

OYSTER RIVER COOPERATIVE SCHOOL BOARD	Policy Code: JRA-R
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## **STUDENT EDUCATION RECORDS AND INFORMATION – ADMINISTRATIVE PROCEDURE**

This administrative procedure is intended to assist administrators and school staff in complying with the requirements of federal and state statutes and regulations concerning student education records and information, including special education requirements.

### **A. Definitions**

The following definitions apply to terms used in this procedure.

1. "Act" means the federal Family Educational Rights and Privacy Act ("FERPA") (20 U.S.C. §1232g).
2. "Directory information" means the following information contained in an education record of a student: name, participation and grade level of students in officially recognized activities and sports, height and weight of student athletes, dates of attendance in the school district, honors and awards received, and photographs and videos relating to student participation in school activities open to the public.
3. "Eligible student" means a student who has attained 18 years of age or who is attending an institution of postsecondary education. Generally, once a student becomes an eligible student, all rights accorded to parents concerning education records transfer to the eligible student, except that the School District may continue to disclose education records to a parent without prior written consent if the student qualifies as a dependent under the Internal Revenue Code.
4. "Parent" means parent, regardless of divorce or separation, a legal guardian, or individual acting as a parent or guardian. There shall be a presumption that a parent has the authority to exercise the rights inherent in the Act, unless the School District has been provided with evidence that there is a court order, statute, or legally binding document relating to such matters as divorce, separation or custody that specifically revokes such rights.
5. "Record" means information recorded in any way, including but not limited to handwriting, print, e-mail or other computer media, video or audio tape, or microfilm and microfiche.
6. "Education record" means records, files, documents and other materials that contain information or data that directly relates to a student and is maintained by the school district. Records of instructional, supervisory and administrative personnel and personnel who support these individuals, which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a temporary substitute for the person who made the record are excluded from this definition, as are grades on peer-graded papers before they are collected and recorded by a teacher.
7. "Student" includes any individual who has been in attendance at the School District and regarding whom the School District maintains education records.

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## **B. Annual Notification of Rights**

Parents and eligible students shall be provided with notice of their rights under FERPA and other applicable federal and state laws and regulations concerning education records at the beginning of each school year or upon enrollment if a student enrolls after the start of the school year. The School District may provide notice through any of the following means:

1. Publication in student handbooks that are provided to students and eligible students; or
2. Publication on District website or other materials available to each parent/eligible student.

## **C. Access to Policy and Administrative Procedure**

The School District's policy on Student Education Records and Information shall be posted in each school. In addition, school administrators shall provide copies of this administrative procedure to parents/eligible students upon request or when a request to inspect or amend records is made.

## **D. Inspection and Review of Education Records**

Parents/eligible students may review and inspect their education records by the following procedure:

1. The parent/eligible student must make a written request to the Superintendent or building administrator to review the records.
2. The Superintendent or building administrator will comply with the request without unnecessary delay and in a reasonable period of time, and in all cases, within 14 days of its receipt. If the student qualifies as a child with a disability, the Superintendent or building administrator will comply before any IEP Team meeting regarding an Individualized Education Program or any due process hearing or resolution session under the special education laws.
3. The Superintendent or building administrator may deny a request for access to or copies of the student's education records if there is reasonable doubt as to the legality of the parent-child relationship. Access will be withheld until a determination of legal right to access can be established.
4. All records shall be reviewed in the presence of a school official.

Parents of special education students may also review upon request the following:

1. The School District's list of types and locations of education records and titles of officials responsible for the records.
2. The School District's record of disclosures of personally identifiable information (see Section F).

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### **E. Requests to Amend Education Records**

Parents/eligible students may ask the School District to amend education records they believe are inaccurate, misleading or in violation of the student's privacy rights as follows:

1. The parent/eligible student must make a written request to the Superintendent or building administrator to amend the education record. The request must clearly identify the part of the record they want changed, specify how they want it changed, and specify why it is inaccurate or misleading.
2. The Superintendent or building administrator shall, within a reasonable period of time after receipt of the request, either amend the record in accordance with the request or inform the parent/eligible student of the School District's refusal to amend the record and inform the parent/eligible student of their right to request a hearing.
3. If the parent/eligible student requests a hearing, it shall be held within a reasonable period of time from the School District's receipt of the written request. The parent/eligible student shall be given advance notice of the date, place and time of the hearing. The Superintendent shall designate an individual to conduct the hearing. This individual may be an employee of the School District so long as he/she does not have a direct interest in the outcome of the hearing. The parent/eligible student shall be afforded a full and fair opportunity to present evidence relevant to the issues raised and may be assisted or represented by individuals of his/her choice at his/her own expense, including an attorney.
4. The School District shall make its decision in writing within a reasonable period of time. The decision of the school must be based solely on the evidence presented at the hearing, and shall include a summary of the evidence and the reasons for the decision.
5. If, as a result of the hearing, the School District decides that the information is inaccurate, misleading or otherwise in violation of the privacy rights of the student, it shall amend the education records of the student accordingly and so inform the parent/eligible student in writing.
6. If, as a result of the hearing, the School District decides that the information is not inaccurate, misleading or otherwise in violation of the privacy rights of the student, it shall inform the parent/eligible student of their right to include a statement in the student's education record about the contested information and/or setting forth any reasons for disagreeing with the decision of the School District.
7. Any statement placed in the student's education record under the preceding paragraph shall be maintained with the contested part of the record for as long as the record is maintained by the School District. If the School District discloses the contested portion of the record to any party, it shall also disclose the statement.

### **F. Disclosure of Education Records**

All disclosures of education records will be made in compliance with federal and state statutes and regulations. The School District will not disclose any personally identifiable information from the education records of a student without the prior written consent of the parent/eligible student unless such disclosure is otherwise allowed by federal and/or state statutes or regulations. The written consent shall include a specification of the records which may be disclosed, the purpose(s) of the disclosure(s), and the identity of the party or class of parties to whom the disclosure(s) may be made.

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There are several exceptions to the requirement to obtain prior written consent before disclosing education records as follows:

1. **Directory Information.** The School District may make directory information (as described in Section A) public at its discretion unless a parent/eligible student has notified the Superintendent in writing by September 15<sup>th</sup> or within thirty (30) days of enrollment, whichever is later, that the parent/eligible student refuses to let the School District designate as directory information any or all of those types of information. This opt-out shall remain in effect until the following school year, unless the parent or eligible student rescinds it earlier, or unless the student no longer attends the School District, in which case the opt out will remain in effect unless it is rescinded.  
  
Absent an opt out, the School District may disclose directory information about former students without the consent of the parent/eligible student.
2. **Military Recruiters/Institutions of Higher Education.** Military recruiters and institutions of higher education are entitled to receive the names, addresses and telephone numbers of secondary students and the School District must comply with any such request, provided that parents have been notified of their right to request that this information not be released without their prior written consent. Parents and secondary school students who do not want the School District to disclose this information must notify the Superintendent in writing by September 15<sup>th</sup> or within thirty (30) days of enrollment, whichever is later.
3. **School Officials with Legitimate Educational Interests.** Education records (and personally identifiable information from an education record) may be disclosed to school officials with a "legitimate educational interest." A school official has a legitimate educational interest if he/she needs to review an education record (or to receive personally identifiable information from an education record) in order to fulfill his/her professional responsibility. School officials include persons employed by the School District (or the School District's school administrative unit) as an administrator, supervisor, instructor or support staff member (such as guidance, health or medical staff and the School District's designated law enforcement personnel, if any); members of the School Board; persons or companies with whom the School District or school administrative unit has contracted to provide specific services (such as attorneys, auditors, medical consultants, evaluators, experts, or therapists); companies providing online educational services; and volunteers who are under the direct control of the School District with regard to education records.
4. **Other Schools.** The School District sends student education records to schools, school systems, or institutions of postsecondary education where the student seeks or intends to enroll, or where the student is already enrolled, if the school, school system, or institution of secondary education has requested the records and so long as the disclosure is for purposes related to the student's enrollment or transfer. Such records shall include, but are not limited to, grades, report cards, disciplinary records, attendance records, special education records and health records.
5. **Health or Safety Emergency.** In accordance with federal regulations, the School District may disclose education records in a health or safety emergency without prior written consent to any person whose knowledge of the information is necessary to protect the health or safety of the student or other individuals.

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**6. Other Entities/Individuals.** Education records may be disclosed to other governmental entities and individuals as specifically permitted by FERPA and the accompanying regulations.

#### **G. Request/Disclosure Record**

1. The School District will maintain a record of requests for and disclosures of personally identifiable information from the education records of a student.
2. Such records do not include: (a) disclosures to the parents/eligible student; (b) disclosures made pursuant to written consent of the parents/eligible student; (c) disclosures to school officials with legitimate educational interests in the record; (d) disclosures of directory information; (e) disclosures to the person who provided or created the record; (f) disclosures pursuant to a subpoena in certain law enforcement proceedings as described 34 C.F.R. § 99.31(a)(9)(ii)(A) and (B) if the court or agency issuing the subpoena ordered that the existence or contents of the request for disclosure remain confidential; or (g) disclosures pursuant to ex parte orders obtained by the U.S. Attorney General (or certain designees) concerning investigations or prosecutions of offenses listed in 18 U.S.C. § 2332(g)(5)(B) or acts of domestic or international terrorism as defined in 18 U.S.C. § 2332.
3. The record will include the party requesting the information and the “legitimate interest” the party has in the information. In the case of state and local educational authorities, and federal officials and agencies identified in the FERPA regulations, the record must specify that the records may be subject to further disclosure by these authorities, officials and agencies without consent.
4. When disclosures are made under the exception for health or safety emergencies, the record must include the “articulable and significant threat to the health or safety of a student or other individuals that formed the basis of the disclosure” and the parties to whom the information was disclosed.

#### **H. Waiver of Confidentiality Rights**

A parent/eligible student may waive any of his/her rights regarding confidentiality of education records, but any such a waiver must be in writing and signed by the parent/eligible student. The school may not require that a parent/eligible student waive his or her rights. Any waiver may be revoked, but such revocation shall not apply to any actions taken by the School District prior to the revocation being received. If a parent executes a waiver, that waiver may be revoked by the student any time after he/she becomes an eligible student.

#### **I. Fees for Copying Records**

There shall be no charge to search for or retrieve education records of a student. The School District shall provide copies of education records to parents/eligible students upon request, subject to reasonable limitations. The cost of producing copies of the record to parents/eligible student will be eight cents (\$0.08 per page copied), plus postage. Parents/eligible students who are unable to pay such fees will not be denied access to education records.

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## **J. Maintenance and Destruction of Education Records**

The School District shall maintain education records as required by federal and state statutes and regulations.

1. Records shall be maintained in paper and/or electronic form by personnel who are knowledgeable about the applicable confidentiality and record retention requirements. All records shall be safeguarded from unauthorized access. Student records must be kept in fireproof storage at the school or a duplicate set must be kept off-site.
2. The School District shall not destroy any education record if there is any outstanding request to inspect or review such records.
3. Records of access to education records shall be retained as long as the records themselves.
4. The School District shall inform parents of students who have received special education services when education records are no longer needed to provide educational services to the student or to demonstrate that the school has provided the student with a free appropriate public education as required by law. At that point, the records may be turned over to parents/eligible student upon their request, or destroyed in accordance with the parent's request or School District procedures.

## **K. Complaints**

The United States Department of Education maintains an office that handles complaints about alleged violations of FERPA by local school districts. Complaints regarding violations of rights accorded parents/eligible students may be submitted in writing to:

Family Policy Compliance Office  
Department of Education  
400 Maryland Avenue, S.W.  
Washington, D.C. 20202-5901

Legal Reference: 20 U.S.C. § 1232g; 34 C.F.R. Part 99 (as amended)  
20 U.S.C. § 7908  
RSA 189:1-e, 193-D:8, 194:31-a  
N.H. Chapter Law 136 (2015)  
N.H. Code of Administrative Rules Ed 1119