

## **Students**

### **Confidentiality of Student Education Records**

#### **Definitions**

For the purpose of these policies and procedures for education records, New Haven Board of Education has used the following definitions of terms:

<b>Disclosure</b>	To permit to or the release, transfer or other communication of education records, or the personally identifiable information contained in those records, to any party, by any means, including oral, written or electronic means.
<b>Education Records</b>	Any information recorded in any way (e.g. handwriting, print, tape, film, computer, microfilm and microfiche) that is (1) directly related to a student and (2) maintained by the school district or by a party acting for the school district except: <ul style="list-style-type: none"> <li>• Personal records that are kept in the sole possession of the school staff member who made them and that are not accessible to or revealed to any other person except the staff member's temporary substitute.</li> <li>• Employment records that are used only in relation to the student's employment by New Haven Board of Education; and</li> <li>• Alumni records that contain information about a student after he or she is no longer in attendance at New Haven Board of Education; these records do not relate to the person as a student.</li> </ul>
<b>Eligible Student</b>	A student or former student who has reached 18 years of age or is attending an institution of postsecondary education or is an emancipated minor.
<b>Extra-Confidential Records</b>	Education records to which access by school officials and by other parties identified in Section 99.31 of the FERPA regulations should be strictly limited by the need to know. The extra-confidential records maintained by New Haven Board of Education include psychiatric evaluations, family assessments and child abuse reports.
<b>Parent</b>	A parent of a student, including natural parent, a guardian or an individual acting as a parent in the absence of a parent or a guardian.
<b>Party</b>	An individual, agency, institution or organization.

## Student

### Confidentiality of Student Education Records

#### Definitions (continued)

**Personally identifiable information** Information that includes, but is not limited to:

- the student's name,
- the name of the student's parent or other family members,
- the address of the student or student's family,
- a personal identifier, such as the student's social security number or the student's school identification number,
- a list of personal characteristics that would make the student's identity easily traceable, and
- other information that would make the student's identity easily traceable.

**Student** Any person who attends or has attended a school in the New Haven Public School System.

**COMMENT** *A child who is not of school age (e.g. infant, toddler or preschooler) is considered a student if the school district is providing or has provided educational services to the child or is monitoring or has monitored the child's progress to determine the need for educational services.*

#### Annual Notification of Rights (Policy for notification of rights is required)

**COMMENT** *A school district is required by Section 99.7 of the FERPA regulations to notify, annually, the parents of students currently in attendance, as well as eligible students currently in attendance, of their FERPA rights. This annual notification of rights may be accomplished by any means that are "reasonably likely" to inform parents and eligible students of their rights. Procedures employed by school districts to fulfill the requirement for annual notification of FERPA rights may include, but are not limited to, publications of the notification of rights in student handbooks, mailing of the notification of rights in newsletters or other publications distributed to parents. The most common procedure for concurrently informing the parents of high school students and eligible students of their rights is the publication of the notification of rights in the high school's student handbook. A common procedure for informing the parents of elementary school students and the parents of middle school students is the inclusion of the notification of their right in newsletters that are distributed to the parents.*

*Regardless of the means chosen by the school district to notify parents and eligible students of their FERPA rights, Section 99.6(a)(1) of the FERPA regulations requires the school district to adopt a policy which identifies the means of notification. Section 99.7(a)(5)(d) of the FERPA regulations requires the school district to "effectively notify parents of students who have a primary or home language other than English".*

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### Confidentiality of Student Education Records

#### Annual Notification of Rights (continued)

Parents and eligible students are notified annually by the New Haven Public Schools of the rights accorded to them by the Family Educational Rights and Privacy Act (FERPA) of 1974. Eligible students and parents of high school students are notified annually of their FERPA rights by the publication of these rights in the high school's student handbook.

Parents of students in grades pre-kindergarten to eight are notified annually of their FERPA rights by the publication of these right in newsletters distributed to parents by district personnel in the beginning of the school year. The annual notification of rights informs eligible students and parents that they have a right to:

1. Inspect and review the student's education records;
2. Requests the amendment of the student's education records to ensure that the records are not inaccurate, misleading or otherwise in violation of the student's privacy rights or other rights;
3. Consent to disclosures of personally identifiable information contained in the student's education record, except to the extend that FERPA regulations authorize disclosure without consent.
4. File with the United States Department of Education a complaint concerning alleged failures by New Haven Public Schools to comply with the FERPA regulations, and
5. Obtain a copy of the New Haven Board of Education policies for student education records. Copies of the policies are located in the office of the Superintendent of schools and in the principal's office of each school in the district.

#### Procedure to Inspect and Review Education Records

##### **COMMENT**

*Section 99.6(a)(2)(i) of the FERPA regulations requires the school district to adopt a policy which includes an explanation of the procedure eligible students and parents of students must follow to make a request to inspect and review the student's education records. The policy must also include the description of the procedure the school district follows in response to such a request. Although a policy for the inspection and review of education records is required by Section 99.6(a)(2)(i), a school district has the freedom to develop its own procedure for such inspection and review, provided the procedure allows reasonable access to the records within 45 calendar days of a request by a parent or eligible student and provided the procedure is consistent with the intent of the FERPA regulations.*

*Please note, however, that Section 10-76d-18(b)(1) of the Regulations of Connecticut State Agencies require the school district to comply with a request to inspect and review education records that is submitted by parents of students requiring special education and related services within 10 school days of the receipt of such a request, within three school days of such a request if the request is made in order to prepare for a meeting regarding an individualized education program or within three calendar days of such a request if the request is made in order to prepare for a meeting related to any due process proceeding. It is recommended that the school district's policy for education records include a statement pertinent to the access right of parents of students requiring special education and related services.*

## Student

### Confidentiality of Student Education Records

#### Procedure to Inspect and Review Education Records (continued)

Eligible students and parents of students may, upon request, inspect and review the student's education records. Eligible students or parents must submit to the custodian or records or to his or her designate a written request that identifies as accurately as possible the record or records for which the request for inspection and review is submitted. An authorized official of the school district will notify the parent or eligible student of the date, time and location where the records may be inspected and reviewed. Requests by parents and eligible students to inspect and review the student's education records will be accommodated within a reasonable period of time but, in no case, no more than 45 calendar days after the receipt of such requests. As required by Section 10-76d-18(b)(1) of the Regulations of Connecticut State Agencies, requests by parents of students requiring special education and related services will be accommodated within ten school days of the receipt of such requests, within three school day of the receipt of such requests if the requests are made in order to prepare for a meeting regarding an individual education program or within three calendar days of such a request if the request is made in order to prepare for a meeting related to any due process proceeding.

When a record contains information about students other than the eligible student or parent's child, the eligible student or parent will not be allowed to inspect or review the portion of the record that pertains to other students.

#### Refusal to Provide Copies of Education Records

**COMMENT** *A school district is not required to provide an eligible student or parent a copy of the student's education records unless failure to do so would effectively prevent the eligible student or parent from exercising the right to inspect and review the records. Section 99.6(a)(2)(ii) of the FERPA regulations requires the school district to describe the circumstances under which it believes it has legitimate cause to deny an eligible student or parent a copy of the student's education record. In identifying the circumstances under which the school district will deny a copy of the student's education records, it is important to note that Section 10-76d-18(b)(2) of the Regulations of Connecticut State Agencies requires a school district to provide, within five school days of the request, one free copy of the student's education records to a parent of a student requiring special education and related services.*

**COMMENT** *Regardless of its policy to provide copies of education records, the school district cannot deny the eligible student or parent's access to such records.*

## Student

### Confidentiality of Student Education Records

#### Refusal to Provide Copies of Education Records (continued)

New Haven school district does not provide to an eligible student or parent a copy of the student's education records unless failure to do so would effectively prevent the eligible student or parent the right to inspect and review such records. An exception to this policy is made, however, for the parent of students requiring special education and related services. As required by Section 10-76(d)-18(b)(2) of the Regulations of Connecticut State Agencies, one free copy of the student's education records will be provided, within five school days of written request, to the parents of students requiring special education and related services.

#### Fees For Copies of Records (*Schedule of fees is required*)

**COMMENT** *Section 99.6(a)(2)(iii) of the FERPA regulations requires the school district to include in its education records policy the schedule of fees, if any, to be charged for copies of a student's education records. The fees established by the school district may not include a charge for the search and retrieval of the records. In addition, the fees may not be of such an amount that the fees effectively denies an eligible student or a parent of a student the right to inspect and review the student's education records.*

*It is recommended that the school district's policy for the schedule of fees includes a reiteration of the right to one free copy of the student's education records to the parents of students requiring special education and related services. (N.B. comment on page 5 under REFUSAL TO PROVIDE COPIES OF EDUCATION RECORDS.)*

The fee for copies of the student education records is \$ .50 amount per page. As required by Section 10-76(d)-18(b)(2) of the Regulations of Connecticut State Agencies, one free copy of the student's education records will be provided, within five school days of a written request, to the parents of students requiring special education and related services. After one free copy is provided by the school district to the parents of students requiring special and related services, the standard fee per page will be charged for any additional copies of the student's education records.

#### Types, Locations and Custodians of Education Records

**COMMENT** *In addition to listing the types and locations of the education records maintained by the school district, Section 99.6(a)(2)(iv) of the FERPA regulations requires the school district to list the titles and addresses of the officials responsible for the records.*

**Student****Confidentiality of Student Education Records****Types, Locations and Custodians of Education Records (continued)**

<b>Types of Records</b>	<b>Grades</b>	<b>Location</b>	<b>Custodian</b>
Cumulative School Records and Special Education Records	K-5		School Principal Director of Pupil Personnel Services
Cumulative School Records and Special Education Records	6-8		School Principal Director of Pupil Personnel Services
Cumulative School Records and Special Education Records	9-12		School Principal Director of Pupil Personnel Services
Discipline Records	K-5		School Principal
Discipline Records	6-12		School Principal
Extra-Confidential Records	K-12		Director of Pupil Personnel Services
Health Records	K-12		School Nurse
School Transportation Records	K-12		Transportation Coordinator
Education Records of Students In Out-of-District Placements	K-12		Director of Pupil Personnel Services.
Miscellaneous Education Records Not Identified Above, Which May Be Maintained In The School District's Central Office, In The School Attorney's Office Or Are In The Personal Possession Of A Classroom Teacher	Various Locations		The Director of Pupil Personnel Services will collect these records and make them available at the student's school.

## Student

### Confidentiality of Student Education Records

#### Types, Locations and Custodians of Education Records (continued)

Types of Records	Grades	Location	Custodian
Education Records Of Students In Out-Of-District Placements	Pre-Kindergarten		Director of Pupil Personnel Services

**Disclosure of Education Records** (*Policy for disclosure is required, criteria for disclosure are identified in Section 99.6(a)(3), 99.69(a)(4) and 99.31 of the FERPA regulations.*)

**COMMENT** *The school district is required by Section 99.6(a)(3) of the FERPA regulations to include a statement in its education records policy that the school district will not release personally identifiable information from a student's education record without prior written consent of the eligible student or parent, except under one or more of the conditions described in Section 99.31 of the regulations. If the school district allows the disclosure of personally identifiable information under one or more of the conditions described in Section 99.31, Section 99.6(a)(4) requires the school district to specify its criteria for determining which parties are school officials and what the school district considers to be legitimate educational interest.*

New Haven Public Schools will disclose personally identifiable information from a student's education records only with the written consent of the parent or eligible student (use **WRITTEN PARENT CONSENT FOR TRANSFER OF CONFIDENTIAL INFORMATION** form) except:

1. To school officials who have legitimate educational interest in the records.
  - A. A school official is:
    - A person employed by the district as an administrator, supervisor, teacher, teacher aide, administrative assistant, secretary or clerk.
    - A person employed by or under contract to the school district to perform a special task (e.g. attorney, auditor or medical consultant).
  - B. A school official has a legitimate educational interest if the official is:
    - Performing a task or responsibility that is specified in his or her job description, position description or contract agreement.
    - Performing a task related to a student's education.
    - Performing a task related to the discipline of a student.
    - Providing a service or benefit to the student and/or the student's family including, but not limited to, health care, parent effectiveness training and homebound instruction.

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### Confidentiality of Student Education Records

#### Disclosure of Education Records (continued)

2. To officials of another school, school system or institution of postsecondary education in which the student seeks or intends to enroll;

**COMMENT** *The FERPA regulations permit a school district to disclose, without prior written consent of the eligible student or parent, personally identifiable information from the student's education records to the officials specified in statement #2 above. If the school district's education records policy does not include notification that disclosures without prior written consent of the eligible student or parents are made to these officials, Sections 99.34(a)(I) and 99.34(1)(2) of the FERPA regulations require the school district, for each disclosure of information, to*

- *Make a reasonable attempt to notify the eligible student or parent at the last known address of the eligible student or parent that a disclosure was made;*
- *Give the eligible student or parent, upon request, a copy of the record that was made; and*
- *Provide the eligible student or parent, upon request, an opportunity for a hearing, as allowed by Section 99.21 of the act.*

*To facilitate the transfer of both regular education and special education records to another school, school system or institution of postsecondary education in which the student seeks or intends to enroll, an increasing number of school districts are providing notification in their education records policies that they allow such transfer of records without the written consent of the eligible student or parent.*

3. To authorize officials of the U.S. Department of Education, the Comptroller General of the United States and state and local educational authorities, provided the disclosure of the information pertains to state-supported or federally-supported education programs and meets the requirements of Section 99.35(b)(1) and 99.35(b)(2) of the Family Education Rights and Privacy Act of 1974.
4. To state and local authorities or officials, if a state statute adopted before November 19, 1974, specifically requires disclosures to those authorities and officials; and
5. To organizations conducting studies for, or on behalf of, the school district to:
  - develop, validate or administer predictive tests, or
  - improve instruction

**COMMENT** *Section 99.31(6)(I) of the FERPA regulations allows disclosure of information to the organizations described in statement #5 above, only if:*

- *the studies are conducted in a manner that does not permit personal identification of parent and students to any individuals other than representatives of the organizations, and*
- *the information is destroyed when no longer needed for the purposes for which the studies were conducted.*



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#### Disclosure of Education Records (continued)

6. To accrediting organizations to carry out their accrediting functions;
7. To parents of an eligible student who claim the student as a dependent for income tax purposes, as defined in Section 152 of the Internal Revenue Code of 1954;
8. To comply with a judicial order or lawfully issue subpoena;

**COMMENT** *Section 99.32(9)(ii) of the FERPA regulations allows disclosure of information in compliance with a judicial order or lawfully issued subpoena only if the district makes a reasonable effort to notify the eligible student or parent of the order or subpoena in advance of compliance.*

9. To appropriate parties in connections with an emergency, if knowledgeable of the information is necessary to protect the health or safety of the student or other individuals; and
10. To parties seeking directory information (N.B. comment under DIRECTORY INFORMATION).

**COMMENT** *Section 99.6(5) of the FERPA regulations requires the school district to include in its education records policy a statement or statements indicating (1) that a record of all request for and/or disclosures of personally identifiable information from a student's education records will be maintained in a manner that meets the requirements specified in Section 99.32 of the act and (2) that a parent or eligible student may inspect and review the record of request for disclosures. A record of all requests for and/or disclosures of personally identifiable information must be maintained with each student's regular education records and special education records.*

New Haven Public Schools will maintain a record of all requests for and/or disclosures of personally identifiable information from a student's education records on a form entitled **CONFIDENTIAL FILE ACCESS SHEET**. The record indicate:

- A. The names of the parties who have requested or received personally identifiable information;
- B. The names of the additional parties to which the receiving party may disclose the information on behalf of the school district; and
- C. The legitimate interest the parties, described in paragraphs "A" and "B" above, had in requesting or obtaining information.

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### **Confidentiality of Student Education Records**

#### **Record of Requests for Disclosure of Education Records *(Required)***

The record of requests and/or disclosures will be maintained as long as the student's education records are maintained and may be inspected by the eligible student or parent. The procedure for recording names and legitimate interests of parties does not apply if the request for information was from or the disclosure was to:

- The eligible student or parent,
- A school official, as defined under **Disclosure of Education Records** (N.B. Page 8), or
- A party seeking directory information.

**COMMENT** *If the school district chooses to disclose directory information, Section 99.6(6) of the FERPA regulations requires the district to list in its education records policy the items it has designated as directory information. In addition, Section 99.37 of the regulations requires the school district to meet specific conditions before the disclosure of directory information is made (N.B. Appendix page 20). If the school district does not disclose directory information, item 10 under **Disclosure of Education Records** (N.B. Page 10) and the last item under **Record of Requests for Disclosure of Education Records** (N.B. Page 11) should be omitted from its records policy.*

#### **Correction of Education Records *(Required)***

**COMMENT** *Section 99.6(a)(7) of the FERPA regulations requires the school district to adopt a policy for the correction of education records. Procedures for correction of the records are stipulated in Sections 99.20, 99.21, and 99.22 of the regulations.*

An eligible student or parent has the right to request that education records be corrected if it is believed that the records are inaccurate, misleading or in violation of the student's rights of privacy or other rights.

## **Student**

### **Confidentiality of Students**

#### **Correction of Education Records (continued)**

Following are the procedures for the correction of student education records:

1. The eligible student or parent must request New Haven Public Schools to correct the record. In requesting a correction of the record, the eligible student or parent must identify the record he or she wishes to change and specify why it is believed that the part of the record in question is inaccurate, misleading or in violation of the student's rights of privacy or other rights.
2. New Haven Public Schools will decide within a period of ten (10) school days to comply or not to comply with the request to correct the record. If the school district decides not to comply, it will notify the eligible student or parent of its decision and of the right to a hearing to challenge the information believed to be inaccurate, misleading or in violation of the student's rights of privacy or other rights.
3. Upon request, the school district will hold a hearing within fifteen (15) school days. The eligible student or parent will be notified in writing at least five (5) days in advance of the date, time and place of the hearing.
4. The hearing will be conducted by an individual who does not have direct interest in the outcome of the hearing. The hearing officer may be an official of the school district. The eligible student or parent will be provided a full and fair opportunity to present evidence relevant to the issues raised in the original request to amend the student's record. The eligible student or parent may, at their own expense, be assisted or represented by one or more individuals, including an attorney.
5. The school district will prepare within ten (10) school days a written decision based solely on the evidence presented at the hearing. The decision will include a summary of the evidence presented and the reasons for the decision.
6. If as a result of the hearing, the school district decides that the information in the education record is inaccurate, misleading or in violation of the student's rights of privacy or other rights, it will correct the records and inform, in writing, the eligible student or parent of the correction.

## **Student**

### **Confidentiality of Student Education Records**

#### **Correction of Education Records *(Required)***

7. If as a result of the hearing, the school district decides that the information in the student's education records is not inaccurate, misleading or in violation of the student's rights of privacy or other rights, it will inform the eligible student or parent, in writing, of the right to place a statement in the record commenting on the contested information in the record and/or stating why he or she disagrees with the school district's decision. The statement will be maintained as part of the student's education records as long as the contested portion of the record is maintained. If New Haven Public Schools discloses the contested portion of the record, it will also disclose the eligible student or parent's statement.

#### **Destruction of Records**

Records are destroyed as per Schedule V (attached). Three months before any records will be destroyed, letters will be sent to the last known address of the student and a public notice will be placed within local newspapers. Parents may request the destruction of records when the confidential information is no longer needed.

#### **Training of Personnel Having Access to Personally Identifiable Information**

Annually (at the beginning of each school year) the Custodian of Records and the sub-custodians will review all policies and procedures related to the confidentiality of records.

#### **Reports**

"Each board of education shall make reports of the special education child's progress to parents with at least the same frequency that the school makes reports to parents of children in the regular program."

#### **Diploma**

"Each child requiring special education and related services who meets the requirements for school completion of his or her Board of Education shall be awarded an appropriate diploma."

Regulation approved: August 14, 1995  
Revised: April 16, 1997

NEW HAVEN PUBLIC SCHOOLS  
New Haven, Connecticut

## Schedule V

### Education Records

<u>Record Title</u>	<u>Minimum Retention Required</u>
Academic Records	see under Student Records
Accounting Records	see Schedule II: General Finance Records
Administration Records	see Schedule I: General Administration Records
Enumeration Records	
Individual Cards	current and active only
Family Cards	current and active only
Field Sheets	3 years
Summary Reports	permanent
Financial Records, School Administration	see Schedule II: General Finance Records
Information Release Forms	maintain as long as a Special Services records as maintained (see this Schedule)
Personnel Records	see Schedule XIII: Personnel Records
Professional Staff Working Papers and Notes	
Guidance conference notes	
Marking Books	current plus 1 year
Teachers' observations and evaluations	discard at discretion of school administration
Test protocols	
Other working notes and memoranda	
Reports to State Board of Education (file copies)	current year plus one year
School Registers: Summary Sections only	50 years after they become inactive
Balance of Register	discard at discretion of school administration
Student Records	
Basic Biographical information	50 years after they become inactive
Academic achievement records	50 years after they become inactive
Awards, extracurricular activities, basic health data, teachers' and counselors' evaluations, test results	6 years after they become inactive
Transferring student	maintain copies of original records – years after transfer
Transfer card	5 years
Release of Information Authorizations	for length or time students records are maintained
Special Services Records	6 years after they become inactive
Psychological data, social workers' case records, speech and hearing evaluation data, diagnostic medical information, other confidential, privileged or sensitive information relating to the exceptional student	
Teachers' Contracts	6 years after expiration
Teachers' Performance Evaluations	term of service plus 3 years