

All student records must be current and maintained with appropriate measures of security and confidentiality. The principal is responsible for complying with all legal requirements pertaining to the maintenance, review and release of records retained at the school.

**A. ANNUAL NOTIFICATION OF RIGHTS**

The superintendent or designee shall provide eligible students and parents with annual notification of their rights under the Family Educational Rights and Privacy Act (FERPA). The notice must contain all information required by federal law and regulations, including the following:

1. the right to inspect and review the student's educational records and the procedure for exercising this right;
2. the right to request amendment of the student's educational records that the parent or eligible student believes to be inaccurate, misleading or in violation of the student's privacy rights; and the procedure for exercising this right;
3. the right to consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that FERPA authorizes disclosure without consent;
4. the type of information designated as directory information and the right to opt out of release of directory information;
5. that the school system releases records to other institutions that have requested the information and in which the student seeks or intends to enroll;
6. the right to opt out of releasing the student's name, address and phone number to military recruiters or institutions of higher education that request such information;
7. a specification of the criteria for determining who constitutes a school official and what constitutes a legitimate educational interest if a school official discloses or intends to disclose personally identifiable information to school officials without consent;
8. notification if the school system uses contractors, consultants, volunteers or similar persons as school officials to perform certain school system services and functions that it would otherwise perform itself; and
9. the right to file complaints with the Family Policy Compliance Office in the U.S. Department of Education.

School officials are not required to individually notify parents or eligible students of their rights but must provide the notice in a manner reasonably likely to inform the parents and eligible students of their rights. Effective notice must be provided to parents or eligible students with disabilities or those whose primary or home language is not English. This information is relayed to parents via the Annual Public Notice document which is available on the school system's website at all times and available in print copies as needed.

## **B. DEFINITION OF PARENT AND ELIGIBLE STUDENT**

### **1. Parent**

For purposes of this policy, the term "parent" includes a natural parent, a guardian or an individual acting as a parent in the absence of a parent or guardian. If the parents of a student are separated or divorced, both parents have the right to access the student's records as provided in this policy, unless the school system has been provided with evidence that there is a court order, state statute or other legally binding document that specifically revokes these rights.

### **2. Eligible Student**

For purposes of this policy, an eligible student is a student who has reached 18 years of age or is attending an institution of postsecondary education. The rights afforded to parents under this policy transfer to an eligible student. However, parents may still have access to the records as long as the student is claimed as a dependent by the parent for federal income tax purposes. An eligible student who desires to prevent access to records by his or her parents must furnish to the principal information verifying that the student is not a dependent of his or her parents. If a parent of a student who is at least 18 and no longer attending a school within the system wishes to inspect and review the student's records, he or she must provide information verifying that the student is a dependent for federal income tax purposes.

A student under age 18 may have access to student records only upon the consent of his or her parents.

## **C. CLASSIFICATION AND MAINTENANCE OF RECORDS**

Information about students that is collected and stored by school personnel may be separated into several categories, including, but not limited to, the following records.

### **1. Cumulative Records**

The cumulative record is the official record for each student. The cumulative record includes, at a minimum, printed copies of the following items:

- a) Identifying information, including student name, address, gender, race, birthplace, birth date, and copy of the student's birth certificate;
- b) Family data, including parent/guardian names, addresses, places of employment, and telephone numbers;
- c) Final grades and attendance for each grade completed;
- d) Most current high school transcript;
- e) Standardized test scores;
- f) Health information, including health assessment and immunization records;
- g) Most current legal documents, including court ordered custody documentation, adoption papers, affidavits, residency statements, Department of Social Services placement paperwork, etc.;
- h) Driver's education certificate;
- i) Any pertinent out of county information for transfer students;
- j) Most current Student Information Sheet;
- k) Entry and withdrawal record of schools attended or transferring to;
- l) For graduates, class rank and date of graduation.

Records pertaining to exceptional children services or classification are kept separately from the cumulative record. No information identifying a student as receiving special services should be indicated in the cumulative record at any time.

Records will be screened annually to make corrections, to remove materials no longer educationally relevant, and to make additions.

All education records are to be stored in lockable files with key to be maintained by the principal or designated staff.

## 2. Discipline Records

Student discipline records are part of the student's official record and must be maintained and reviewed pursuant to policy 4345, Student Discipline Records. Discipline records must be expunged and forwarded pursuant to the requirements of law and the procedures of policy 4345. Discipline records for current students are maintained in the digital student database and are not printed for storage in the paper cumulative record. The parent/guardian or eligible student may request copies of the discipline record to be printed. Discipline records are not maintained in the final, permanent, archived copy of the cumulative record and are expunged within two years after possible graduation.

## 3. Records of Students with Disabilities

Students with recognized disabilities must be accorded all rights in regard to their records as provided by state and federal law, including the Individuals with Disabilities Education Act and policy 3520, Special Education Programs/Rights

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of Students with Disabilities. Records for a student identified as a student with a disability are considered an official record and must be maintained in accordance with all appropriate federal and state regulations. These records will be maintained in a separate location accessible only to those with an educational right to know as defined by FERPA. A list of all approved personnel having access to these restricted files will be updated as needed, and a current, dated list will be posted in the student records location. Special Education records may not be stored with the cumulative record. No information identifying a student as receiving special services should be indicated in the cumulative record at any time.

4. Records Received from the Department of Social Services

The Department of Social Services may disclose confidential information to the school system in order to protect a juvenile from abuse or neglect. Any confidential information disclosed under these circumstances must remain confidential and may only be redisclosed for purposes directly connected with carrying out the school system's mandated educational responsibilities.

5. Juvenile Records

Juvenile records include documentation or information regarding students who are under the jurisdiction of the juvenile court. These records may be received from local law enforcement and/or other local agencies authorized to share information concerning juveniles in accordance with G.S. 7B-3100. These records also may include notice from the sheriff to the board that a student has been required to register with the sheriff because the student has been found to be a danger to the community under G.S. Chapter 14, Part 4. Such documents must not be a part of a student's official records but must be maintained by the principal in a safe, locked storage area that is separate from the student's other records. The principal shall not make a copy of such documents under any circumstances.

Juvenile records will be used only to protect the safety of or to improve the educational opportunities for the student or others. The principal may share juvenile records with individuals who have (a) direct guidance, teaching or supervisory responsibility for the student and (b) a specific need to know in order to protect the safety of the student and others. Persons provided access to juvenile records must indicate in writing that they have read the document(s) and agree to maintain confidentiality of the records.

The principal or designee must destroy juvenile documents if he or she receives notification that a court no longer has jurisdiction over the student or if the court grants the student's petition for expunction of the records. The principal or designee shall destroy all other information received from an examination of juvenile records when he or she finds that the information is no longer needed to

protect the safety of or to improve the educational opportunities for the student or others. If the student graduates, withdraws from school, transfers to another school, is suspended for the remainder of the school year or is expelled, the principal shall return all documents not destroyed to the juvenile court counselor. If the student is transferring, the principal shall provide the juvenile court counselor with the name and address of the school to which the student is transferring.

6. Other Student Records

School system personnel may also keep other student records but must review such records annually and destroy them when their usefulness is no longer apparent or when the student leaves the school system.

7. Sole Possession, Employment and Law Enforcement Records

Student records do not include, and release of information under this policy does not apply to:

- a. records made by teachers, counselors and administrators that are in the sole possession of the maker thereof and that are not accessible or revealed to any other person except a substitute;
- b. employment records of student employees if those records relate exclusively to the student in his or her capacity as an employee and are not made available for any other use; and
- c. records created by a law enforcement unit of the school system if created for a law enforcement purpose and maintained solely by the law enforcement unit of the school system. This does not include information obtained from the student's confidential file or other educational records that is contained in a law enforcement record.

**D. RECORDS OF STUDENTS PARTICIPATING IN THE NORTH CAROLINA ADDRESS CONFIDENTIALITY PROGRAM**

Records of students participating in the North Carolina Address Confidentiality Program must show only the substitute address provided by the Address Confidentiality Program and must not be released to any third party other than a school to which the student is transferring, or as otherwise provided by law.

When transferring the record of a student participating in the North Carolina Address Confidentiality Program to a school outside of the system, the transferring school may send the files to the Address Confidentiality Program participant (parent or guardian) via the substitute address provided by the Address Confidentiality Program.

## E. RECORDS OF MISSING CHILDREN

Upon notification by a law enforcement agency or the North Carolina Center for Missing Persons of the disappearance of a child who is currently or was previously enrolled in the school, school officials shall flag the record of that child. If the missing child's record is requested by another school system, the principal shall provide notice of the request to the superintendent and the agency that notified the school that the child was missing. The principal shall provide the agency with a copy of any written request for information concerning the missing child's record.

Any information received indicating that a student transferring into the system is a missing child must be reported promptly to the superintendent and the North Carolina Center for Missing Persons.

## F. RECORDS OF MILITARY CHILDREN

School administrators shall comply with any regulations pertaining to the records of military children developed by the Interstate Commission on Educational Opportunity for Military Children.

In addition, children of military families, as defined by policy 4050, Children of Military Families, are entitled to the following.

### 1. For Students Leaving the School System

In the event that official education records cannot be released to the parents of military children who are transferring away from the school system, the custodian of records shall prepare and furnish to the parent a complete set of unofficial education records containing uniform information as determined by the Interstate Commission.

When a request for a student's official record is received from the student's new school, school officials shall process and furnish the official records to the student's new school within 10 days or within such time as is reasonably determined by the Interstate Commission.

### 2. For Students Enrolling in the School System

Upon receiving an unofficial education record from the student's previous school, school administrators shall enroll the student and place him or her in classes as quickly as possible based on the information in the unofficial records, pending validation by the official records.

Simultaneous with the enrollment and conditional placement of the student, school administrators shall request the student's official record from his or her previous school.

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**G. REVIEW, RELEASE OF RECORDS TO PARENT OR ELIGIBLE STUDENT**

A parent or eligible student may access the student's records upon proper request. The principal or counseling office personnel of the student's school shall schedule an appointment as soon as possible but no later than 45 days after the request by the parent or eligible student. The parent or eligible student may formally review the student's complete records only in the presence of the principal or a designee competent to explain the records. School personnel shall not destroy any educational records if there is an outstanding request to inspect or review the records.

A parent or eligible student has the right to challenge an item in the student record believed to be inaccurate, misleading or otherwise in violation of the student's privacy rights. The principal shall examine a request to amend a student record item and respond in writing to the person who challenges the item. Subsequent steps, if necessary, will follow the student grievance procedures as provided in policy 1740/4010, Student and Parent Grievance Procedure. If the final decision is that the information in the record is not inaccurate, misleading or otherwise in violation of the privacy rights of the student, the principal shall inform the parent or eligible student of the right to place a statement in the record commenting on the contested information in the record or stating why he or she disagrees with the decision of the school system. That statement shall be maintained as long as the contested part of the record is maintained.

**H. RELEASE OR DISCLOSURE OF RECORDS TO OTHERS**

Before releasing or disclosing records as permitted by law, school officials shall use reasonable methods to identify and authenticate the identity of the party to whom the records are disclosed.

**1. Release/Disclosure With Parental Consent**

School officials shall obtain written permission from a parent or eligible student before releasing or disclosing student records that contain personally identifiable information, except in circumstances where the school system is authorized by law to release the records without such permission. The written permission must specify the records to be released, the purpose of the release and the party(ies) to whom they are to be released.

**2. Release/Disclosure Without Parental Consent**

Personally identifiable information regarding a student may be released from an education record without parental consent when the disclosure is:

- a) To other school officials, including teachers, who have a legitimate educational interest.
  - I. A school official is:

- A person employed by the school system as an administrator, supervisor, instructor, or support staff member.
  - A person elected to the school board.
  - A person employed by or under contract to the school system to perform a special task, such as an attorney, auditor, medical consultant, school nurse, or therapist.
- II. A school official has a legitimate education interest if the official is:
- Performing a task that is specified in their job description, by an employment contract, or under the direction of their supervisor.
  - Performing a task related to a student's education.
  - Performing a task related to the discipline of a student.
  - Providing a service or benefit relating to the student or student's family, such as health care, counseling, job placement, or financial aid.
- b) To officials of another school, school system, or institution of post-secondary education where the student seeks or intends to enroll.
- c) To authorized representatives of the Comptroller General of the United States, the Secretary of Education, or to State and local educational authorities.
- d) To accrediting organizations to carry out their accrediting functions.
- e) To comply with a judicial order or a lawfully issued subpoena when the school system makes a reasonable effort to notify the parent of the order or subpoena in advance of compliance. The notice requirement is not required when a parent is a party to a court proceeding involving child abuse and neglect or dependency matters.
- f) In connection with a health or safety emergency.
- g) To certain individuals within State, local or tribal welfare agencies (i.e., DSS) when the agency is legally responsible for the care and protection of the student. Schools may only release the education records to individuals within the agencies who have the legal right to inspect the student's case plan.
- h) Made pursuant to a recognized FERPA exception.

A school must keep an informational log of each request to, and each disclosure of, non-directory information without parental or eligible student consent. The log must include: 1) the names of the parties who requested and received the information; and 2) the reasons the parties had for requesting and receiving the information. The log must be kept with the student's records and can be inspected by parents, eligible students, school records custodians and federal/state officials responsible for the school's auditing and recordkeeping procedures. The school does not need to record disclosures to: 1) the student's parents; 2) an eligible student; 3) school officials with a legitimate educational interest; 4) any party with parent/eligible student consent; 5) a party seeking only directory

information; and 6) disclosure for law enforcement proceedings.

If the school discloses student records under the health/safety exception, the school must document in the student's log: 1) the articulable and significant threat to the health or safety of a student or other individuals that formed the basis for the disclosure; and 2) the parties to whom school officials disclosed the information.

The log shall not include *ex parte* orders obtained by the U.S. Attorney for disclosures under the U.S. Patriot Act exception.<sup>1</sup>

### 3. Release of Directory Information

Permission of the parent or eligible student is not required for the release of information that is designated as directory information by the board, provided that the parent or eligible student has been given proper notice and an opportunity to opt out. The parent or eligible student must notify school in writing of their intent to opt out of release of eligible information. Information regarding release of directory information and opt out notification is relayed to parents via the Annual Public Notice document, which is available at all times on the school system's website. (See policy 1310/4002, Parental Involvement.)

a. The board designates the following student record information as directory information:

- (1) name;
- (2) address;
- (3) telephone listing;
- (4) photograph;
- (5) participation in officially recognized activities and sports;
- (6) weight and height of members of athletic teams;
- (7) dates of attendance;
- (8) grade level;
- (9) diplomas, certifications and awards received; and

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<sup>1</sup> *Id.* § 99.32(d)(5).

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- (10) most recent previous school or education institution attended by the student.
  - b. The telephone number and actual address of a student who is or whose parent is a participant in the North Carolina Address Confidentiality Program is not considered directory information and will not be released.
  - c. Information about a homeless student's living situation is not considered directory information and will not be released.
  - d. As required by law, the names, addresses and telephone numbers of secondary school students shall be released, upon request, to military recruiters or institutions of higher learning, whether or not such information is designated directory information by the school system. Students or their parents, however, may request that the student's name, address and telephone number not be released without prior written parental consent. School officials shall notify parents of the option to make a request and shall comply with any requests made. This information is relayed to parents via the Annual Public Notice document, which is available at all times on the school system's website.
  - e. All requests for directory information must be submitted to the superintendent or designee for approval. The superintendent is directed to establish regulations regarding the release of directory information. At a minimum, the regulations must:
    - (1) specify the types of organizations that are eligible to receive directory information, and for what purposes;
    - (2) provide for equal disclosure to organizations that are similar in purpose; and
    - (3) authorize access to directory information to recruiters of military forces of the state or United States for the purpose of informing students of educational and career opportunities available in the military to the same extent that such information is made available to persons or organizations that inform students of occupational or educational options.

#### 4. Records of Students with Disabilities

Students with recognized disabilities must be accorded all rights in regard to their records as provided by state and federal law, including the Individuals with Disabilities Education Act.

## 5. Disclosure of De-Identified Information

Education records may be released without consent of the parent or eligible student if all personally identifiable information has been removed. Personally identifiable information includes both direct and indirect identifiers that, alone or in combination, would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.

Unless specifically permitted by law, records that have been de-identified must not be released without the consent of the parent or eligible student if school officials reasonably believe that the person requesting the information knows the identity of the student to whom the education record relates.

### I. WITHHOLDING RECORDS

School system administrators shall not withhold records upon a valid request by a parent, eligible student or school to which the student is transferring for any reason, including in order to collect fines assessed to the parent or student.

### J. RECORD OF ACCESS AND DISCLOSURE

The principal or designee shall maintain a record in each student's file indicating all persons who have requested or received personally identifiable information from a student's record and the legitimate reason(s) for requesting or obtaining the information. This requirement does not apply to requests by or disclosure to parents, eligible students, school officials, parties seeking directory information, a party seeking or receiving the records under a court order or subpoena that prohibits disclosure, or those individuals with written parental consent.

### K. DESTRUCTION OF STUDENT RECORDS

School officials shall only destroy student records in accordance with state and federal law and the *Records Retention and Disposition Schedule for Local Education Agencies*. Digital images for all records are maintained permanently in the Student Services Department, with microfilm backups stored permanently by the North Carolina Division of Archives in Raleigh.

Special education records will be destroyed five years after the student graduates, completes their course of study resulting in a certificate, or exits after turning 22 years of age. Four public notices will be published in local media outlets giving notification that records will be destroyed in 90 days.

## L. LONGITUDINAL DATA SYSTEM

School system administrators will comply with the data requirements and implementation schedule for the North Carolina Longitudinal Data System (NCLDS) and will transfer designated student record data to the system in accordance with the NCLDS data security and safeguarding plan and all other requirements of state law, provided that doing so does not conflict with the requirements of FERPA.

Legal References: Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, h, 34 C.F.R. pt. 99; Individuals with Disabilities Education Act, 20 U.S.C. 1411 *et seq.*; Elementary and Secondary Education Act, 20 U.S.C. 7908; McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11431 *et seq.*; G.S. 7B-302, -3100; 14-208.29; 115C-47(26), -109.3, -402, -403, -407.5; 116E-6; *Records Retention and Disposition Schedule for Local Education Agencies*, N.C. Department of Natural and Cultural Resources (1999), available at <https://archives.ncdcr.gov/government/retention-schedules/local-government-schedules#localschedules>

Cross References: Parental Involvement (policy 1310/4002), Student and Parent Grievance Procedure (policy 1740/4010), Special Education Programs/Rights of Students with Disabilities (policy 3520), Children of Military Families (policy 4050), Homeless Students (policy 4125), North Carolina Address Confidentiality Program (policy 4250/5075/7316), Disciplinary Action for Exceptional Children/Students with Disabilities (policy 4307), Student Discipline Records (policy 4345), Confidentiality of Personal Identifying Information (policy 4705/7825), Surveys of Students (policy 4720), Public Records – Retention, Release, and Disposition (policy 5070/7350)

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