



Superintendent's Circular

School Year 2019-2020

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LGL-7

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September 1,
2019

STUDENT RECORD PROCEDURES AND NOTIFICATION OF PARENTAL RIGHTS UNDER FERPA AND MASSACHUSETTS REGULATIONS

GENERAL INFORMATION

These student record procedures pertain to all information kept by the Boston Public Schools concerning a student in which he/she may be individually identified.

The Family Educational Rights and Privacy Act (FERPA) and Massachusetts regulations (603 C.M.R. 23.00 et seq.) afford parents and eligible students certain rights with respect to the student's education records.

The student record consists of two parts, the transcript and the temporary record.

- A. The transcript contains administrative records that constitute the minimum data necessary to reflect the student's educational progress and to operate the educational system. The transcript is limited to the name, address, and phone number of the student, his/her birth date, name, address and phone number of the custodial parent or guardian, course titles, grades (or the equivalent when grades are not applicable), course credit, grade level completed, and the year completed. The transcript must be retained for at least **sixty (60) years** after the student leaves the school system.
- B. The temporary record is all other student record information besides the transcript. Temporary record information may include health information, disciplinary information, exemplars of student work, special education or 504 plan documents, incident reports, and any other information kept by the school which identifies the student individually. The temporary record should be destroyed no later than **seven (7) years** after the student leaves the school system, provided proper notification is given as is indicated herein.

REQUESTS FOR STUDENT RECORD INFORMATION

Schools may receive requests for student record information in many different ways. Here are some of the more common examples.

- IJ By subpoena. A subpoena is a legal document consisting of an order of the court requiring appearance in court to give testimony and/or to produce documents. Failure to comply with a subpoena could result in a finding of contempt of court. The Office of Legal Advisor therefore should be informed immediately of any subpoenas, particularly those concerned with student record information.
- IJ By a public records request. When receiving a request for public records, a copy of the request should be sent via facsimile transmission immediately to the Office of Legal Advisor for review. All public records requests must be reduced to writing, dated, and signed by the requestor, with the return address information of the requestor. For more information see Superintendent's Circular, LGL-3 Public Records Requests.

- IJ By written request of student, custodial parent or non-custodial parent. See below.

REQUESTS BY CUSTODIAL PARENTS AND ELIGIBLE STUDENTS

A custodial parent is any parent with whom a child resides, whether permanently or for periods of time and who supervises the child. An eligible student is a student who has entered the ninth grade or is at least 14 years old. FERPA and Massachusetts Regulations confer the following rights upon a custodial parent or eligible student:

- IJ A custodial parent, or an eligible student, has the right to inspect all portions of the student record upon request. The record must be made available to the custodial parent or student by the school **no later than ten (10) days** after the request, unless the parent or student consents to a delay. The custodial parent and eligible student have the right to receive copies of any and all parts of the record. In addition, the custodial parent and student may request to have parts of the record interpreted by a qualified professional of the school, or may invite anyone else of their choosing to inspect or interpret the record with them. In lieu of providing a parent with a copy of the record, the school may make the record physically available for parent/guardian to review at the school.
- IJ The custodial parent and eligible student have the right to add relevant comments, information, or other written materials to the student record. In addition, the custodial parent and eligible student have the right to make a written request that information in the record be amended or deleted, except information created by a special education team, which may not be amended or deleted until after acceptance of the individualized education plan or completion of the appeals process. The custodial parent and eligible student have a right to a conference with the school principal to make their objections known. Within one week after the conference, the principal must render a decision, in writing. If the custodial parent and eligible student are not satisfied with the decision, it may be appealed to the level operational leader.
- IJ With a few additional exceptions, no individuals or organizations other than the custodial parent, eligible student, and school personnel working directly with the student are allowed to have access to information in the student record without the specific, informed, written consent of the custodial parent or the eligible student. However, under certain circumstances the school may release certain information without consent, unless the parent or eligible student has previously indicated in writing their disapproval of the release of such information. The information that may be released includes the student's name, date of birth, neighborhood of residence, class or grade, dates of attendance, participation in officially recognized activities and sports, degrees, honors, awards, and post-high school plans. In order to release such information, the school system notifies students and parents annually by means of the "Policy Handbook for Parents and Students" of the types of information that may be released and allows custodial parents and students until September 30 of each year to inform the school that such information shall not be released without prior consent.
- IJ The right to file a complaint with the U.S. Department of Education concerning alleged failures by BPS to comply with the requirements of FERPA. The name and address of the Office that administers FERPA are:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

REQUESTS BY NON-CUSTODIAL PARENTS

A non-custodial parent is any parent who does not have physical custody of his/her child by court order. A child will not reside with, or be supervised by, a non-custodial parent.

- IJ Non-custodial parents must be given access to their children's student records, unless the school has been given written documentation that establishes either:
 1. The non-custodial parent has been denied legal custody based upon a threat to the student or to the custodial parent;
 2. The non-custodial parent has been denied visitation or has supervised visitation; or
 3. Access to the student or to the custodial parent has been restricted by a protective order against the non-custodial parent, provided such protective order does not specifically allow access to student record information.

- IJ For all requests from a parent who is not a custodial parent, or who is not listed on the student's demographic information or emergency card, please forward the request to the Office of Legal Advisor for assistance. The Office of Legal Advisor will follow statutory procedures governing requests from non-custodial parents. During this process, the Office of Legal Advisor will request from the school a copy of that student's record.

SCHOOL EMPLOYEE RESPONSIBILITY

All employees of the Boston Public Schools must observe the student record laws and regulations and are obliged never to reveal, either orally or in writing, any confidential information concerning a student. Some requests for confidential student record information are made in writing; however, many requests are made during telephone communications. Any such oral requests must be reduced to writing, signed, dated, and contain the appropriate contact information of the requestor.

In the event of such capital projects that require temporary storage of student records, including special education information and/or records, those records must be secured and maintained in such a manner so as to prevent disclosure of confidential information. Information regarding each student record and its location must be on file in the Office of the Principal/Headmaster during any period of temporary storage.

THIRD PARTY REQUESTS FOR STUDENT INFORMATION

Normally, requests by any third party for student information will be complied with simply by receipt of informed written parental consent or student's consent if over 14. A sample consent form is attached hereto as Attachment 3. There are some limited exceptions to this requirement of informed written parental consent. They are the following:

- § Unless a parent or student has previously objected in writing, military recruiters and institutions of higher education must be provided, upon written request, with the names, addresses and telephone numbers of secondary school students. All requests by military recruiters for such information must be forwarded to the Office of Legal Advisor, for centralized processing.

- § Boston Public Schools will produce documents requested in court orders or lawfully issued subpoenas. Such requests should be faxed immediately to the Office of Legal Advisor. All records sought by the court order or subpoena should be forwarded via courier mail as soon as possible. Attachment 2 should be used to notify parents of such requests.

- § A school may release student record information without prior written consent to the following agencies when acting in their official capacities: Department of Social Services, Department of Youth Services, a probation officer, or a justice of the court. Attachment 2 should be used to notify parents of such requests.
- § Federal, state and local education officials, and their authorized agents may be given access to student records as necessary in connection with the audit, evaluation or enforcement of federal and state education laws, or programs. When collection of personally identifiable data is specifically authorized by law, any data collected must be protected so that parties other than such officials and their authorized agents cannot personally identify individual students and their parents. Further, such personally identifiable data must be destroyed when no longer needed for the audit, evaluation or enforcement of federal and state education laws.
- § 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 individuals.
- § When a student seeks or intends to transfer to another school, the record can be sent to the receiving school.
- § School nurses and local and state health department officials may have access to student health record information, when such access is required in the performance of their official duties. For further information related to student health information, please consult Superintendent's Circular LGL-16. Student Health Information.

DESTRUCTION OF STUDENT RECORDS

The law sets forth different time periods for the retention and destruction of different portions of student records. These different time periods are set forth below:

- A. Transcripts. A student's transcript must be maintained by the school department for sixty (60) years following the student's graduation, transfer, or withdrawal from the school system.
- B. Periodic Review of the Temporary Record. While a student is enrolled in a school, the principal/headmaster or his/her designee shall periodically review all students' temporary records and identify for destruction any misleading, outdated or irrelevant information. This may include, particularly, exemplars of student work or other impertinent information. Prior to destroying any such information, however, the student and his/her parent must be given written notification of the school's intent to destroy such information and must be given the opportunity to receive the information or a copy of the information prior to its destruction.
- C. Temporary Record Destruction. The temporary record of any student may be destroyed no later than seven (7) years after the student transfers, graduates or withdraws from the school district, if the student and his/her parent have been given written notification that includes the approximate date of destruction of the temporary record and indicating their right to receive the information in whole or in part at the time of the student's graduation, transfer or withdrawal from the school system or prior to its destruction. Such notice must be in addition to the annual notice issued by the Boston Public School Department in the Policy Handbook for Students and Parents.

For more information about this circular, contact:

Name:	Cathy Lizotte
Department:	Office of Legal Advisor
Mailing Address:	2300 Washington Street, Boston, MA 02119
Phone:	617-635-9320
Fax:	617-635-9327
E-mail:	clizotte@bostonpublicschools.org

Dr. Brenda Cassellius, Superintendent

NOTICE OF NON-CUSTODIAL PARENT REQUEST FOR STUDENT RECORDS

VIA REGISTERED MAIL AND FIRST CLASS MAIL

Dear Custodial Parent of _____:

This is to notify you that a request from _____ was received on _____ for the following parts of your child's student record:

In accordance with Massachusetts law, non-custodial parents must be given access to their children's student records, unless the school has been given written documentation that establishes either:

1. the non-custodial parent has been denied legal custody based upon a threat to the student or to the custodial parent;
2. the non-custodial parent has been denied visitation or has supervised visitation; or
3. access to the student or to the custodial parent has been restricted by a protective order against the non-custodial parent, provided such protective order does not specifically allow access to student record information.

The requested records will be released on _____, unless the documentation indicated in the paragraph above has been received by the Building Administrator of the School. If you have any questions, you may contact _____ at _____.

Sincerely,

Signature of Principal or Other
Authorized School Employee

Dated: _____

**NOTICE OF DISSEMINATION OF STUDENT RECORD TO THIRD PARTIES WHO DO NOT NEED
STUDENT CONSENT**

Dear _____:

This is to notify you that a:

- request from the Department of Education's Division of Special Education
- subpoena
- request from a justice
- other (specify) _____ has been received for the following parts of your/your child's student record:

The Massachusetts Regulations Pertaining to Student Records state that the school system must comply with the above request, but that this notification to you must be given prior to the release of the records. In the case of a subpoena, court order, or request from a probation officer or the Department of Youth Services, you have the right to attempt to have the subpoena, order or request stopped by a court.

The records will be released on _____. If you have any questions, you may contact _____ at _____.

Sincerely yours,

Signature of Principal or Other
Authorized School Employee

Date

NOTE: This letter must be sent in both English and the primary language of the custodial parent.

**PARENT'S OR STUDENT'S CONSENT FOR DISSEMINATION OF
 STUDENT RECORD TO THIRD PARTY**

I give permission for the following _____ third parties to

inspect secure a copy of

the parts of my/my child _____'s student record noted below.

THIRD PARTIES:

REASONS FOR RELEASE OF RECORDS:

PARTS OF RECORD TO BE RELEASED*

PERMISSION
GRANTED

PERMISSION
DENIED

transcript information (includes identifying information, course titles, grades or their equivalent, and grade level completed).

disciplinary record

extracurricular activities

teacher and counselor evaluations and comments

attendance record

other (specify)_____

 **Signature of student or parent

 Student's Class

 Date

* Before seeking the parent's or eligible student's consent, the school should cross out those items which have not been requested by the third party.

** This form may be signed by a student or former student of fourteen years of age or older, or a student in the ninth grade or above, or a custodial parent or guardian.