

216-AR. MAINTENANCE AND DISSEMINATION OF STUDENT RECORDS

The rules and regulations of the State Board of Education require every school district in the Commonwealth to adopt a plan for the collection, maintenance and dissemination of student records. This policy is adopted to conform to specific guidelines established by the Pennsylvania Department of Education and minimum requirements of the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. §1232g), 34 C.F.R. Part 99, 22 PA Code Section 12.31 et seq., as amended, and certain provisions of the No Child Left Behind Act of 2001, Public Law 107-110 (20 U.S.C. §6301).

Definitions

Disciplinary Action or Proceeding - means the investigation, adjudication, or imposition of sanctions by an educational agency or institution with respect to an infraction or violation of the internal rules of conduct applicable to students of the agency or institution.

Disclosure - means permitting access or the release, transfer, or other communication of education records of the student or the personally identifiable information contained therein, orally or in writing, or by electronic means, or by any other means to any party.

Educational Records -

The term means those records that are:

1. Directly related to a student.
2. Maintained by a party acting for the Northern Lehigh School District or through a program authorized by the Northern Lehigh School District.

The term does **not** include:

1. Records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record.
2. Records of the law enforcement unit of an educational agency or institution.
3. Records relating to an individual who is employed by an educational agency or institution that:
 - a. Are made and maintained in the normal course of business.

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- b. Relate exclusively to the individual in that individual's capacity as an employee.
- c. Are not available for use for any other purpose.

Records relating to an individual in attendance at the agency or institution who is employed as a result of his/her status as a student are education records, and not excepted under the above paragraph of this definition.

- 4. Records on a student who is eighteen (18) years of age or older, or is attending an institution of postsecondary education, that are:
 - a. Made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his/her professional capacity or assisting in a paraprofessional capacity.
 - b. Made, maintained, or used only in connection with treatment of the student.
 - c. Disclosed only to individuals providing the treatment. For the purpose of this definition, **treatment** does not include remedial educational activities or activities that are part of the program of instruction at the agency or institution.
- 5. Records that only contain information about an individual after s/he is no longer a student at that agency or institution.

Parent - means a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or a guardian.

Student - means any individual who is, or has been, in attendance at Northern Lehigh School District or for whom Northern Lehigh School District maintains educational records.

Personally Identifiable Information - includes, but is not limited to:

- 1. The student's name, address, telephone number, date of birth, and gender.
- 2. The name of the student's parent/guardian or other family member, address, home and work telephone numbers, and emergency contact.
- 3. A personal identifier, such as the student's local student number, or PA Secure Identification Number.
- 4. Date of entry/withdrawal.
- 5. K-12 photos.

Eligible Student - means a student who has attained eighteen (18) years of age, or is attending an institution of postsecondary education.

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Party - means an individual, agency, institution or organization.

Record - means any information recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche.

School Officials - refers to teachers, administrators and support staff employed on a full-time basis by Northern Lehigh School District.

Legitimate Educational Interest - those teachers, administrators and support staff providing direct services to the student and secretarial staff who, in the normal performance of their duties, have the responsibility of working with school records.

Collection Of Data

Category A Data includes education records that constitute the minimum personal data necessary for operation of the educational system. The following are normally included:

1. Personally identifiable information.
2. Attendance data.
3. Academic transcript grades.
4. Standardized test scores.
5. Other similar data.

Category B Data includes verified information of clear importance, but not absolutely necessary to the school, over time, in helping the child or in protecting others. The following are normally included:

1. Attendance records/slips – daily.
2. Acceptable Use Policy.
3. Home Language Survey.
4. Health record.
5. Student Visa.
6. Behavior incident/discipline reports.
7. Attendance and behavior letters to parents/guardians.

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8. Drug & Alcohol – Participation in Extracurricular Activities Agreement.
9. Instructional support records.
10. Evaluation report.
11. Individualized Education Program.
12. NORA/NOREP.
13. 504/Behavior plans.
14. Psychiatric evaluations.
15. Private/District/Professional evaluation reports/correspondence.
16. Custody/Affidavit/Guardianship papers.
17. Student Assistance Program records.
18. Critical Incident reports.
19. Individual interest inventories.
20. Free/Reduced lunch application.

Category C Data includes potentially useful information but not yet verified or clearly needed beyond the immediate present. For example, legal or clinical findings including certain personality test results and unevaluated reports of teachers, counselors, and others which may be needed in ongoing investigations and disciplinary or counseling actions. The following may be included in this Category:

1. Unevaluated reports of teachers, clinicians, counselors, psychologists, and other professional employees.
2. Student service referral form.
3. Personality test results.
4. Ongoing investigations and disciplinary or counseling actions.
5. Parental consent forms for speech, reading, resource room placement, and itinerant programs.
6. Report of suspected abuse (CY-47).
7. Counselor contact log.

8. Professional/Parent/Guardian correspondence/memos.

Consent To Collect Data

The consent to collect data and educational information may be given individually, or through the student's parents/guardians, or by the legally elected or appointed representatives depending on the nature of the information to be collected.

Representative Consent - Representative consent is consent given by the individual or parent/guardian through their legally elected or appointed officials (for example, the Board of Education). When representative consent is sufficient, students and their parents/guardians will be informed in advance by school officials annually of the purposes and character of the data collections. Further, students and their parents/guardians will be given a reasonable opportunity to contest the necessity or desirability of particular data collection processes or proposed use of such data.

Representative consent is sufficient in situations involving aptitude and achievement testing and categorical, non-student specific reporting of skill and knowledge outcomes to the subject matter areas now within the customary curricula of the public schools.

Individual Consent - Individual consent involves the informed consent of the student and/or parent/guardian. In all situations when individual consent is required to be obtained, it must be in writing. Where individual consent is required, the student's consent should also be obtained where s/he is reasonably competent to understand the nature and consequences of his/her decision.

Informed Consent - Informed consent is required for proceeding with personality testing and assessment. The tests or assessment itself should not be shown to the child or his/her parents/guardians although representative questions not included in the scoring or evaluation may be shown. Further, individual consent is an absolute requirement before information, other than that required for student identification, concerning a student's family is obtained (for example, ethnic origin, religious beliefs, income, occupational data and husband/wife relations) or before any information not directly relevant for educational purposes is solicited from the student or his/her parents/guardians.

Maintenance Of Records And Data

Category A Data - Category A Data, as defined above, should be maintained for at least 100 years beyond students 21st birthday.

Category B Data - The school district will give serious consideration to the elimination of unnecessary Category B Data at periodic intervals (for example, at points of transition from elementary to middle school and from middle to high school), upon graduation, or at a specified time period after graduation. In any case, these records will be destroyed or else retained only under conditions of anonymity (for research purposes) when the student leaves school.

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Maintenance of health records will comply with 24 P.S. Section 14-1409. Parents/Guardians will be periodically informed of the content of these records and the right to access them.

Category C Data - Category C Data should be reviewed at least once a year and destroyed as soon as their usefulness is ended or transferred to Category B. Transfer to Category B is permitted where: (1) the continuing usefulness of information is clearly demonstrated, and (2) its validity has been verified, in which case parents/guardians must be notified and the nature of the information explained. If for any reason temporary or unevaluated data are held for more than one (1) year, the existence of this data must be discussed with the parent/guardian and the reason for their maintenance explained fully.

Record Maintenance for Special Education Students - In the case of special education students on which Northern Lehigh School District maintains records, Northern Lehigh School District will:

1. Maintain a written record of a student's name, address, phone number, transcripts, test scores, summary of performance, last IEP, NOREP/NORA, initial and most recent re-evaluation report, reports from professionals, attendance records, classes attended, grade level completed and year completed for at least 100 years beyond the date the student attains the age of twenty-one (21) years.
2. Maintain the special education record for six (6) years after graduation. Prior to the destruction of the record, the school district shall send written notification to the parents/guardians, which shall inform the parents/guardians of their right to receive a copy of the materials to be destroyed.

Security - The school district will designate appropriate administrative personnel to be responsible for record maintenance and access and to educate the staff about maintenance and access policies. All school personnel having access to records should receive periodic training in security, with emphasis upon privacy rights of students and parents/guardians. Records should be kept under lock and key at all times, under the supervision of the designated professional.

Establishment of a Review Panel - Formal procedures will be timely established in the event a student or parent/guardian would challenge the validity of any information contained in Categories A or B. The school district will create a quasi-judicial review panel composed of qualified professional personnel to determine the validity of Category C Data and to provide for parental challenges of such data on occasions where their transfer to Category B is held to be desirable. Panel members should not be limited to school employees. With respect to both challenges and verifications, parents/guardians and students will be given the right to counsel, and the opportunity to present evidence and to cross-examine witnesses. Further, parents/guardians will be given written notice of these proceedings and reasonable time to prepare.

Annual Review - On an annual basis, the panel will review all data retained in Categories B and C. Good cause must be shown for the retention of any of the data. Parents/Guardians should have

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an opportunity to challenge the decision to maintain such data pursuant to the procedures outlined above.

Annual Notification - The school district shall annually notify parents/guardians of students currently in attendance, or students who reached the age of eighteen (18), of the following rights:

1. Inspect and review the student's educational records.
2. Seek amendment of the student's records where it is believed the record is inaccurate, misleading, or otherwise in violation of the student's privacy rights.
3. Consent to disclosure of personally identifiable data contained in the student's educational records, except where disclosure is not required by law.
4. File with the Office of the Secretary of Education a complaint concerning the failure to comply with federal rules and regulations concerning disclosure.

The notice under this section must include the procedure for exercising the right to inspect, review and amend the student's records. The notice may be provided by any means reasonably likely to inform the parents/guardians and/or students.

Procedure For Dissemination Of Educational Records

As the conveyance of records removes the student data and educational information from control of the school, Northern Lehigh School District recognizes that stringent precautions are required to protect the rights of the student against infringement of privacy, misinterpretation of data, and inappropriate use.

Permissible Disclosure - The school may, without consent of parents/guardians or students, release a student's permanent file, including Categories A and B, defined above to:

1. Other school officials, including teachers, within the district who have a legitimate educational interest. Such personnel desiring access are, however, required to sign a Record of Inspection form indicating the specific legitimate educational interest they have in seeking information.
2. The Superintendent and his/her officers or subordinates, so long as the intended use of the data is consistent with the Superintendent's statutory powers/responsibilities.
3. Officials of other primary or secondary school systems in which the student intends to enroll, under the condition that the student's parents/guardians be notified of the transfer, receive a copy of the record, if desired, and have an opportunity to challenge the record's content via a specified judicial-like procedure.
4. An institution or agency in connection with financial aid for which the student has applied or which the student has received, if the information is necessary for such purposes as to

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determine eligibility for the aid, amount of aid, conditions of aid or enforce terms and conditions of aid.

5. Appropriate parties in connection with a health or safety emergency if knowledge of the data is necessary to protect the health and safety of the student or other individuals.
6. The school, at its discretion, upon consultation with the Superintendent, may maintain copies of all student records for which permissible conveyance is requested.

Permissible Disclosure – Personally Identifiable Information - Personally identifiable information, as herein defined, on file with the district, may be disclosed absent written consent of parents/guardians or students, but may not be released upon written objection of parents/guardians or students.

Non-Permissible Disclosure – Prohibited Act - The school or any school personnel may not divulge, in any form, to any person other than those listed above, any information contained in school records, except:

1. Personally identifiable information absent written objection of parents/guardians or students.
2. With written consent from the student's parents/guardians specifying records to be released and to whom, and with a copy of the records to be released to the student's parents/guardians and/or student, if desired by the parents/guardians.
3. In compliance with judicial order, or orders of administrative agencies where those agencies have the power of subpoena. Parents/Guardians and/or students must be timely notified of all such orders prior to the school district's compliance. Absent compelling circumstances, such notice shall be no less than five (5) business days from date of issuance of notification to parents/guardians and/or students.

Procedures for Consent - Where parent/guardian and/or student permission is required for the release of school records, procedures for obtaining this permission should take into account the distinctions made in the category of data contained in a student's record file, as follows:

1. Routine, non-specific consent applies to Category A Data.
2. Additional, separate specific permission is required for the release of any data in Category B.
3. Under no condition should the school release information in Category C, except to comply with a judicial order or orders of administrative agencies where those agencies have the power of subpoena.
4. Under no condition should the school release information gathered by a nonschool agency, but included with the school record, with the exception of birth date. This would include, for example, the report of a case worker concerning conditions in the people's home. The only

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exception to this rule is pursuant to a judicial order, or orders of administrative agencies where the agencies have the power of subpoena.

5. Each matter request for consent must be handled separately. For example, blanket permission for release of data within an extended period of time may not be solicited since they, by definition, do not provide an opportunity for informed consent.
6. The school may comply with parental request for the release of information to other persons or agencies, subject to qualifications set forth below regarding safeguards of the student's rights when s/he reaches legal age. With respect to the problems of a student's age and his/her legal rights, the following exceptions should be made to the principle of parental consent:
 - a. When a student reaches the age of eighteen (18) and no longer is attending high school, or is married (whether age eighteen (18) or not), his/her consent alone must be obtained.
 - b. This includes the right to deny parental access to his/her records.

Content of Consent Request - Any written consent disclosure must:

1. Specify the records that may be disclosed.
2. Specify the purpose of disclosure.
3. Specify the identity of the party to whom the disclosure may be made.

Parents'/Guardians'/Students' Right to Access - Either a child, or his/her parents/guardians, or their legal representative, may have access to the official administrative record (Category A). Parents/Guardians may have access to Category B Data. Students may have access to Category B Data with written parental permission. However, this rule is subject to qualifications regarding age and consent specified above. The right of access includes the right to challenge the validity of information contained in the record through procedures to be developed by the school and involving a formal review process incorporating due process principles. The school district may charge a reasonable fee for the copying of records, but not the mere search and retrieval of the records.

Time for Access - Access must be granted within a reasonable time, but in no circumstances more than thirty (30) days after receipt of proper, complete written request.

Data for Research Purposes - The school may provide anonymous data from its records for outside research purposes without consent under conditions where the likelihood of identifying any individual because of this unique characteristic is negligible.

Requests by Governmental Agencies - School districts often face instances in which governmental agencies, local, state and federal, mandate their release of information on individuals. The principle of informed consent applies in all cases except those involving school

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responsibilities under existing child abuse or neglect statutes. Where identification of individuals is legally required, with or without consent, the parents/guardians will be informed of the specific information which has been provided.

Procedures For Notification Of Rights Under This Policy

Parents'/Guardians' and students' privacy rights will annually be sent to each parent/guardian of a student in the Northern Lehigh School District or contained in the annual student handbook. The notice will contain:

1. A statement of procedures to be followed in making a request for records.
2. A statement defining fees to be charged for copies made.
3. A location list.
4. A statement regarding parental right to challenge the record.
5. A definition of directory type information, followed by, "Parents hereby being notified of directory type information are free to contact the school district within fifteen (15) days to inform us that this information is not to be given out."

Copies of this policy may be found in the district policy manual, which is located in each school library.

Documentation Of Request For Disclosure Of Personally Identifiable Information From Student's Educational Record

Northern Lehigh School District will, for each request for each disclosure of personally identifiable information from the education records of a student, maintain a record kept with the education records of a student which indicates:

1. The parties who have requested or obtained personally identifiable information from the education records of the student.
2. The legitimate interests these parties had in requesting or obtaining the information.

The above does not apply to requests by or disclosures to a parent/guardian of a student or an eligible student, or to requests by or disclosures to school officials as previously described, if there is written consent of a parent/guardian of a student or an eligible student.

Northern Lehigh School District will permit a parent/guardian or an eligible student to inspect the record.

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Procedures For Challenging The Content Or Seeking Amendment To A Student's Educational Records

Northern Lehigh School District will, upon request, provide an opportunity for a hearing in order to challenge the content of a student's education records to ensure that information in the education records of the student is not inaccurate, misleading or otherwise in violation of the privacy or other rights of students. The hearing shall be conducted in the following manner:

1. The hearing will be held thirty (30) days after the Northern Lehigh School District receives the request, and the parent/guardian of the student or the eligible student shall be given notice of the date, place and time two (2) weeks in advance of the hearing.
2. The hearing will be conducted by an impartial party.
3. The parent/guardian of the student or the eligible student shall be afforded a full and fair opportunity to present evidence relevant to the issues, and may be assisted or represented by individuals of his/her choice, at his/her own expense, including an attorney.
4. Northern Lehigh School District will make its decision in writing within two (2) weeks after the conclusion of the hearing.
5. The decision of the Northern Lehigh School District will be based solely upon the evidence as presented at the hearing and shall include a summary of the evidence and the reasons for the decision.

General Provisions

Persons wishing to file complaints concerning alleged failures on the part of Northern Lehigh School District to comply with the requirements of Section 438 of the Family Educational Rights and Privacy Act of 1974 should address these to:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue SW
Washington D.C. 20202-5920

Northern Lehigh School District will identify students whose primary language is not English and, using the primary language, will annually notify parents/guardians and students of their rights under the Family Educational Rights and Privacy Act of 1974.

Northern Lehigh School District shall not permit a student to inspect and review financial records and statements of their parents/guardians or any information contained therein, without the parent's/guardian's written consent.

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If the education records of a student contain information on more than one (1) student, the parent/guardian of the student or the eligible student may inspect and review or be informed of only the specific information which pertains to that student.

If copies of an education record are made for the parents/guardians of students, students and eligible students, the recipient will be charged a copying fee of \$1.00.

Unless Northern Lehigh School District has evidence that a legally binding instrument, or a state law or court order governing such matters as divorce, separation or custody provides to the contrary, it is presumed that either parent of the student has authority to inspect and review the education records of the student. **Parent** includes a parent, a guardian, or an individual acting as a parent of a student in the absence of a parent or guardian.

Other than Category A Data, all release and dissemination of student records, absent written consent of the student and the parents/guardians, shall be received by the school Superintendent, prior to release.