

[ X ] Required  
 [   ] Local  
 [   ] Notice

## STUDENT RECORDS

The Board of Education recognizes its legal responsibility to maintain the confidentiality of student records. As part of this responsibility, the Board will ensure that eligible students and parents/guardians have the right to inspect and review education records, the right to seek to amend education records and the right to have some control over the disclosure of information from the education record. The procedures for ensuring these rights shall be consistent with state and federal law, including the Family Educational Rights and Privacy Act of 1974 (FERPA) and its implementing regulations.

The Albany-Schoharie-Schenectady-Saratoga Board of Cooperative Educational Services (“BOCES”) will use reasonable methods to provide access to student educational records only to those authorized under the law and to authenticate the identity of the requestor. The BOCES will document requests for and release of records, and retain the documentation in accordance with law. Furthermore, pursuant to Education Law §2-d, the BOCES will execute agreements with third-party contractors who collect, process, store, organize, manage or analyze student personally identifiable information (PII) to ensure that the contractors comply with the law in using appropriate means to safeguard the data.

The **District Superintendent** shall be responsible for ensuring that all requirements under law and the Commissioner’s regulations are carried out by the BOCES.

### Definitions

*Authorized Representative:* an authorized representative is any individual or entity **designated by federal or state law**.

*Education Record:* means those records, in any format, directly related to the student and maintained by the BOCES or by a party acting on behalf of the BOCES, except:

- (a) records in the sole possession of the individual who made it and not accessible or revealed to any other person except a substitute (e.g. memory joggers);
- (b) records of the BOCES law enforcement unit;
- (c) grades on peer-graded papers before they are collected and recorded by a teacher.

*Eligible student:* a student who has reached the age of 18 or is attending postsecondary school.

*Legitimate educational interest:* a school official has a legitimate educational interest if they need to review a student’s record in order to fulfill his or her professional responsibilities.

*Personally identifiable information:* is information that would allow a reasonable person in the school or its community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty. Such data might include social security number, student identification number, parents’ name and/or address, a biometric record, etc.

*School official:* a person who has a legitimate education interest in a student record who is employed by the BOCES as an administrator, supervisor, instructor or support staff member (including health or medical staff and law enforcement unit personnel); a member of the Board of Education; a person or company with whom the BOCES has contracted to perform a special task (such as attorney, auditor, medical consultant or therapist); or a parent or student serving on an official committee, such as disciplinary or grievance committee, or assisting another school official performing his or her tasks.

*Third party contractor:* is any person or entity, other than an educational agency, that receives student data or teacher or principal data from an educational agency pursuant to a contract or other written agreement for purposes of providing services to such educational agency, including but not limited to data management or storage services, conducting studies or audit or evaluation of publicly funded programs.

### Annual Notification

At the beginning of each school year, the BOCES will publish a notification that informs parents, guardians and students currently in attendance of their rights under FERPA and New York State Law pertaining to student records and the procedures for exercising those rights. A 'Parents' Bill of Rights for Data Privacy and Security' will be posted on the BOCES website and included in any agreements with third-party contractors. The notice and 'Bill of Rights' may be published in a newspaper, handbook or other school bulletin or publication. The notice and 'Bill of Rights' will also be provided to parents, guardians, and students who enroll during the school year.

The notice and Parents' Bill of Rights will include a statement that the parent/guardian or eligible student has a right to:

1. inspect and review the student's education records;
2. request that records be amended to ensure that they are not inaccurate, misleading, or otherwise in violation of the student's privacy rights;
3. consent to disclosure of personally identifiable information contained in the student's education records, except to the extent that FERPA authorizes disclosure without consent; and
4. file a complaint with the United States Department of Education alleging failure of the BOCES to comply with FERPA and its regulations; and/or file a complaint regarding a possible data breach by a third party contractor with the BOCES and/or the New York State Education Department's Chief Privacy Officer for failure to comply with state law.

The annual notice and Parents' Bill of Rights will inform parents/guardians and students:

1. that it is the BOCES policy to disclose personally identifiable information from student records, without consent, to other school officials within the BOCES whom the BOCES has determined to have legitimate educational interests. The notice will define 'school official' and 'legitimate educational interest.'
2. that, upon request, the BOCES will disclose education records without consent to officials of **the** school district in which a student seeks to or intends to enroll or is actually enrolled.
3. that personally identifiable information will be released to third party authorized representatives for the purposes of educational program audit, evaluation, enforcement or compliance purposes.

4. that the BOCES, at its discretion, releases directory information (see definition below) without prior consent, unless the parent/guardian or eligible student has exercised their right to prohibit release of the information without prior written consent. The BOCES will not sell directory information.
5. that, upon request, the BOCES will disclose a high school student's name, address and telephone number to military recruiters and institutions of higher learning unless the parent or secondary school student exercises their right to prohibit release of the information without prior written consent.
6. of the procedure for exercising the right to inspect, review and request amendment of student records.
7. that the BOCES will provide information as a supplement to the 'Parents' Bill of Rights' about third parties with which the BOCES contracts that use or have access to personally identifiable student data.

The BOCES may also release student education records, or the personally identifiable information contained within, without consent, where permitted under federal law and regulation

The BOCES shall effectively notify parents, guardians and students who have a primary or home language other than English.

In the absence of the parent or secondary school student exercising their right to opt out of the release of information to the military, the BOCES is required to, under federal law, release the information indicated in number five (5) above.

#### Directory Information

The BOCES has the option under FERPA of designating certain categories of student information as "directory information." The Board directs that "directory information" include a student's:

- Name
- Major course of study
- Participation in school activities or sports
- Dates of attendance,
- Degrees and awards received
- Home school attended
- Photograph

Social security numbers or other personally identifiable information will not be considered directory information.

Students who opt out of having directory information shared are still required to disclose their student ID cards.

Once the proper FERPA notification is given by the district, a parent/guardian or student will have **30** days to notify the district of any objections they have to any of the "directory information" designations. If no objection is received, the district may release this information without prior approval of the parent/guardian or student for the release. Once the student or parent/guardian provides the "opt-out," it will remain in effect after the student is no longer enrolled in the BOCES program.

The district may elect to provide a single notice regarding both directory information and information disclosed to military recruiters and institutions of higher education.

Cross-ref: 1120, School District Records  
4321, Programs for Students with Disabilities Under IDEA and Part 89  
5550, Student Privacy

Ref: Family Educational Rights and Privacy Act, as amended, 20 USC 1232g; 34 CFR Part 99  
No Child Left Behind Act, 20 USC §7908 (Military Recruiter Access)  
10 USC §503 as amended by §544 of the National Defense Reauthorization Act for FY 2002  
Education Law §§ 2-a; 2-b; 2-c; 2-d; 225;  
Public Officers Law §87(2)(a)  
Arts and Cultural Affairs Law, Article 57-A (Local Government Records Law)  
8 NYCRR 185.12 (Appendix I) Records Retention and Disposition, Schedule ED-1 for Use by  
School Districts and BOCES  
“Guidance for Reasonable Methods and Written Agreements,”  
[http://www2.ed.gov/policy/gen/guid/fpc/pdf/reasonablemtd\\_agreement.pdf](http://www2.ed.gov/policy/gen/guid/fpc/pdf/reasonablemtd_agreement.pdf)  
Parents’ Bill of Rights for Data Privacy and Security, July 29, 2014:  
<http://www.p12.nysed.gov/docs/parents-bill-of-rights.pdf>  
Family Policy Compliance Office website: <http://www2.ed.gov/policy/gen/guid/fpc/index.html>

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**CAPITAL REGION BOCES**