

## **STUDENTS**

**5125 (a)**

### **Student Records, Confidentiality**

Educational records, defined as records directly related to a student, will be kept for each student and will reflect the physical, emotional, social and academic aspects of a student's development in the educational process.

The Board of Education recognizes the need to comply with the legal state and federal requirements regarding the confidentiality, access to and amendment of student records. The procedures for the confidentiality of student records shall be consistent with federal statutes, including the Family Educational Rights and Privacy Act of 1974 (FERPA), as amended, and its implementing and revised regulations and the Connecticut General Statutes.

Safeguards shall be established by the school administration to protect the student and the student's family from invasion of privacy in the collection, maintenance and dissemination of information, and to provide accessibility to recorded information by those legally entitled thereto. Access to inspect or review a student's educational record or any part thereof may include the right to receive copies under limited circumstances.

#### **For the purposes of this policy:**

**"Parent"** means a natural parent, an adopted, or a legal guardian or an individual acting as a parent in the absence of a parent or guardian. If parents are divorced or legally separated the parent granted custody and the parent not granted custody of a minor child both have the right of access to the academic, medical, hospital, or other health records of the child, unless a court order prohibits access. Whenever a student has attained the age of 18 years or is attending an institution of post secondary education, the permission or consent required of, and the rights accorded to, the parents or guardians of the student shall thereafter only be required of, and accorded to, the student. A parent who is incarcerated is also entitled to knowledge of and access to all educational, medical or similar records maintained in the cumulative record of any minor student of such incarcerated parent except in situations (1) where such information is considered privileged as defined in C.G.S. 10-154a, (2) such incarcerated parent has been convicted of sexual assault, or aggravated sexual assault, or (3) such incarcerated parent is prohibited pursuant to a court order.

**"Student"** means an individual who is or has been "in attendance" in person at an educational agency or institution for whom education records are maintained. It also includes those situations in which students "attend" classes but are not physically present, including attendance by videoconference, satellite, Internet, or other electronic information and telecommunication technologies.

**"Student record"** means any item of information directly related to an identifiable student, other than directory information, which is maintained by a school district or required to be maintained by an employee in the performance of his/her duties whether recorded in handwriting, print, computer media, video or audio tape, film, microfilm and microfiche.

Student records include information relative to an individual student gathered within or without the school system and maintained within the school system, regardless of the physical form in which it is maintained. Any information maintained for the purpose of review by a second party is considered a student record. Records that pertain to an individual's previous attendance as a student are "education records" under FERPA regardless of when they were created or received within the school system. Student records shall not include informal notes related to a student compiled by a school officer or employee, which remain in the sole possession of the maker and are not accessible or revealed to any other person except a substitute. Records of the law enforcement unit of the District or school are not considered student records.

**"Law Enforcement Unit"** means an individual office, department, division, or other component of an education agency or institution that is officially authorized or designated by that agency or institution to (1) enforce laws or refer matters of law enforcement to appropriate authorities, or (2) maintain the physical security and safety of the agency or institution.

**"Substitute"** means a person who performs the duties of the individual who made the notes on a temporary basis, and does not refer to a person who permanently succeeds the maker of the notes in his or her position.

**"School Official"** means a person employed by the District as an administrator, supervisor, instructor, or support staff member, including health or medical staff and law enforcement unit personnel, a person serving on the Board of Education, a person or company with whom the district has contracted to perform a special task (such as an attorney, auditor, medical consultant, or therapist), or a parent or student serving on an official committee such as a disciplinary or grievance committee, or assisting another school official in performing his/her tasks.

**"Authorized Representative"** means any entity or individual designated by a state or local educational authority or an agency headed by an official listed in §99.31(a)(3) to conduct with respect to Federal or State-supported education programs, any audit or evaluation, or any compliance or enforcement activity in connection with Federal legal requirements that relate to these programs.

**"Education Program"** means any program that is principally engaged in the provision of education, including, but not limited to, early childhood education, elementary and secondary education, postsecondary education, special education, job training, career and technical education and adult education, and any program that is administered by an educational agency or institution.

**"Early Childhood Education Program"** means a Head Start program, a state licensed or regulated child care program, or a program that serves children from birth through age six that addresses the children's cognitive, social, emotional and physical development and is a (i) state prekindergarten program, (ii) a program authorized under the Individuals with Disabilities Education Act, or (iii) is a program operated by a local educational agency.

**"Directory Information"** means information contained in a student's education record that

would not generally be considered harmful or an invasion of privacy if disclosed. Directory information includes, but is not limited to, one or more of the following items: parent's name and/or e-mail address, student's name, address, telephone number, date and place of birth, major field(s) of study, participation in officially recognized activities and sports, photographic, computer and/or video images, grade levels, electronic mail address, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous public or private school attended by the student.

A student's social security number or student ID number is prohibited from designation as directory information. However, student ID numbers and other electronic personal identifiers used to access or communicate in electronic systems may be disclosed only if the identifier is not used by itself to authenticate identity and cannot be used to gain access to education records.

A student's ID number or other unique personal identifier that is displayed on a student ID badge is considered directory information, but only if the identifier cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user's identity, such as a PIN, password, or other factor known or possessed only by the authorized user.

The Superintendent working with the Principal shall be responsible for ensuring that all requirements under federal and state statutes shall be carried out by the district. S/he will develop procedures (administrative regulations) providing for the following:

1. Annually informing parents of their rights.
2. Permitting parents to inspect and review educational records, including, at least, a statement of the procedure to be followed by a parent or eligible student who requests to inspect and review the educational records, with an understanding that the procedure may not deny access to educational records; a description of the circumstances in which the district feels it has a legitimate cause to deny a request for a copy of such records; a schedule of fees for copies; and a listing of the types and locations of education records maintained by the school and the titles and addresses of school officials responsible for those records.
3. Not disclosing personally identifiable information from a student's education records without the prior written consent of the student's parent, except as otherwise permitted by administrative regulations; including at least a statement of whether the school will disclose personally identifiable information from the records to other school officials within the school who have been determined by the school to have legitimate educational interests, and, if so, a specification of the criteria for determining which parties are "school officials" and what the school considers to be a "legitimate educational interest"; and a specification of the personally identifiable information to be designated as directory information.
4. Maintaining the record of disclosures of personally identifiable information from a

student's education records and permitting a parent to inspect that record.

5. Providing a parent/guardian with an opportunity to seek the correction of the student's education records through a request to amend the records. If the District decides that an amendment of the records as requested is not warranted, to inform the parent/guardian or eligible student and advise him/her of the right to a hearing and permitting the parent/guardian or an eligible student to place a statement in the education records of the student.
6. Guaranteeing access to student records to authorized persons within forty-five (45) days following the date of request.
7. Assuring security of student records.
8. Enumerating and describing the student records maintained by the school system.
9. Annually informing parents under what conditions that their prior consent is not required to disclose information.
10. Ensuring the orderly retention and disposition, per applicable state statutes, of the District's student records.
11. Notifying parents of secondary school students that it is required to release the student's name, address and telephone listing to military recruiters and institutions of higher learning upon request. Parents or eligible students may request that the District not release this information, and the District will comply with the request.
12. Notifying parents annually of the District's policy on the collection or use of personal information collected from students for the purpose of marketing or selling that information or otherwise providing that information to others for that purpose, including arrangements to protect student privacy that are provided by the agency in the event of such collection, disclosure or use.

**Legal Reference:** Connecticut General Statutes

1-19(b)(11) Access to public records. Exempt records.

7-109 Destruction of documents.

10-15b Access of parents or guardians to student's records. (as amended by PA 17-68, Section 4)

10-154a Professional communications between teacher or nurse & student.

10-209 Records not to be public.

10-221b Boards of education to establish written uniform policy re: treatment

of recruiters.

11-8a Retention, destruction and transfer of documents

11-8b Transfer or disposal of public records. State Library Board to adopt regulations.

46b-56 (e) Access to Records of Minors.

Connecticut Public Records Administration Schedule V Disposition of Education Records (Revised 1983).

Federal Family Educational Rights and Privacy Act of 1974 (section 438 of the General Education Provisions Act, as amended, added by section 513 of P.L. 93-568, codified at 20 U.S.C.1232g.).

Dept. of Educ. 34 C.F.R. Part 99 (May 9, 1980 45 FR 30802) regs. implementing FERPA enacted as part of 438 of General Educ. provisions act (20 U.S.C. 1232g) parent and student privacy and other rights with respect to educational records, as amended 11/21/96, and Final Rule 34 CFR Part 99, December 9, 2008; December 2, 2011)

USA Patriot Act of 2001, PL 107-56, 115 Stat. 272, Sec 507, 18 U.S.C. §2332b(g)(5)(B) and 2331

PL 112-278 "The Uninterrupted Scholars Act"

Owasso Independent Sch. Dist. No.1-011 v. Falvo, 534 U.S.426 (2002)

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NORTH CANAAN BOARD OF EDUCATION

North Canaan, Connecticut

**Student Records; Confidentiality****Definitions****As used in this regulation:**

1. **"Student"** means an individual who is or has been "in attendance" in person at an educational agency or institution for whom education records are maintained. It also includes those situations in which students "attend" classes but are not physically present, including attendance by videoconference, satellite, Internet, or other electronic information and telecommunication technologies.

2. **"Student Record"** means any item of information directly related to an identifiable student, other than directory information, which is maintained by the school district or required to be maintained by an employee in the performance of his/her duties whether recorded by handwriting, print, computer media, video or audio tape, film, microfilm and microfiche. Student records include information relative to an individual student gathered within or without the school system and maintained within the school district, regardless of the physical form in which it is maintained. Any information which is maintained for the purpose of review by a second party is considered a student record.

"Student Record" shall not include informal notes related to a student compiled by a school officer or employee that remain in the sole possession of the maker and are not accessible or revealed to any other person except a substitute for the maker of the record. Employment records used only in relation to a student's employment by the district are not considered student records. In addition student records do not include alumni records that contain information about the student after the student is no longer in attendance, records maintained by a law enforcement unit of an educational agency or institution that were created by that unit for the purpose of law enforcement or records of an eligible student that are maintained by a physician, psychologist, professional or paraprofessional made in connection with the treatment of the student and disclosed only to individuals providing such treatment.

"Substitute" means a person who performs the duties of the individual who made the notes on a temporary basis, and does not refer to a person who permanently succeeds the maker of the notes in his or her position. Medical records are not open to public inspection.

"Post-enrollment Records" means that records that pertain to an individual's previous attendance as a student are "education records" under FERPA regardless of when they were created or received by the institution.

3. **"Directory Information"** means information contained in a student's education record that would not generally be considered harmful or an invasion of privacy if

disclosed. Directory information includes, but is not limited to, one or more of the following items: parent's name and/or e-mail address, student's name, address, telephone number, date and place of birth, major field(s) of study, participation in officially recognized activities and sports, photographic, computer and/or video images, grade levels, electronic mail address, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous public or private school attended by the student.

A student's Social Security Number or student ID number is prohibited from designation as directory information. However, student ID numbers and other electronic personal identifiers used to access or communicate in electronic systems may be disclosed only if the identifier is not used by itself to authenticate identity and cannot be used to gain access to education records.

A student's ID number or other unique personal identifier that is displayed on a student ID badge is considered directory information, but only if the identifier cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user's identity, such as a PIN, password, or other factor known or possessed only by the authorized user.

**4. "Parent"** means a natural parent, an adopted parent, or legal guardian or an individual acting as a parent in the absence of a parent or guardian. If parents are divorced or legally separated, both the parent granted custody and the parent not granted custody have the legal right of access to the academic, medical, hospital or other health records of the child, unless a court order prohibits access.

Whenever a student has attained eighteen (18) years or is attending an institution of post secondary education, the permission or consent required of, and the rights accorded to, the parents or guardian of the student shall thereafter only be required of, and accorded to, the student, unless parents of a student eighteen (18) years of age or older who is a dependent as defined in Section 152 of the Internal Revenue Code of 1956.

**5. "School Official"** means a person employed by the district as an administrator, supervisor, instructor or support staff member, including health or medical staff and law enforcement unit personnel, a person serving on the Board of Education, a person or company with whom the district has contracted to perform a special task (such as an attorney, auditor, medical consultant, or therapist), or a parent or student serving on an official committee such as a disciplinary or grievance committee, or assisting another school official in performing his/her tasks.

**6. "Disclosure"** means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records, to any party, by any means including oral, written, or electronic means. It is also permitted

to return an educational record to the provider or creator of the record, including the return of a questionable document to the purported sender for verification of information in the document.

**7. "Personally Identifiable Information"** includes but is not limited to the student's name, the name of the student's parent or other family member, the address of the student or student's family, a personal identifier such as the student's Social Security Number or student number, or "biometric records" (a record of one or more measurable biological or behavioral characteristics that can be used for automated recognition of an individual, including fingerprints, retina and iris patterns, voice prints, DNA sequence, facial characteristics and handwriting), a list of personal characteristics or indirect identifiers, such as the name of the student's parent or other family members and the date and place of birth and mother's maiden name, or other information that would allow a reasonable person in the school or community who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.

**8. "Record"** means any information recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm and microfiche.

**9. "Access"** means a personal inspection and review of a record or an accurate copy of a record, an oral description or communication of a record or an accurate copy of a record and a request to release a copy of any record.

**10. "Student"** means a person who is or was enrolled in a school.

**11. "Adult student"** means a person who is or was enrolled in school and who is at least eighteen (18) years of age.

**12. "Eligible Student"** means a student or former student who has reached eighteen years (18) of age or who is attending an institution of post-secondary education or is an emancipated minor.

**13. "Law Enforcement Unit"** means an individual office, department, division, or other component of an education agency or institution that is officially authorized or designated by that agency or institution to (1) enforce laws or refer matters of law enforcement to appropriate authorities, or (2) maintain the physical security and safety of the agency or institution.

**14. "Legitimate Educational Interest"** means the need for a school official to review an educational record in order to fulfill his/her professional responsibilities.

**15. "Signed and Dated Waiver Consent"** means signed and dated written consent to disclose personally identifiable student information from a student's records must specify the records to be disclosed, the purpose of disclosure and the party to whom such records



should be provided. Consent may include a record and signature in electronic form provided that the consent identifies and authenticates a particular person as the source of consent.

**16. "Authorized Representative"** means any entity or individual designated by a state or local educational authority or an agency headed by an official listed in §99.31(a)(3) to conduct with respect to Federal or State-supported education programs, any audit or evaluation, or any compliance or enforcement activity in connection with Federal legal requirements that relate to these programs.

**17. "Education Program"** means any program that is principally engaged in the provision of education, including, but not limited to, early childhood education, elementary and secondary education, postsecondary education, special education, job training, career and technical education and adult education, and any program that is administered by an educational agency or institution.

**18. "Early Childhood Education Program"** means a Head Start program, a state licensed or regulated child care program, or a program that serves children from birth through age six that addresses the children's cognitive, social, emotional and physical development and is a (i) state prekindergarten program, (ii) a program authorized under the Individuals with Disabilities Education Act, or (iii) is a program operated by a local educational agency.

### **Types of Records**

The school district shall maintain only the following three categories of records:

**1. "Mandatory Permanent Student Records"** are those records which are maintained in perpetuity (at least 50 years) and which schools have been directed to compile by statute, regulation, or authorized administrative directive. Such records shall include the following:

- A. Legal name of student, address, gender of student
- B. Date of birth, place of birth
- C. Method of verification of birth date
- D. Name and address of parent of minor student
  - (1) Address of minor student if different than the above
  - (2) An annual verification of the name and address of the parent and the residence of the student
- E. Entering and leaving date of each school year and for any summer session or other

extra session

- F. Subjects taken during each year, half year, summer session, or quarter
- G. Academic achievement (grades, transcripts)
- H. Level of academic achievement (class standing/academic level)
- I. If marks or credit are given, the mark or number of credits toward graduation allowed for work taken
- J. Verification or exemption from required immunizations
- K. Date of high school graduation or equivalent
- L. Student activities and significant awards

**2. "Mandatory Interim Student Records"** are those records that the schools are directed to compile and maintain for stipulated periods of time and are then destroyed as per statute, regulations (6 years following the student's graduation, or the graduation of the class to which s/he belonged, after appropriate notification to parents and/or eligible students via media and an opportunity provided to copy said records), or authorized administrative directive. Such records include the following:

- A. A log or record shall be maintained for each student's record that lists all persons, agencies or organizations requesting or receiving information from the record, and the legitimate interests therefor. (Exception from listing, see Access Log, #2.)
- B. Health information, including Child Health Developmental Disabilities Prevention Program verification or waiver. (Comprehensive Health Record)
- C. Participation in special education programs including required tests, case studies, authorizations, and actions necessary to establish eligibility for admission or discharge.
- D. Language training records.
- E. Progress slips and/or notices.
- F. Parental restrictions regarding access to directory information or related stipulations.
- G. Parent or adult student rejoinders to challenged records and to disciplinary action.
- H. Parental authorizations or prohibitions of student participation in specific programs.
- I. Results of standardized tests administered within the preceding three years.

*Note: Disciplinary records of suspension and expulsion are subject to being expunged according to state and federal statutes.*

**3. "Permitted Records"** are those records having clear importance only to the current educational process of the student. Such records may be destroyed after 6 years following the student's graduation, or the graduation of the class to which s/he belonged, after appropriate notification to parents and/or eligible students via media and an opportunity provided to copy said records. Such records may include the following:

- A. Objective counselor and/or teacher ratings
- B. Standardized test results older than three years
- C. Routine discipline data
- D. Verified reports of relevant behavioral patterns
- E. All disciplinary notices

## **Maintenance and Security of Student Records**

### **1. Custodian of Records**

A. The principal is hereby designated as custodian of student records. The address of the custodian is 90 Pease Street, the main office of the elementary school.

(1) The custodian is charged with district wide responsibility for implementing Board of Education policies and administrative regulations relating to student records.

(2) The custodian shall be responsible for security of student records and shall devise procedures for assuring that access to such records is limited to authorized persons.

(3) The custodian of records or a designated certified employee shall be responsible during the inspection for interpretation of the records where necessary and for prevention of their alteration, damage or loss.

B. In each school, the principal, or a certified employee designated by the principal, is responsible for implementation of Board of Education policies and administrative regulations relating to student records maintained in that school.

### **2. Files**

A. A record for each individual student shall be maintained in a central file at the school attended by the student, or when records are maintained in different locations, a notation shall be placed in the central file indicating where such records may be

found.

B. Student records shall be stored in locked containers (files) or rooms.

### **3. Information**

A. All anecdotal information and assessment reports maintained as student records must be dated and signed by the individual who originated the record. Each school principal shall keep on file a record of enrollment and scholarship for each student currently enrolled in that school.

## **Access to Student Records**

### **1. School Officials**

A. School officials, as defined, have access to students' educational records without consent, if the official has been determined to have a legitimate educational interest in the records. A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill her/his professional responsibility.

B. Contractors, consultants, volunteers, and other parties to whom a school has outsourced services or functions are considered "school officials" who may have access to student records, without parental consent, if the following conditions are met:

- The party is under the direct control of the school.
- The party is subject to the same conditions governing the use and redisclosure of education records applicable to other school officials.
- The contractor must ensure that only individuals with legitimate educational interests, as determined by the district or school, obtain access to the education records. The contractor may not redisclose personally identifiable information without consent unless the district or school has authorized the redisclosure under a FERPA exception and the district or school records the subsequent disclosure.

C. The district or school may not disclose education records to an outside service provider unless it has specified in its annual FERPA notification to parents/students that it uses contractors, consultants, volunteers, as "school officials" to provide certain institutional services and functions.

D. In controlling access to education records by school officials and outside service providers, schools must:

- (1) Use "reasonable methods" to ensure an official is given access to only those education records, paper or electronic, in which the official has a legitimate educational interest.

(2) Schools may use such methods as:

- Physical controls such as locked filing cabinets;
- Technological controls such as role-based access controls for electronic records;
- Administrative policies, in lieu of physical or technological controls.

Such policies must be effective in controlling access.

(It is recommended that access to education records by school officials be tracked.)

## **2. Parents**

A. Parents of currently enrolled or former students shall have an absolute right during regular business hours to access to any and all student records related to their children, which are maintained by the district. Neither the student record, nor any part thereof, shall be withheld or edited. If the student records contain information on more than one student, the parent may inspect and review or be informed of only the specific information that pertains to that student.

B. A parent or guardian's request for access to student records shall be made in writing to the custodian of student records. Access shall be granted no later than forty-five (45) days following the date of the request.

C. A requesting parent shall be notified of the location of all student records, if not centrally located.

D. When a parent's dominant language is not English, the district shall make an effort to (1) provide interpretation of the student record in the dominant language of the parent, or (2) assist the parent in securing an interpreter.

## **3. Parental Consent**

A. The custodian of student records may permit access to student records during regular school hours (a) to any person for whom a student's parent has executed written consent specifying the records to be released and identifying the party or class of parties to whom the records may be released; or (b) to the student if s/he is an eligible student, or has entered a post secondary educational institution.

B. The recipient must be notified that the transmission of the information to others without the written consent of the parent is prohibited.

C. The consent notices shall be kept permanently with the student record.

D. Upon request, the district shall provide the parent/eligible student with a copy of

the record which is disclosed. (34 CFR 9910, Rights of Inspection and Review)

#### 4. Without Parental Consent

A. No person or agent shall be permitted access to student records without written parental consent or under judicial order, except that access to those particular records relevant to the legitimate educational interests of the requester shall be permitted to the following:

(1) Officials and employees of other public schools or school districts, including local, county, or state correctional facilities where educational programs leading to high school graduation are provided, where the student intends to or is directed to enroll. The authority of the district or school to transfer education records to a student's new school continues after actual enrollment so long as the disclosure is in connection with the student's enrollment. This ensures that a school may supplement, update, or correct records sent during the student's application or transfer period. 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.

*Note: Section 504 and Title II of the ADA generally prohibits post-secondary institutions from making pre-admission inquiries about an applicant's disability status. However, after admission, such institutions may request such information concerning a current student.*

(2) Authorized representatives of the Comptroller General of the United States, the Secretary of Education, an administrative head of an education agency, State Education Officials, or their respective designees, or the United States Office for Civil Rights where such information is necessary to audit or evaluate a state or federally supported education program or pursuant to a federal or state law; provided that except when collection of personally identifiable information is specifically authorized by federal law, any data collected by such officials shall be protected in a manner that will not permit the personal identification of students or their parents by other than those officials, and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, and enforcement of federal legal requirements.

(3) The U.S. Attorney General or his/her designee in response to a court-issued ex parte order, under the USA Patriot Act, in connection with the investigation or prosecution of an offense listed in U.S.C. 2332b(g)5(B) or an act of domestic or international terrorism crimes. The District, in response to such an order, is not required to record a disclosure of information, nor acquire consent or notice to the parent or student.

- (4) Other state and local officials to the extent that such information is specifically required to be reported pursuant to state law.
- (5) Parents of a student eighteen (18) years of age or older who is a dependent as defined in Section 152 of the Internal Revenue Code of 1954.
- (6) Schools may disclose information received under a community notification program concerning a student who is required to register as a sex offender in the State.
- (7) Child welfare agencies that are legally responsible for the care and protection of students, including the educational stability of children in foster care.

B. Information from student records may be released to the following:

- (1) Appropriate persons in connection with an emergency if the knowledge of such information is necessary to protect the health or safety of other persons. The factors to be considered in determining whether information may be disclosed include the seriousness of the threat to the health or safety of the student or other individuals, the need for the information to meet the emergency, whether the parties to whom the information is disclosed are in a position to deal with the emergency, and the extent to which time is of the essence in dealing with the emergency. 34 CFR 99.36, Conditions for disclosure of information in health and safety emergencies.
- (2) Agencies or organizations in connection with a student's application form or receipt of financial aid, provided that information permitting the personal identification of students or their parents may be disclosed only as may be necessary for such purposes as to determine the amount of the financial aid, to determine the conditions that will be imposed regarding the financial aid, or to enforce the terms or conditions of the financial aid.
- (3) Accrediting organizations in order to carry out their accrediting functions.
- (4) Organizations conducting studies for or on behalf of state educational agencies and state higher education authorities, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students or their parents by persons other than representatives of such organizations and such information will be destroyed when no longer needed for the purpose for which it is conducted.

Such disclosure is subject to the following FERPA requirements:

- The school does not have to initiate the research request or agree with or

endorse the conclusion or results of the study.

- The school must agree with the purposes of the study and retain control over information from the education records it discloses.
- The school must have a written agreement with the receiving organization that:
  - Specifies the purpose, scope, and duration of the study or studies and the information to be disclosed.
  - Requires the organization to use the information from education records only to meet the purpose or purposes of the study stated in the agreement.
  - Requires the organization to conduct the study in a manner that does not permit personal identification of parents and students by anyone other than representatives of the organization with legitimate interests.
  - Requires the organization to destroy or return all personally identifiable information when no longer needed for purposes of the study.
  - Specifies the time period in which the information must be returned or destroyed.

*Note: It is recommended that whenever possible agencies and institutions either release de-identified information or remove student's names and Social Security Numbers to reduce the risk of unauthorized disclosure of personally identifiable information.*

(5) Officials and employees of private schools or school districts where the student is enrolled or intends to enroll subject to the rights of parents by law.

(6) An agency caseworker or other representative of a State or local child welfare agency, or tribal organization who has the right to access a student's case plan, as defined and determined by the State or tribal organization, when such agency or organization is legally responsible for the care and protection of the student, provided that the education records, or the personally identifiable information contained in such records will not be disclosed by such agency or organization, except to an individual or entity engaged in addressing the education needs of the students and authorized by such agency or organization to receive such disclosure.

C. No person, persons, agency, or organization permitted access to student records pursuant to this regulation shall permit access to any information obtained from such records by any other person, persons, agency or organization without the written consent of the student's parent; provided, however, that this paragraph shall not be



construed to require prior parental consent when information obtained pursuant to this regulation is shared with other persons within the district so long as such persons have an equal legitimate interest in the information.

**AR5125(I)**

D. Education records may be released without consent if all personally identifiable information has been removed. The district must reach a "reasonable determination" that a student's identity is not personally identifiable because of unique patterns of information about that student, whether through single or multiple releases, taking into account other reasonably available information. Also, de-identified student level data may be released for the purpose of educational research by attaching a code to each record. It may be necessary to look to local news, events, and media coverage in the "school community" in determining, in a highly publicized incident, whether other information would make a particular record personally identifiable even if all direct identifiers have been removed.

## **5. Court Order**

A. Information concerning a student shall be furnished in compliance with a court order.

(1) Unless otherwise judicially instructed, the custodian shall, prior to the disclosure of any student's records pursuant to a court order, give the parent and the student three days notice, if lawfully possible, within the requirements of the judicial order, of the name of the requesting agency and the specific records requested. Such notice shall be in writing if possible.

(2) Only those records related to the specific purpose of the court order shall be disclosed.

(3) When a parent is a party to a court proceeding involving child abuse or neglect, or dependency matters, and a judicial order is issued in the context of that proceeding, or pursuant to a lawfully issued subpoena, additional notice to the parent by the educational agency or institution is not required pertaining to the disclosure of the records.

B. The service of a subpoena upon a district employee or official solely for the purpose of causing the employee to produce a school record pertaining to any student may be complied with by such employee, in lieu of personal appearance as witness in the proceeding, by submitting to the court, or other agency issuing the subpoena, at the time and place required by the subpoena, a copy of such record, accompanied by an affidavit certifying that such copy is a true copy of the original record on file in the school or school office. The copy of the record shall be in the form of a photograph, microfilm, micro card, or miniature photograph or other photographic copy or

reproduction or an enlargement thereof.

Nothing in this regulation shall preclude the district from providing in its discretion statistical data from which no student may be identified to any public agency or entity or private nonprofit college, university, or educational research and development organization when such actions would be in the best educational interests of students. If it is determined, per the federal regulations, that a third party improperly redisclosed personally identifiable information from education records in violation of 599.33(a), the district may not allow that third party access to personally identifiable information from education records for at least five years.

## **6. Disclosure to Parents of "Eligible Students" and Rights of Students**

- A. Rights of parents under FERPA transfer to students once the student has reached 18 years of age or is attending a post-secondary institution and thereby becomes an "eligible student."
- B. Disclosure to parents without student consent after FERPA rights have transferred to students is permitted under the following circumstances:
  - (1) The student is a dependent for Federal income tax purposes.
  - (2) The disclosure is in connection with a health or safety emergency; i.e. knowledge of the information is necessary to protect the health or safety of other individuals.
  - (3) The student has violated a law or the school's rules or policies governing alcohol or substance abuse.

## **7. Disclosure of Information in Health and Safety Emergencies (Also see section above)**

- A. The district may include in the education records of a student appropriate information concerning disciplinary action taken against the student for conduct that posed a significant risk to the safety or well being of that student, other students, or other members of the school community.
- B. Such appropriate information concerning disciplinary action may be disclosed to teachers and school officials in the district who have been determined to have legitimate educational interests in the behavior of the student. This must be strictly construed.
- C. Such appropriate information, concerning disciplinary action, may be disclosed to teachers and school officials in other schools who have been determined to have legitimate educational interests in the behavior of the student.
- D. In making a determination, the district or school must take into account the

totality of the circumstances pertaining to a threat to the safety or health of the student or other individuals. If a school determines that there is an articulable and significant threat to the safety or health of a student or other individuals, it may disclose information from education records to appropriate parties whose knowledge of the information is necessary to protect the health and safety of the student or other individuals.

E. The district or school is required to record the articulable and significant threat that formed the basis for the disclosure and the parties to whom the information was disclosed. "Appropriate parties" include the parents of an eligible student.

F. Pursuant to C.G.S. 19a-581 through 19a-585, confidential information concerning HIV status may not be released to anyone EXCEPT a healthcare provider with a written release from the parents.

## **8. Redisclosure of Educational Records**

A. Federal and State officials that receive education records for audits, evaluation, and compliance and enforcement purposes may redisclose such records under the same conditions that apply to other recipients of education records.

B. A state educational agency that received records for audit, evaluation or compliance or enforcement purposes may redisclose records for other qualifying purposes, such as:

- (1) Forwarding records to a student's new school district;
- (2) Forwarding records to another listed official, including the Education Secretary or a post secondary authority;
- (3) Forwarding to an accrediting agency; or
- (4) In connection with a health or safety emergency.

## **9. Criteria**

A. "School officials and employees" as used in this regulation means district employees and elected district officers, and other parties as defined in this regulation.

B. The following criteria shall be used in determining whether a "school official or employee" has a "legitimate educational interest".

- (1) The employee has an instructional or supervisory responsibility toward the student that, in order to be fulfilled, requires knowledge of the contents of the student's records.

(2) The employee has an administrative duty that requires information contained in the student's records.

(3) The school official is engaged in a disciplinary proceeding that requires disclosure of all or part of the student's records in order to come to a just conclusion.

C. The district and/or school shall use reasonable methods to identify and authenticate the identity of parents, students, school officials, and any other parties to whom they disclose education records. The district and its schools may use PINS, passwords, personal security questions, "smart cards" and tokens, biometric indicators, or other factors known or possessed only by the user, as appropriate. Identification means determining who is the intended or authorized recipient of the information. Authentication means ensuring that the recipient is who s/he claims to be.

### **Challenging Contents of Records**

1. Following an inspection and review of a student's records the parent or guardian of the student or former student may challenge the content of any student record.

A. The parent or eligible student may file a written request with the Superintendent of Schools to correct or remove any information recorded in the written records concerning the parent's child that the parent alleges to be

(1) Inaccurate, misleading or in violation of the student's rights of privacy.

(2) An unsubstantiated personal conclusion or inference.

(3) A conclusion or inference outside of the observer's area of competence.

(4) Not based on the personal observation of a named person with the time and place of the observation noted.

B. Within 30 days of receipt of such request, the Superintendent or designee shall meet with the parent or guardian and the certified employee who recorded the information in question, if any, and if such employee is presently employed by the school district.

C. The information shall be corrected or removed if the Superintendent sustains any or all of the allegations.

D. If the Superintendent denies any or all of the allegations and refuses to order the correction or the removal of the information, the parent or guardian may, within 30 days of the refusal, appeal the decision in writing to the Board of Education.

(1) Within 30 days of receipt of such an appeal, the Board of Education shall, in closed session with the parent or guardian and the certified employee who recorded the information in question, if any, and if such employee is presently employed by the district, determine whether or not to sustain or deny the allegations. The decision of the Board of Education shall be final.

(2) If the Board of Education sustains any or all of the allegations, it shall order the Superintendent to immediately correct or remove and destroy the information from the student's written records.

(3) Records of these administrative proceedings shall be maintained in a confidential manner and shall be destroyed one year after the decision of the Board of Education unless the parent or guardian initiates legal proceedings relative to the disputed information within the prescribed period.

E. If the final decision of the Board of Education is unfavorable to the parent or guardian, or if the parent or guardian accepts an unfavorable decision by the Superintendent, the parent or guardian shall have the right to submit a written statement of his/her objections to the information. This statement shall become a part of the student's school record until such time as the information objected to is corrected or removed.

## 2. Hearing Panel

A. Either the Superintendent of Schools or the Board of Education may convene a hearing panel upon written request of a parent or eligible student. The hearing shall be provided to afford the opportunity to challenge the content of a student's education records on the grounds that the information contained in the education records is inaccurate, misleading, or otherwise in violation of the privacy rights of the students.

The hearing will be conducted by a person or persons appointed by the Superintendent of Schools. This person(s) shall be knowledgeable of the policies relating to confidentiality and shall not have a direct interest in the outcome of the hearing.

B. The persons appointed pursuant to the above paragraph, if possible, shall not be acquainted with the student, his/her parent or guardian, or the certified employee who recorded the information

C. The Principal appointed to the hearing panel shall serve as Chairperson.

D. The hearing panel shall, in closed session, hear the objections to the information of the parent and the testimony of the certified employee who recorded the

information in question, if any, and if such employee is currently employed by the school system.

(1) The hearing panel shall be provided with verbatim copies of the information that is the subject of the controversy.

(2) Written findings shall be made setting forth the facts and decisions of the panel, and such findings within a reasonable period of time after the hearing shall be forwarded to the Superintendent or the Board of Education, depending upon who convened the panel.

E. If, after the hearing, the District does not make the requested change, the parent or eligible student shall be informed of her/his right to place a statement on the record commenting on the information or stating why s/he disagrees with the record. Whenever the District discloses the record to third parties, any such statement by the parent or eligible students must also be disclosed (34 C.F.R. §99.21.)

F. The proceedings of the hearing shall not be disclosed or discussed by panel members except in their official capacities.

3. Whenever there is included in any student record information concerning any disciplinary action taken by school system personnel in connection with the student, the student's parent or guardian may include in such student's record a written statement or response concerning the disciplinary action.

### **Directory Information**

1. The following student information is declared to be directory information:

- A. Name
- B. Address
- C. Telephone number
- D. Date and place of birth
- E. Major field of study
- F. Participation in officially recognized activities and sports
- G. Weight and height of members of athletic teams
- H. Dates of attendance
- I. E-mail address
- J. Parent's name/e-mail address
- K. Degrees and awards received, including honor roll publication
- L. Most recent previous public or private school attended by the student

*Note: FERPA regulations prohibits the use of a Social Security Number (SSN) as an identification element when disclosing or confirming directory information unless the*

- student has provided written consent for the disclosure.*
2. Directory information may be released to the following:
    - A. Federal, state and local governmental agencies
    - B. Representatives of the news media, including but not limited to newspapers, magazines and radio and television stations
    - C. Employers or prospective employers
    - D. Nonprofit youth organizations
    - E. Military recruiters or institutions of higher learning that have requested the names, addresses, and telephone numbers of secondary school students unless parental consent is denied.
  3. Subject to the provisions of C.G.S. 1-19(b11), high schools shall provide the same directory information and on campus recruiting opportunities to military recruiters as are offered to nonmilitary recruiters or commercial concerns. (cf. 5145.14 On Campus Recruitment).
  4. No information may be released to a private profit-making entity other than employers, prospective employers and representatives of the news media.
  5. The names and addresses of students enrolled in grade 12 or who have terminated enrollment prior to graduation may be provided, in accordance with the terms of the law, to a private school or college cooperating under state law.
  6. The custodian of records will normally limit or deny the release of specific categories of directory information unless he determines that such release is required by law or is in the best interests of students.
  7. Notice shall be given annually of the categories of information the school district plans to release and of the recipients.
    - A. The school shall allow a reasonable period of time after such notice has been given for a parent or guardian to inform the custodian of student records that any or all of the information designated should not be released without the parent's or guardian's prior consent.
    - B. No directory information shall be released regarding any student when a parent or guardian has notified the school that such information shall not be released.
  8. Disclosure of directory information on former students is permitted without providing notice or additional opt-out opportunities. A former student's opt-out provided while s/he was a student in the district must continue to be honored unless specifically rescinded by

the former student.

9. Opt-out from directory information does not prevent a school from identifying a student by name or from disclosing an electronic identifier or instructional email address in the classroom. A student does not have the right to remain anonymous in class and an opt-out may not be used to impede routine classroom communications and interactions, whether the class is held in a specified physical location or online through electronic communications.

*Note: A district may adopt and implement a limited directory information policy that allows for the disclosure of directory information to specific parties, for specific purposes, or both. Such a policy must be specified in the public notice to parents/guardians and eligible students. The District must then limit directory information disclosures to those specified in the public notice.*

#### **Alternate: Limited Disclosure of Directory Information**

The District limits its disclosure of directory information to the following, without prior written consent of parent/guardian or eligible student unless the District has been advised to the contrary:

1. Military recruiters or institutions of higher learning. Such disclosure is limited to the student's name, address and telephone listing.
2. Trimester celebrations, concerts, or other academic programs.
3. Companies that publish yearbooks.
4. Playbills showing a student's role in a drama or vocal production.
5. Honor roll or other recognition lists.
6. Graduation programs.
7. Sports activity sheets.

#### **Access Log**

1. A log or record shall be maintained for each student's record that lists all persons, agencies, or organizations requesting or receiving information from the record and the legitimate educational interests.
2. Such listing need not include the following:
  - A. Parents or students to whom access is granted.
  - B. Parties to whom directory information is released.
  - C. Parties for whom written consent has been executed by the parent or guardian.
  - D. School officials or employees having a legitimate educational interest.



3. The log or record shall be open to inspection only by a parent or guardian and the custodian of student records, or the custodian's designee, and to other school officials with legitimate interests in the records, and to the Comptroller General of the United States, the Secretary of the Office of Education, an administrative head of an education agency as defined in 20 U.S.C. 1232g., and state educational authorities as a means of auditing the school system's operations.

### **Fee for Reproducing Records**

1. A fee based upon the actual cost of reproduction, handling and postage (if any) shall be charged for furnishing copies of any student record.
2. The custodian of student records annually shall recommend a fee schedule for approval by the Board of Education.
3. No fee shall
  - A. effectively prevent the parents or guardians from exercising their right to inspect and review student records.
  - B. be charged for searching or retrieving a student's record.
  - C. be made for furnishing
    - (1) up to two transcripts of former student's records.
    - (2) up to two verifications of various records of former students.

### **Transfer of Student Records**

1. Whenever a student transfers to another Connecticut public school district or to a charter school, the following student records shall be forwarded upon written notification of the student's enrollment from the other district:
  - A. The student's Mandatory Permanent Student Record or a copy thereof. The original or a copy shall be retained by this district.
  - B. The student's entire Mandatory Interim Student Record.
2. The student's records shall be transferred to the new school district or charter school no later than 10 days after receipt of such notification.
3. Whenever a student transfers to a school district in another state or to a private school, the district shall transfer the student's Mandatory Permanent Student Record upon receipt of a written request.
4. Permitted student records may be forwarded.

5. Student records shall not be withheld from the requesting district because of any charges or fees owed by the student or the student's parents or guardian.
6. All student records shall be updated prior to transfer.
7. Parent Notification
  - A. If a student's parent or guardian did not give authorization for the transfer of such records, the district shall send notification of the transfer to the parent/guardian at the same time it transfers the records.
  - B. If the transfer is a within state transfer, the receiving school shall notify the parents of the record transfer.
  - C. If the student transfers out of state, the custodian of student records shall notify the parents or guardian at their last known address of the rights accorded them. (34 C.F.R. 99.34 disclosure to other agencies or institutions)
  - D. The notification shall include a statement of the parent's or guardian's right to review, challenge, and receive a copy of the student record, if desired.

### **Retention and Destruction of Student Records**

1. No additions, except routine updating, shall be made to a student's record after high school graduation or permanent departure without the parent's or guardian's prior consent for those students who have not reached the age of eighteen years. Adult students may give consent for themselves.
2. The guide to disposal of municipal records in Connecticut is found in Connecticut General Statutes Section 7 109. For disposal of education records, see Schedule V of "Records Retention Schedules 1982" (Revised 1983) published by the Public Records Administration, Connecticut State Library, Hartford, Connecticut.
3. The method of destruction shall assure that records are not available to possible public inspection during the destruction process.

### **Subpoenaed Records**

If the school is served with a subpoena issued by a competent authority directing the production of school or student records in connection with any court proceeding, the school upon which such subpoena is served may deliver such record, or at its option a copy thereof, to the clerk of such court. Such clerk shall give a receipt for the same and shall be responsible for the safekeeping of such records, not permitting the removal of such records from the premises of the court. The clerk shall notify the school to call for the subpoenaed record when it is no longer needed for use in court. Any such record so delivered to the clerk of the court shall be sealed in an envelope which shall indicate the name of the school or student, the name of the attorney

subpoenaing the same and the title of the case referred to in the subpoena.

No such record or copy shall be open to inspection by any person except upon the order of a judge of the court concerned, and any such record or copy shall at all times be subject to the order of such judge.

Any and all parts of any such record or copy, if not otherwise inadmissible, shall be admitted in evidence without any preliminary testimony, if there is attached thereto the certification in affidavit form of the person in charge of such record indicating that such record or copy is the original record or copy thereof, made in the regular course of such business to make such record and that it was the regular course of such business to make such record at the time of the transactions, occurrences or events recorded therein or within a reasonable time thereafter.

A subpoena directing production of such school or student records shall be served not less than eighteen (18) hours before the time for production, provided such subpoena shall be valid if served less than eighteen (18) hours before the time of production if written notice of intent to serve such subpoena has been delivered to the person in charge of such records not less than eighteen hours (18) nor more than two weeks before such time for production.

### **Notification of Parents**

1. Parents shall be notified in writing of their rights under this regulation upon the date of the student's initial enrollment, and annually thereafter of students current attendance at the same time as notice is issued. The notice shall be in a form which reasonably notifies parents of the availability of the following specific information:

- A. The type of student records and information contained therein that are directly related to students and maintained by the school system.
- B. The position of the person responsible for the maintenance of each type of record.
- C. The location of the log or record required to be maintained.
- D. The criteria to be used by the school district in defining "school officials and employees" and in determining "legitimate educational interest."
- E. The policies of the school district for reviewing and expunging student records, including the right to inspect and review the student's education records within 45 days of the day the school district receives a request. If circumstances effectively present the parent or eligible student from exercising the right to inspect and review the student's education records, the district shall provide a copy of the records requested or make other arrangements for the inspection or review of the requested Records.
- F. The right of the parent or guardian to access (inspect and review) to student

records.

G. The right to request the amendment of student education records that the parent or eligible student believes are inaccurate or misleading.

H. The procedures for challenging the content of student records.

I. The policy that no fee will be charged for up to two copies of a record.

J. The categories of information that the school district has designated as directory information and that pursuant to federal law, military recruiters and institutions of higher learning may request and receive names, addresses and telephone numbers of all high school students, unless their parents/guardians notify the school, in writing, not to release this information.

K. The right of the parent to file a complaint with the United States Department of Education concerning an alleged failure by the school system to comply with the provisions of Section 438 of the Federal Education Provisions Act (20 U.S.C.A. 1232g).

L. The right of a parent or eligible student to a hearing regarding the request for amendment of the record if denied by the district.

M. The right to consent to disclosures of personally identifiable information contained in the student education record, except to the extent that FERPA authorizes disclosure without consent.

### **Issue/Practice of Peer Grading**

The definition of "education records" excludes grades on peer-graded papers before they are collected and recorded by a teacher. Peer-grading does not violate FERPA.

**Legal Reference:** Connecticut General Statutes

[1 19\(b\)\(11\)](#) Access to public records. Exempt records.

[7 109](#) Destruction of documents.

[10 15b](#) Access of parent or guardian to student's records.

[10 94i](#) Rights and liabilities of surrogate parents.

[10 154a](#) Professional communications between teacher or nurse and student.

[10 209](#) Records not to be public.

[10 221b](#) Boards of education to establish written uniform policy re treatment of

recruiters.

11-8a Retention, destruction and transfer of documents

11-8b Transfer or disposal of public records. State Library Board to adopt regulations.

46b 56(e) Access to records of minors.

Federal Family Educational Rights and Privacy Act of 1974 (section 438 of the General Education Act, as amended, added by section 513 of P.L. 93 568, codified at 20 U.S.C. 1232g and Final Rule 34 CFR Part 99, December 9, 2008)

Connecticut Public Records Administration Schedule V Disposition of Education Records (Revised 1983).

USA Patriot Act of 2001, PL 107-56, 115 Stat. 272, Sec 507, 18 U.S.C. §2332b(g)(5)(B) and 2331

PL 112-278 "The Uninterrupted Scholars Act"

Owasso Independent Sch. Dist. No.1-011 v. Falvo, 534 U.S.426 (2002)

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NORTH CANAAN BOARD OF EDUCATION  
North Canaan, Connecticut