

# POLICY

No. 5010

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## ACCESS TO STUDENT RECORDS

Pursuant to Education Amendments of 1974 P.L. 93-380 ("The Buckley Amendment"), the following policy has been adopted.

### Section 1 - Right to Inspect Student Records

- a. The parents or legal guardian of a student under 18 or a student 18 years or older (herein the "eligible party") shall have the right to inspect and review any and all of the student's education records. Where such records include information on more than one student, the eligible party shall be entitled to receive, or be informed of that part of such records as pertains to such student.
- b. For the purposes of this section, the term "education records" means those records, files, documents and other materials which contain information directly related to a student and are maintained by BOCES or by a person acting for BOCES, but the term "education records" does not include:
  - (i) records of instructional, supervisory and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute;
  - (ii) in the case of persons who are employed by BOCES but who are not in attendance at BOCES, records made and maintained in the normal course of business which relate exclusively to such persons in that person's capacity as an employee and are not available for use in any other purpose; or
  - (iii) records on a student who is 18 years of age or older, which are created or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his/her professional or paraprofessional capacity, or assisting in that capacity, and which are created, maintained, or used only in connection with the provision of treatment to the

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student, and are not available to any one other than persons providing such treatment; provided, however, that such records can be personally reviewed, by a physician or other appropriate professional of the eligible party's choice.

- c. For the purpose of this section, the term "student" includes any person with respect to whom BOCES maintains education records or personally identifiable information.

### **Section 2 - Submission of Requests for Inspection or Copies of Student Records**

All requests for inspection or copies of student records shall be made in writing to the Records Access Officer.

### **Section 3 - Time When Student Records are Available**

Requests to the Records Access Officer to inspect or secure copies of student records may be made on any business day between the hours of 8:00 a.m. and 4:00 p.m. Access to such records shall be given within a reasonable period of time, but in no case more than 30 days after the request has been made.

### **Section 4 - Access Procedures**

The following procedures shall be followed in connection with requests to inspect or secure copies of student records:

- a. The Records Access Officer will determine and advise the eligible party whether the student records specified in the request are available for inspection and copying.
- b. With respect to student records which are determined to be available, the Records Access Officer will direct the eligible party to the place where the requested student records may be inspected.
- c. With respect to records which are determined not to be available, the Records Access Officer will inform the eligible party as to the reason for the unavailability.
- d. Student records may be inspected only at the office or location where they are regularly maintained.
- e. Requests by mail for copies of available student records may be addressed to the Records Access Officer and will be honored upon payment of the regular fee, provided the student records of which copies are requested are sufficiently identified to make compliance practicable.

- f. The fees for copies of available records shall be as follows:
- (i) pages not larger than 8½ inches by 14 inches: \$.25 per page
  - (ii) pages larger than 8 ½ inches by 14 inches: \$.35 per page
  - (iii) any other record: the actual cost thereof to BOCES
- Fees shall be paid by check, money order or cash, payable to the Capital Region BOCES.

#### **Section 5 - Explanations and Interpretations**

Should the eligible party make a reasonable request to the Records Access Officer for an explanation or interpretation of any record, then the Records Access Officer shall see that a written explanation or interpretation is forwarded within a reasonable time to such eligible party by an appropriate BOCES employee capable of making such explanation or interpretation.

#### **Section 6 - Challenges**

The eligible party shall have an opportunity for a hearing to challenge the content of the student's school records to insure that the records are not inaccurate, misleading, or otherwise in violation of the privacy or other rights of students, and to provide an opportunity for the correction or deletion of any such inaccurate, misleading, or otherwise inappropriate data contained therein.

#### **Section 7 - Hearing Procedures**

- a. The eligible party shall identify, in writing, addressed to the Records Access Officer, the record or records which are believed to be inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, together with a statement of the reasons for the challenge to the record.
- b. The Records Access Officer shall respond to such challenge in writing within a reasonable time, indicating either that he/she finds the challenged records to be inaccurate, misleading or otherwise inappropriate and that it will be corrected or deleted, or he/she will schedule within a reasonable time an informal meeting between the eligible party and the appropriate BOCES employee or employees to discuss and resolve the challenge. If such employee or employees find no basis for correcting or deleting the record in question, then the eligible party may demand a formal hearing by a request in writing addressed to the Records Access Officer.

- c. All hearing demands shall be forwarded immediately by the Records Access Officer to the District Superintendent who shall designate an impartial person to act as Hearing Officer. The eligible party shall be given the right to present evidence in support of his/her belief that the record is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student and to rebut any evidence submitted in support of the record within a reasonable time after the hearing. A written decision shall be rendered by the Hearing Officer stating the disposition of the challenge to the record and the reasons for the determination, one copy of which shall be forwarded to the eligible party.

### **Section 8 - Confidentiality of Records**

- a. Any personally identifiable information contained in education records shall not be furnished without consent of the eligible party to any individual, agency, or organization except for the following individuals, agencies, and organizations:
- (i) other school officials, including teachers within BOCES who have been determined by such agency or institution to have legitimate educational interests;
  - (ii) officials of other schools or school systems in which the student seeks or intends to enroll, upon condition that the eligible party be notified of the transfer, receive a copy of the record, if desired, and have an opportunity for a hearing to challenge the content of the record;
  - (iii) authorized representatives of the Comptroller General of the United States, the Secretary of Education, and administrative head of an education agency (as defined in Section 408(c) of PL 93-380), or state educational authorities under the conditions set forth in Paragraph C hereof;
  - (iv) in connection with a student's application for, or receipt of, financial aid;
  - (v) State and local officials or authorities to which such information is specifically required to be reported or disclosed pursuant to State statute adopted prior to November 19, 1974;

- (vi) organizations conducting studies for, or on behalf of BOCES or other educational agencies or institutions for the purpose of developing, validating, or administering student aid programs, and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students and their parents by persons other than representatives of such organizations and such information will be destroyed when no longer needed for the purpose for which it is conducted;
- (vii) accrediting organizations in order to carry out their accrediting functions;
- (viii) parents of dependent student as defined in Section 152 of the Internal Revenue Code of 1954; and
- (ix) in connection with an emergency, appropriate persons if the knowledge of such information is necessary to protect the health or safety of the student or other persons and provided the following factors are considered:
  - (a) the seriousness of the threat to the health or safety of the student or other persons;
  - (b) the need for such records to meet the emergency;
  - (c) whether the persons to whom such records are released are in a position to deal with the emergency;
  - (d) the extent to which time is of the essence in dealing with the emergency.

This subsection (ix) shall be strictly construed.

- b. the provisions of Section 8 a. notwithstanding, BOCES may release or provide access to any personally identifiable information in education where:
  - (i) there is written consent from the eligible party specifying the records to be released, and to whom, and stating the reasons for such release, and, in such cases, a copy of such records shall also be released to the eligible party and to the student where the eligible party, being the student's parent, so desires, or
  - (ii) such information is furnished in compliance with judicial order or pursuant to any lawfully issued subpoena, upon condition that the eligible party is notified of all such orders or subpoena, in advance of the compliance therewith by BOCES.

- (iii) the BOCES will disclose a high school student's name, address and telephone number to military recruiters and institutions of higher learning unless the parents or eligible student exercise their right to prohibit release of the information without prior written consent.
- c. Nothing contained in subdivision a. herewith shall preclude authorized representatives of the Comptroller General of the United States, the Secretary of Education, and administrative head of an education agency or state education authorities from having access to student or other records which may be necessary in connection with the audit and evaluation of federally supported education programs, or in connection with the enforcement of the Federal legal requirements which relate to such programs, provided that, except when collection of personally identifiable information is specifically authorized by law, any data collected by such officials shall be protected in a manner which will not permit the personal identification of students and their parents by other than those officials, and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation and enforcement of Federal legal requirements.
- d. A record shall be maintained, kept with the education records of each student, which will indicate all individuals (other than those specified in paragraph a. (i) hereof), agencies, or organizations which have requested or obtained access to a student's education records and which will indicate specifically the legitimate interest that each such person, agency, organization has in obtaining this information. Such record of access shall be available only to the eligible party, to the school official and his/her assistants who are responsible for the custody of such records, and to persons or organizations authorized in, and under the conditions of, clauses (i) and (iii) of subdivision a. hereof as a means of auditing the operation of the system.
- e. Personal information shall only be transferred to a third party on the condition that such party will not permit any other party to have access to such information without the written consent of the eligible party.
- f. When the consent of the eligible party is required under these regulations for the release of education records, it shall be in writing, be signed and dated by the person giving such consent and shall include a specification of the records to be

released, the reason for such release and the names of the parties to whom such records will be released. Where parents are separated or divorced a consent may be obtained from either parent subject to any agreement between parents or court order governing their rights.

**Section 9 - Directory Information**

- a. The provisions of Section 8 hereof, as it applies to educational records, shall not be applicable to directory information, as hereinafter defined.
- b. For the purpose of this section the term "directory information" relating to a student includes the following: the student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended by the student.
- c. BOCES shall give public notice of the categories of information which it has designated as directory information with respect to each student attending BOCES and shall allow a reasonable period of time after such notice has been given for a parent to inform BOCES that any or all of the information designated should not be released without the parent's prior consent.