

PELHAM SCHOOL DISTRICT POLICY

JRA – STUDENT RECORDS AND ACCESS - FERPA

Category: Recommended

See also EHB

General Statement. It is the policy of the School Board that all School District personnel will follow the procedures outlined herein as they pertain to the maintenance of student records. Furthermore, it is the policy of the School Board that all School District personnel will follow the provisions of the Family Educational Rights Privacy Act (FERPA) and its corresponding regulations, as well as all state statutes pertaining to student records, record confidentiality, and access to the records.

Education Record. For the purposes of this policy and in accordance with FERPA, the term “educational record” is defined as all records, files, documents and other material containing information directly related to a student; and maintained by the School District; or by such other agents as may be acting for the School District. Such records include, but are not limited to, completed forms, printed documents, handwriting, videotape, audiotape, electronic or computer files, film, print, microfilm and/or microfiche. Educational records do not include private notes and materials of staff, if the materials remain in the sole possession of that staff member.

Not all communications or information are considered an educational record. For example, electronic mail, notes, or memoranda which are not directly related to students will not be considered an education record. It is the responsibility of the administration to determine what records shall be maintained by the school as a student record.

Student records may be maintained in either electronic or paper files. Those documents which are required to be retained by law or are designated by the District for retention from year-to-year are considered to be maintained by the District.

Directory Information. For the purposes of this policy, and in accordance with the provisions of FERPA and New Hampshire RSA 189:1-e, the term “directory information” means:

1. Students' name(s), address(s), telephone number(s), dates of enrollment
2. Parents'/guardians' name(s) and address(es)
3. Students' grade level, enrollment status, and dates of attendance
4. Students' photograph(s)
5. Students' participation in recognized school activities and sports
6. Weight and height of members of athletic teams
7. Students' diplomas, certificates, awards, and honors received

Except for elements of a student's directory information which the student's parents or an eligible student has notified the District not to disclose, the District may release or disclose student directory information without prior consent of the student's parents/eligible students. Within the first three weeks of each school year, the District will provide notice to parents/eligible students of their rights under FERPA and that the District may publish directory information without their prior consent. Parents/eligible students will be given until September 15th of each school year to

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notify the District in writing of any or all directory information items that they refuse to permit the District to release or disclose. Notice from a parent/eligible student that any or all direction information shall not be released will only be valid for that school year and must be re-issued each school year.

Personally Identifiable Information. “Personally identifiable information” is defined as data or information which makes the subject of a record known, including a student’s name, the student’s or student’s family’s address; the name of the student’s parent or other family members; a personal identifier such as a student’s Social Security number; the student’s date of birth, place of birth, or mother’s maiden name. "Personally identifiable information" also includes other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with a reasonable certainty or information requested by a person who the District reasonably believes knows the identity of the student to whom the education record relates.

Annual Notification/Rights of Parents and Eligible Students. Within the first 4 weeks of each school year the District will publish notice to parents and eligible students of their rights under State and Federal law and this policy. The District will send home with each student a notice listing these rights. The notice will include:

- (1) The rights of parents or eligible students to inspect and review the student’s education records;
- (2) The intent of the District to limit the disclosure of information in a student’s record, except:
 - (a) by the prior written consent of the parent or eligible student;
 - (b) as directory information; or
 - (c) under certain, limited circumstance, as permitted by law;
- (3) The right of a student’s parents or an eligible student to seek to correct parts of the student’s educational records which he/she believes to be inaccurate, misleading, or in violation of student rights; this includes a hearing to present evidence that the records should be changed if the District decides not to alter them according to the parent’s or eligible student’s request;
- (4) The right of any person to file a complaint with the United States Department of Education if the District violates FERPA; and
- (5) The procedure that a student’s parents or an eligible student should follow to obtain copies of this policy.

Procedure To Inspect Education Records. Parents or eligible students may inspect and review that student’s education records. In some circumstances, it may be more convenient for the record custodian to provide copies of records Procedure EHB-R Data Records Retention specifies the record custodian for different types of student records. In accordance with RSA 91-A:5, student records are exempt from disclosure under the Right-to-Know law, and access to student records will be governed by FERPA and state law.

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Since a student's records may be maintained in several locations, the school principal may offer to collect copies of records or the records themselves from locations other than a student's school, so that they may be inspected at one site. If parents and eligible students wish to inspect records where they are maintained, school principals will determine if a review at that site is reasonable.

Although not specifically required, in order that a request is handled in a timely manner, parents/eligible students should submit to the school principal a written request that identifies as precisely as possible the record or records that he/she wishes to inspect. The principal will contact the parents or the eligible student to discuss how access is best arranged for their inspection or review of the records (copies, records brought to a single site, etc.).

The principal will make the needed arrangements as soon as possible and notify the parent or eligible student of the time and place where the records may be inspected. This procedure must be completed within 14 days or earlier after the principal's receipt of the request for access. Note: the fourteen (14) day limit is required under New Hampshire RSA 189:66, IV, in contrast to the forty-five (45) day period otherwise allowed under FERPA.

If for any valid reason such as working hours, distance between record location sites or health, a parent or eligible student cannot personally inspect and review a student's education records, the principal may arrange for the parent or eligible student to obtain copies of the records.

When records contain information about students other than a parent's child or the eligible student, the parent or eligible student may not inspect and review the records of the other students. If such records do contain the names of other students, the principal will seek consultation with the Superintendent and/or the District's attorney to determine how best to proceed. It may be necessary to prepare a copy of the record which has all personally identifiable information on other students redacted, with the parent or eligible student being allowed to review or receive only a copy of the redacted record. Both the original and redacted copy should be retained by the District.

Procedures To Seek Amendment of Education Records. Parents of students or eligible students have a right to seek to amend any part of the student's education records which they believe is inaccurate, misleading or in violation of the student privacy rights. To establish an orderly process to review and amend the education records for a requester, following processes are established.

1. First-level decision. When a parent or eligible student finds an item in the student's education records that he/she believes is inaccurate, misleading or in violation of the student privacy rights, he/she should submit a written request asking the building principal to amend it. If the records are incorrect because of clear error and it is a simple matter to make the change, the principal

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should make the amendment. If the records are changed to the parent's/eligible student's satisfaction, both parties shall sign a document/form stating the date the records were changed and that the parent/eligible student is satisfied with the amendment.

If the principal believes that the record should not be amended, he/she shall:

1. Provide the requester a copy of the questioned records at no cost;
2. Inform the parent/eligible student of their right to initiate a written appeal, which will be forwarded to the Superintendent;
3. If the parent/eligible student appeals the decision, the principal will forward the written request to the Superintendent; and
4. Inform the parents/eligible student that the matter has been forwarded to the Superintendent for a decision.

2. Second-level decision. If the parent/eligible student wishes to challenge the principal's decision to not amend the student record, he/she may appeal the matter to the Superintendent. The parent/eligible student shall submit a written request to the principal asking that the matter be appealed to the Superintendent. The principal will forward the request to the Superintendent.

The Superintendent shall, within ten business days after receiving notification of the request:

1. Review the request;
2. Discuss the request with other school officials;
3. Schedule a meeting with the parents/eligible student if the Superintendent believes such a meeting would be necessary;
4. Make a decision whether or not to amend the record as requested by the parent/eligible student; and
5. Notify the parents/eligible student of the Superintendent's decision on their request to correct the student's educational record.

If the Superintendent determines the records should be amended he/she will make the change and notify the parents/eligible student in writing that the amendment has been made. The letter stating the amendment has been made will include an invitation for the parent/eligible student to inspect and review the records to verify that the records have been amended and the amendment is satisfactory. If the records are amended to the parent's/eligible student's satisfaction, both parties shall sign a document/form stating the date the records were amended and that the parent/eligible student is satisfied with the correction.

If the Superintendent determines the records will not be amended, he/she will notify the parents/eligible student in writing of his/her decision. Such a letter will also notify the parents/eligible student of their right to an appeal hearing before the School Board.

3. Third-level decision. If the parents or eligible student are not satisfied with the Superintendent's decision, they may submit a written request for a hearing before the School

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Board. The parents/eligible student shall submit the request for a hearing with the Superintendent within ten (10) business days of the date of the Superintendent's written decision in level-two. The Superintendent will inform the School Board of the request for a hearing and will work with the School Board to schedule a hearing within 45 days of receipt of the request. Once the meeting is scheduled, the Superintendent will inform the parents in writing of the date, time and place of the hearing.

The hearing will be held in non-public session consistent with the provisions of RSA 91-A:3, unless the parent/eligible student requests that the hearing be held in public session, The School Board will give the parent/eligible student a full and fair opportunity to present evidence relevant to the issues raised under their request/complaint. Parents/eligible students may be assisted or represented by one or more individuals of their own choice, including an attorney.

The School Board will issue its final decision in writing within 30 days of the hearing, and will notify the parents/eligible student thereof via certified mail, return receipt requested. The School Board will base its decision solely on the evidence presented at the hearing. The School Board's written decision will include a summary of the evidence and the reasons for its decision.

If the School Board determines that the student record should be amended, it will direct the Superintendent to do so as soon as possible. The Superintendent will then contact the parents/eligible student for a meeting so they can review and inspect the records to verify that they have been amended. At this meeting, both parties shall sign a document/form stating the date the records were changed and that the parent/eligible student is satisfied with the amendment.

The School Board's decision is final.

4. Parent/Eligible Student Explanation to be Included in Record. Notwithstanding the outcome of the resolution process describe here, in accordance with 34 CFR 99.21(b)(2), a parent or eligible student may place a statement in the education record commenting on the contested information in the record or stating why he/she disagrees with the decision, or both. This statement shall be maintained with the education record for as long as the record is maintained.

Disclosure of Student Records and Student Information. In addition to directory information, the District may disclose student records and student information without consent, consistent with the requirements in 34 CFR 99.31, to the following parties on the condition that the recipient agrees not to comply with FERPA regulations regarding redisclosure of the student record information under the following conditions.

1. School Officials With a "Legitimate Educational Interest." School officials with a legitimate educational interest may access student records. "Legitimate educational interest" refers to school officials or employees who need to know information in a student's education record in order to perform the individual's employment responsibilities and duties. "School official"

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includes a person employed by the district/SAU as an administrator, supervisor, instructor, or support staff member (including health/medical staff), members of the School Board, volunteers, contractors/consultants who perform an institutional service or function for which the School District could otherwise use its own employees and who is under the direct control of the district with regard to the use and maintenance of personally identifiable information from education records, such as an attorney, auditor, medical consultant, or therapist; a parent/student volunteering to serve on an official committee, such as a disciplinary or grievance committee; or a parent, student, or other volunteer assisting another school official in performing his/her tasks.

2. The supervisor determines whether a school official has a legitimate educational interest. In making these decisions, supervisors need to consider which elements of a student record a school official can and cannot have access to.
3. Other schools into which a student is transferring or enrolling, upon condition that the student's parents be notified of the transfer of records, receive a copy of the record if desired, and have an opportunity for a hearing to challenge the content of the record. This exception continues after the date that a student has transferred.
4. Officials for federal or state audit or evaluation purposes.
5. Appropriate parties in connection with financial aid.
6. The disclosure is to State and local officials or authorities concerning the juvenile justice system, such as the Department of Children Youth and Families (DCYF).
7. Organizations conducting certain studies for, or on behalf of the School District. Student records or student information will only be provided pursuant to this paragraph if the study is for the purpose of: developing, validating or administering predictive tests; administering student aid programs; or improving instruction. The recipient organization must agree to limit access to the information and to destroy the information when no longer needed for the purpose for which it is released.
8. Accrediting organizations to carry out their accrediting functions.
9. Judicial orders or lawfully issued subpoenas, upon condition that parents and the student are notified of all such orders or subpoenas in advance of compliance by the District, except when a parent is a party to a court proceeding involving child abuse or neglect or dependency. The Principal shall consult with the Superintendent and legal counsel as needed to ensure compliance with the judicial order and applicable law.
10. Health and safety emergencies.
11. Disclosures to the Secretary of Agriculture or authorized representatives of the Food and Nutrition services for purposes of conducting program monitoring, evaluations and performance measurements.

Maintenance of Student Records and Data. The principal of each building is responsible for record maintenance, access and destruction of all student records. All School District personnel having access to records shall place great emphasis upon privacy rights of students and parents. All entries into student records other than by those individuals having a legitimate educational interest in accessing the records, must be dated and signed by the person accessing such records.

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The principal will ensure that all records are maintained in accordance with application retention schedules as may be established by law and District policy.

Disclosures Made From Education Records. The District will maintain an accurate record of all requests for it to disclose information from, or to permit access to, a student's education records and of information it discloses and access it permits, with some exceptions listed below. This record is kept with, but is not a part of, each student's cumulative school records. It is available only to the record custodian, the eligible student, the parent(s) of the student or to federal, state or local officials for the purpose of auditing or enforcing federally supported educational programs.

The record includes:

1. The name of the person who or agency which made the request;
2. The interest which the person or agency has in the information;
3. The date on which the person or agency made the request;
4. Whether the request was granted and, if it was, the date access was permitted or the disclosure was made and
5. In the event of a health and safety emergency, the articulable and significant threat to the health or safety of a student or other individuals that formed the basis for the disclosure; and the parties to whom the agency or institution disclosed the information.

The District will maintain this record as long as it maintains the student's education record. The records do not include requests for access or information relative to access which has been granted to parent(s) of the student or to an eligible student, requests for access or access granted to officials of the District who have a legitimate educational interest in the student; requests for, or disclosures of, information contained in the student's education records if the request is accompanied by the prior written consent of a parent(s) or eligible student or if the disclosure is authorized by such prior consent or for requests for, or disclosures of, directory information designated for that student.

The records of a request for the correction of an educational record, including any appeal of a denial of that request, if the educational record is ultimately corrected shall not be treated as part of the educational record of the student and shall be preserved separately.

Military Recruiters and Institutions of Higher Learning. Military recruiters or institutions of higher learning may have access to secondary school students' names, addresses and telephone listings unless an adult student or the parent of the minor student requests that such information not be released without prior written consent. The District shall notify parents of the option to make such a request and shall comply with any requests received.

Law Enforcement and Reporting Agencies. In accordance with RSA 193-D:7, it is permissible for any law enforcement officer and any school administrator to exchange information relating only to acts of theft, destruction or violence in a safe school zone regarding the identity of any juvenile, police records relating to a juvenile, or other relevant information when such

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information reasonably relates to delinquency or criminal conduct, suspected delinquency or suspected criminal conduct, or any conduct which would classify a pupil as a child in need of services under RSA 169-D or a child in need of protection under RSA 169-C.

Litigation Hold. In the event an administrator receives a litigation hold letter or notice regarding a student or former student, the administrator receiving the letter shall promptly inform those individuals responsible for record maintenance and retention of their duty to preserve and not delete or destroy records pertaining to the subject matter of the hold until instructed otherwise. If the administrator receiving the hold letter or notice is not the Superintendent, the Superintendent and the District's Information Technology Officer shall be promptly informed.

District Policy History:

Adopted: November 22, 2006

Revised: December 20, 2017

Revised: April 20, 2022

Legal References:

RSA 91-A:5,III, Exemptions, Pupil Records

RSA 189:1-e, Directory Information

20 U.S.C. §1232g, Family Educational Rights and Privacy Act

34 C.F.R. Part 99, Family Educational Rights and Privacy Act Regulations