving drugs, weapons, or bodily harm to another. For Chicago Public School students, this includes disciplinary records related to the Chicago Public Schools Uniform Disciplinary Code (UDC) Group numbers 4 through 6.

The Illinois State Board of Education requires the "Student Temporary Record" to include a record of release of temporary record information in accordance with Section 6 (c) of the Student Records Act and scores received on State assessment tests administered in the elementary grade levels (kindergarten through grade 8).

The "Student Temporary Record" may include participation in extracurricular activities, including any offices held in school-sponsored clubs or organizations; honors and awards received; teacher anecdotal records and other disciplinary information.

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. All rights and privileges accorded to a parent shall become exclusively those of the student upon his 18th birthday, graduation from secondary school, marriage or entry into military service, 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.*

POLICY TEXT:

I. Introduction

The Chicago Public Schools will inform parent(s) of their rights under the Family Educational Rights and Privacy Act and the Illinois School Student Records Act by giving a copy of this information to the family upon the initial enrollment of the student and annually thereafter.

Parent(s) may request a copy of the policy by writing the Freedom of Information Officer - Sixth Floor; 125 South Clark Street; Chicago, Illinois 60603 or by accessing the web site of the Chicago Public Schools.

II. Right to Inspect Records [105 ILCS 10/5]

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 their child. Either the school or parent may require that a qualified professional be present to interpret the information contained in the student record.

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

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 740 ILCS 110/4.

Parent(s) shall have the right to challenge the accuracy, relevance or propriety of any entry in the school student records, exclusive of the academic grades of their child and references to expulsions or out-of-school suspensions. Parent(s) shall have an opportunity for a hearing to challenge the content of their child's school records, to insure that the records are not inaccurate, misleading or otherwise in violation of the privacy or other rights of students, and to provide an opportunity for the correction or deletion of any such inaccurate, misleading or otherwise inappropriate data contained therein. Before any student record is destroyed or information deleted therefrom, 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 information, although it may charge a reasonable cost for the copying of school student records, not to exceed the amounts adopted by the State Board. No parent or student shall be denied a copy of school student records due to their inability to bear the cost of such copying.

III. Confidentiality of Records [105 ILCS 10/6]

A. Consent Requirement

No personally identifiable school student records or information contained therein may be released, transferred, disclosed or otherwise disseminated to any individual, agency or organization without the written consent of the student's parent(s) other than the following:

- (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, Region or administrative employees, or school employees. A "demonstrable educational or 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 school in which the student has enrolled or intends to enroll, upon the request of such official or student.

If a student is transferring from a public school, whether located in this state or any other state, from which the student has been suspended or expelled for knowingly possessing in a school building or on school grounds a weapon, defined in the Gun Free Schools Act (20 U.S.C. 8921 et seq.), 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 of the school, 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 [105 ILCS 5/2-3.13a].

- (4) To any person as specifically required by state or federal law.

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) and (4) above.

- (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, statistical reporting or planning, provided that no student or parent can be identified from the information released and the person to whom the information is released sign an affidavit agreeing to comply with all applicable statutes and rules pertaining to school student records.
- (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.

Any personally identifiable information contained in school student records shall not be disclosed to any persons other than those listed above unless there is written consent from the student's parent(s) specifying records to be released, the reasons for such release, and to whom, and with a copy of the records to be released to the student's parent(s) and the student if desired by the parent(s). In the case of mental health or developmental disabilities records of a student 12 years of age or older, the student's consent, in addition to the parent's, must be gained before disclosure to a third party, unless otherwise specifically allowed by law. In addition, personal information shall only be transferred to a third party on the condition that such party will not permit any other party to have access to such information without the written consent of the parent(s) of the student.

B. Non-Disclosure

Because of the strict confidentiality of the laws concerning school student records, school staff must not disclose any student records without prior parental consent, except as described herein. **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.**

C. Release of Directory Information

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. Directory Information as defined in this policy includes general information about a student such as name, address, telephone number, date and place of birth, honors, and academic awards, dates of attendance and information concerning their participation in school-sponsored activities, organizations and athletics. 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:

- a. 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.
- b. 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. A sample form letter that school officials may use to notify parents of the disclosure and their opt-out rights is attached as Appendix A.
- c. 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. If a parent notifies school officials in writing that they wish to opt out of releasing all Directory Information regarding their child, the opt-out must also be relayed by the school to the Office of High School Programs.

D. Release of Directory Information To Military Recruiters, Institutions of Higher Education or Prospective Employers

(1) The Board shall provide high school students' Directory Information and access to high school campuses to military recruiters on the same basis as are provided to institutions of higher education and prospective employers. The Board shall provide, upon request from military recruiters or institutions of higher education, access to names, addresses and telephone numbers for students in grades 10 or higher, unless the parent has opted out of providing such information as described below.

(2) A parent may opt out of the release of Directory Information to military recruiters, institutions of higher education or prospective employers by submitting a signed, written request to the Board's Office of High School Programs that indicates that he/she does not wish for the student's information to be provided to the recruiting representatives. The written opt-out request must include the student's CPS identification number and must be submitted prior to March 15th for high school sophomores and juniors in order for the opt-out request to be effective for the current school year. High school seniors and their parents must submit an opt out request prior to December 15th of their senior year. If a parent/guardian submits a written request to opt-out of such disclosure, then the Board will not disclose the student's Directory Information to recruiters.

E. General Parent Opt Out

Parents/Guardians shall be notified annually at the beginning of each school year of their general right to opt out of all releases of Directory Information. If a parent has requested that a student's Directory Information not be disclosed to anyone in response to this annual notice or in response to the school official notice described in paragraph III.C., then no Directory Information shall be disclosed to anyone including recruiting representatives, regardless of whether the parent has specifically opted out of providing such information.

F. 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 school student record for the life of the student records and must include the nature of the information released, the name and signature of the official records custodian releasing such information, the name and title of the person making such a 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.

IV. **Challenging the Content of School Student Records** [105 ILCS 10/7]

Parent(s) may review or challenge information contained in their child's record prior to the transfer of their child to another school district.

Additionally, 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, the parent(s) may make a written request that such information be amended. If the challenge is made at the time the student's school records are being forwarded to another school to which the student is transferring, then the parent(s) does not have the right to challenge references in the records to expulsions or out-of-school suspensions. Challenges to any other entry in the school student records can be made on the basis of accuracy, relevance or propriety. If the school district does not make the amendments requested, the parent(s) has a right to an informal meeting with the appropriate school staff member 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) wants to amend and the reasons.

If the school staff decide not to amend the record, the parent then has the right to request a formal hearing by submitting a written request to the Chief Specialized Services Officer, Chicago Public Schools, Office of Specialized Services, 125 South Clark Street, Suite 800, Chicago, Illinois 60603. 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) days after the informal conference, unless; an extension of time is agreed upon by the parent(s) and school officials. The hearing officer shall notify parent(s) and school officials of the time and place of the hearing. A record of the hearing shall be made by a tape recorder or a court reporter. Both the parent(s) and the school have the right to present evidence and to call witnesses, the right to cross-examine witnesses, and the right to counsel.

The written decision of the hearing officer shall be transmitted to the parent(s) and the school district no later than ten (10) school days after the conclusion of the hearing. The decision shall be based solely on the information presented at the hearing and shall be one of the following: to retain the challenged contents of the student record; to remove the challenged contents of the student record; or to change, clarify or add to the challenged contents of the student record. After the hearing, if the school still decides not to amend the record, the parent or eligible student has the right to place a statement with the record commenting on the contested information in the record.

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. If the parent(s) appeals, the parent(s) shall so inform the school and within ten (10) school days the school shall forward a transcript of the hearing, a copy of the record entry in question and any other pertinent materials to the Principal Communications Consultant, Problem Resolution Office. The school may initiate an appeal by the same procedures. Upon receipt of such documents, the Principal Communications Consultant, Problem Resolution Office, shall examine the documents and record to determine whether the school district's proposed action in regard to the student's record is in compliance with the State Board, make findings and issues written decision to the parent(s) and the school within twenty (20) school days of the receipt of the appeal documents. If the subject of the appeal involves the accuracy, relevance or propriety of any entry in special education records, the Principal Communications Consultant, Problem Resolution Office, should seek advice from special education personnel who were not authors of the entry, and whose special education skills are relevant to the subject(s) of the entry in question.

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.

V. 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.

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.

Reviewed for Consideration:



Barbara Eason-Watkins
Chief Education Officer

Noted:



John Malorca
Chief Financial Officer

Respectfully Submitted:



Arne Duncan
Chief Executive Officer

Approved as to Legal Form: *DM*



Patrick J. Rocks
General Counsel

Appendix A
SAMPLE FORM LETTER TO NOTIFY PARENTS ABOUT THE DISCLOSURE OF DIRECTORY INFORMATION AND THE RIGHT TO OPT OUT

Name of School
Address
Chicago, Illinois

Date

RE: Release of Student Directory Information

Dear Parent or Guardian,

The Chicago Board of Education's *Policy on Parent and Student Rights of Access to and Confidentiality of Student Records* allows school officials to disclose Directory Information about students to the public through posting (e.g. on the school website, bulletin boards, newsletter) or to parties who make a written request.

Directory Information includes general information about a student such as name, address, telephone number, date and place of birth, honors and academic awards, dates of attendance, and information concerning their participation in school-sponsored activities, organizations and athletics. Prior to releasing Directory Information, however, school officials must notify the parent/guardian about the Directory Information they plan to release/post and allow a reasonable amount of time for them to opt out of the release. This procedure ensures your right to keep information about your child confidential if you choose.

We plan to release student Directory Information as follows: *[Note to school: identify what will be released and to whom]*

If you would prefer not to have your child's Directory Information disclosed, please indicate below and return your signed form to the school within 10 days.

I prohibit _____ School from displaying or disclosing Directory Information regarding my child as follows: *(Please check where applicable):*

___ *General Opt-Out.* I do not want any Directory Information about my child disclosed to anyone or displayed publicly.

___ *Specific Release Opt-Out.* I do not want any Directory Information about my child released to *(Specify): [Note to school: include this section in your letter if you have listed more than one release above.]* _____

___ *Specific Information Opt-Out.* I do not want the school to release the following Directory Information about my child:

- ___ Identifying information: name, address, gender, grade level, birth date and place, parents' names and address(es), telephone number(s)
- ___ Academic awards, degrees or honors or attendance honors
- ___ Public recognition for non-academic or extracurricular awards
- ___ Information relating to school-sponsored activities, organizations and athletics
- ___ Period of attendance in the school
- ___ Specific information that the school wishes to display [school to list below]
- ___ Other. Please identify _____

If at a later date you wish to revoke any opt-out marked above, you must notify the school principal of your decision in writing.

Child's Name: _____ Student ID Number: _____

_____ Date _____
Parent/Guardian Signature