

**Confidentiality
in
the School Setting**

- 603 CMR 23.00 was created to insure parents' and students' rights of confidentiality, inspection, amendment, and destruction of student records and to assist local school systems in adhering to this law.

Parent and Student Rights to Records

- These rights belong to students 14 or older, or entering grade 9, whichever is first
- If the student is less than 14, the rights belong to the parent
- For students 14-18, the rights are either shared, or can be acted upon alone
- Students 18 or older can act alone and can limit parent rights except the right to inspect the record

Rights at Different Ages

Authorized school personnel who **have access** to student records include the following categories:

(1) **School administrators, teachers, counselors** and other professionals who are employed by the school and who are working directly with the student in an administrative, teaching counseling, and/or diagnostic capacity. Any such personnel who are not employed directly by the school committee shall have access only to the student record information that is required for them to perform their duties.

(2) Administrative **office staff** and **clerical personnel**, whose duties require them to have access to student records for purposes of processing information for the student record. Such personnel shall have access only to the student record information that is required for them to perform their duties.

(3) The **Evaluation Team** which evaluates a student.

Access to Student Records

- All information and data contained in or added to the student record is limited to information relevant to the educational needs of the student.
- When information and data are added to the temporary record, it will include the name, signature, and position of the person who is the source of the information, and the date of entry into the record.

What is in the Student Record?

- The student or the parent has access to the student record. Access is provided as soon as practical and within ten days after the initial request, except in the case of non-custodial parents where separate procedures apply.
- (a) Upon request, copies of any information contained in the student record will be furnished to the eligible student or the parent.
- (b) Any student, regardless of age, has the right to receive a copy of his/her transcript.
- (c) The eligible student or the parent has the right upon request to meet with professionally qualified school personnel and to have any of the contents of the student record interpreted.
- (d) The eligible student or the parent may have the student record inspected or interpreted by a third party of their choice. Such third party will present the specific written consent of the eligible student or parent, prior to gaining access to the student record.

Records Access

- 1) The **school principal** or his/her designee is responsible for the privacy and security of all student records maintained in the school.
- (2) The **superintendent** of schools or his/her designee is responsible for the privacy and security of all student records that are not under the supervision of a school principal, for example, former students' transcripts stored in the school department's central administrative offices or student records of school-age children with special needs who have not been enrolled in a public school.
- (3) The principal and superintendent of schools must insure that student records under their supervision are **kept physically secure**, that authorized school personnel are informed of the provisions of confidentiality requirements and are educated as to the importance of information privacy and confidentiality; and that any computerized systems employed are electronically secure.

Privacy and Security of Records

- (1) The student's **transcript** may only be destroyed **60 years** following his/her graduation, transfer, or withdrawal from the school system.
- (2) During the time a student is enrolled in a school, the principal or his/her designee **periodically reviews and destroys misleading**, outdated, or irrelevant information contained **in the temporary record** provided that the eligible student and his/her parent are notified in writing and are given opportunity to receive the information or a copy of it prior to its destruction. A copy of such notice shall be placed in the temporary record.
- (3) The **temporary record** of any student will be destroyed no later than **seven years** after the student transfers, graduates, or withdraws from the school system. Written notice to the eligible student and his/her parent of the approximate date of destruction of the record and their right to receive the information in whole or in part, shall be made at the time of such transfer, graduation, or withdrawal.

Records Destruction

- Authorized school personnel have access to the records of students to whom they are providing services when such access is required in the performance of their official duties.
- The consent of the eligible student or parent is not necessary.

Access to Records

- No third party shall have access to information in or from a student record without the specific, informed written consent of the eligible student or the parent.
- When granting consent, the eligible student or parent shall have the right to designate which parts of the student record shall be released to the third party.
- A copy of such consent will be placed in the temporary record.
- Personally identifiable information from a student record will only be released to a third party on the condition that he/she will not permit any other third party to have access to such information without the written consent of the eligible student or parent.

Third Party Access

- (b) Upon receipt of a court order or lawfully- issued subpoena, the school will comply, provided that the school makes a reasonable effort to notify the parent or eligible student of the order or subpoena in advance of compliance.
- (c) A school may release information regarding a student upon receipt of a request from the Department of Children and Families, a probation officer, a justice of any court, or the Department of Youth Services.
- (d) Federal, state and local education officials, and their authorized agents have access to student records as necessary in connection with the audit, evaluation or enforcement of federal and state education laws, or programs; provided that except when collection of personally identifiable data is specifically authorized by law, any data collected by such officials is protected so that other parties cannot personally identify such students and their parents; and such personally identifiable data is destroyed when no longer needed for the audit, evaluation or enforcement of federal and state education laws.

Access of Civil Authority

- (e) A school may disclose information regarding a student to appropriate parties in connection with a health or safety emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals. This includes, but is not limited to, disclosures to the local police department and the Department of Children and Families under the provisions of section 51A.
- (f) Upon notification by law enforcement authorities that a student, or former student, has been reported missing, a mark is placed in the student record of such student. The school shall report any request concerning the records of the child to the appropriate law enforcement authority .
- (g) Authorized school personnel of the school to which a student seeks or intends to transfer may have access to such student's record without the consent of the eligible student or parent, provided that the school the student is leaving, or has left, gives notice that it forwards student records to schools in which the student seeks or intends to enroll.
- (h) School health personnel and local and state health department personnel have access to student health records, including but not limited to immunization records, when such access is required in the performance of official duties, without the consent of the eligible student or parent.

Civil Authority (ctd.)

- There are specific procedures which school administrators will follow when a non-custodial parent requests access to school records
- A summary of these procedures is that they include notice to the custodial parent, a period of waiting for the custodial parent to respond, and marking the records to ensure that they are not used to enroll the student in another school without consent of the custodial parent.

Non-custodial Parents

- The eligible student or the parent has the right to add information, comments, data, or any other relevant written material to the student record.

Adding to the Student Record

- The eligible student or the parent has the right to request in writing deletion or amendment of any information contained in the student record, except for information which was inserted into that record by an Evaluation Team.
- Information inserted by an Evaluation Team is not be subject to such a request until after the acceptance of the Evaluation Team Educational Plan, or, if the Evaluation Team Educational Plan is rejected, after the completion of the special education appeal process.

Deleting Material from the Record

- Any deletion or amendment shall be made in accordance with the procedure described below:
- (a) If such student or parent is of the opinion that adding information is not sufficient to explain, clarify or correct objectionable material in the student record, either student or parent shall present the objection in writing and/or have the **right to have a conference with the principal** or his/her designee to make the objections known.
- (b) The principal or his/her designee shall **within one week** after the conference or receipt of the objection, if no conference was requested, render to such student or parent a decision in **writing**, stating the reason or reasons for the decision. If the decision is in favor of the student or parent, the principal or his/her designee shall promptly take such steps as may be necessary to put the decision into effect.

Deletion or Amendment (ctd.)

- (1) In the event that any decision of a principal or his/her designee is not satisfactory in whole or in part to the eligible student or parent's request, they shall have the right of appeal to the superintendent of schools. Request for such appeal shall be in writing to the superintendent of schools.
- (2) The superintendent of schools or his/her designee will within two weeks after being notified of such appeal (longer should the appellant request a delay) review the issues presented and render a written decision to the appellant, stating the reason or reasons for the decision. If the decision is in favor of the appellant, the superintendent of schools or his/her designee will promptly take such steps as may be necessary to put the decision into effect.
- (3) In the event that the decision of the superintendent of schools or his/her designee is not satisfactory to the appellant in whole or in part, the appellant shall have the right of appeal to the school committee. Request for such appeal shall be in writing to the chairperson of the school committee.
- (4) The school committee shall within four weeks after being notified of such appeal (longer should the appellant request a delay) conduct a fair hearing to decide the issues presented by the appellant.

Appeals