

Regulation

STUDENTS

5050.1-R

EDUCATION RECORDS

I. Purpose:

The BOCES implements this regulation to maintain the confidentiality of student records and to provide parents and eligible students with the opportunity to inspect and review education records, to seek to amend education records, and to consent to the disclosure of education records.

II. Definitions and Designations:

A. The BOCES' Records Management Officer is the following:

Assistant Superintendent for Instruction
Jefferson-Lewis-Hamilton-Herkimer-Oneida Board
of Cooperative Educational Services
20104 NYS Route 3
Watertown, New York 13601
Telephone: (315) 779-7000

B. Parent: The term "Parent" includes natural parent, a guardian or an individual acting as parent or guardian in the absence of the student's parent or guardian.

C. Eligible Student: The term "Eligible Student" means a student who has reached age 18 or is attending post-secondary school.

D. Education Records: The term "Education Records" includes records, files, documents and other materials which contain information directly related to a student and are maintained by the BOCES or a person acting on behalf of the BOCES.

Education Records may exist in any form, including but not limited to print, computer media, video or audio tape, film, microfilm, microfiche and other materials which contain confidential information directly related to a student and which are maintained by the BOCES or a party acting on behalf of the BOCES. Education records do not include:

1. Certain Records in the Sole Possession of the Maker: Records made by instructional, supervisory, administrative personnel or ancillary educational personnel which are in the sole possession of the maker and which are not accessible or revealed to any other person except a substitute for the maker of the record.

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2. Employee Records: Records maintained solely with respect to a person's status as an employee rather than as a student.
 3. Certain Medical & Psychological Records: Medical and psychological treatment records of an eligible student are not education records if they are maintained and used only in connection with treatment of the eligible student and disclosed only to individuals providing the treatment, including treatment providers in the student's school.
 4. Post Enrollment Records: Records that only contain information about an individual after he/she is no longer a student at the BOCES (for example, records of alumni activities).
- E. Directory Information: The BOCES designates the following information as Directory Information: student's name, parent's name, address, date and place of birth, telephone number, email address, 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, most recent previous educational agency attended by student, photograph, and video images of students engaged in routine activities when those images are not records of the BOCES' law enforcement unit. Directory information will not be provided online.

III. Rights of Parents and Eligible Students:

- A. Each parent of a student has the rights described in this policy, unless the BOCES has been provided with evidence that there is a court order, statute or legally binding document related to such matters as divorce, separation or custody that specifically revokes these rights.
- B. When a student becomes an eligible student (18 or attending a post-secondary school) all rights accorded to parents and consent required of parents, transfer from the parents to the eligible student. However, the BOCES does not require the consent of the eligible student:
 1. To disclose the education record to the parent if the eligible student is claimed by the parent as a dependent for tax purposes.
 2. To disclose the education record to appropriate parties in connection with a health or safety emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals.
 3. A school official may generally share with parent information that is based on that official's personal knowledge or observation of the student.

EDUCATION RECORDS**IV. Confidentiality of Education Records:**

- A. The BOCES will not release education records, including personally identifiable information contained in Education Records, except:
1. Written Consent: The BOCES may release the information if prior to the release of information, the BOCES receives written consent from the parent or adult student. The written consent must specify the information to be released, the reason for the release and to whom the information may be released. The BOCES will give the parent or student a copy of the information released, if requested by the parent.
 2. Directory Information: The BOCES may release Directory Information if the BOCES has properly circulated its annual FERPA notification to parents of students in attendance and eligible students in attendance, unless the parent or eligible student has submitted Regulation 5050.5 restricting the BOCES' ability to release this information.
 3. Military Recruiters: The BOCES will disclose to requesting military recruiters the names, addresses and telephone numbers of juniors and seniors, unless the parent or eligible student has submitted Regulation 5050.5 prohibiting such release.
 4. School Officials with a Legitimate Educational Interest: The BOCES may release the information to other school officials, including teachers within the BOCES who have a legitimate educational interest in the information. The BOCES will use reasonable methods to ensure that school officials have access only to the education records in which the school officials have a legitimate educational interest.
 - A school official is: A person employed by the BOCES as an administrator, supervisor, instructor, or support staff member, including health or medical staff; a person elected to the School Board; a person or company employed by or under contract to the BOCES to perform a special task, such as an attorney, auditor, medical consultant, or therapist; a parent or student serving on an official committee, such as a disciplinary or grievance committee, or who is assisting another school official in performing his or her tasks. A school official may be a contractor, consultant, volunteer or other party to whom the BOCES has outsourced instructional services and functions if that individual or entity is performing services BOCES employees otherwise perform (is not selling products or services), is under the direct control of the BOCES with respect to the use and

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maintenance of the education records and is restricted from re-disclosing the education records except as permitted by FERPA.

- A school official has a legitimate educational interest if the official is: Performing a task that is specified in his or her position description or by a 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 relating to the student or student's family, such as health care, counseling, job placement, or financial aid; or maintaining the safety and security of the campus.
 - The BOCES receives services from the Mohawk Regional Information Center and its vendors in accordance with FERPA. A request for a complete list of current vendors may be submitted to the Records Management Officer.
 - The BOCES receives a request from a child welfare agency (CWA) entrusted with the placement, care and supervision of the student, regardless of whether the student's parent/guardian consents to the disclosure
5. Student Records for Transfer to a Different school: The BOCES may release student records to officials of other K-12 schools in which the student seeks or intends to enroll, provided that the student's parents are notified of the transfer.
 6. Student Records Release to a Secondary Institution: The BOCES does not release disciplinary records to any secondary institution as part of a request for records. Only academic records regarding grades, honors, and extracurricular activities will be provided pursuant to a valid request.
 7. Prospective Employers: Prospective employers may request to review the transcript of a student. Such requests will be honored only upon receipt of the parent or adult student's signed authorization.
 8. Certain State and Federal Officials: The BOCES may release information to authorized officials of the Comptroller General of the United States, the Attorney General of the United States, the Secretary of the U.S. Department of Education or certain State and Local Educational authorities.
 9. Financial Aid: The BOCES may release information to appropriate parties in connection with a student's application for or receipt of financial aid.

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10. Authorized Organizations Performing Studies: The BOCES may release information to organizations conducting studies for or on behalf of the BOCES to develop, validate or administer predictive tests, administer student aid programs or improve instruction, provided that appropriate safeguards are implemented in accordance with federal regulations.
11. Accrediting Organizations: The BOCES may release information to authorized accrediting organizations to carry out their accrediting functions.
12. Court Order or Subpoena: The BOCES may release information pursuant to a valid court order or subpoena, provided that the BOCES makes a reasonable effort to notify the affected parent or eligible student of the court order or subpoena in advance of the release of the information (except that in certain cases, such as in the case of certain subpoenas issued under the U.S. Patriot Act, the court order or subpoena may require release of information without advance notice to the parents).
13. Victim of Specified Crimes: In certain instances, the BOCES may release to the victim of a specified crime, the final results of a disciplinary proceeding commenced against the alleged perpetrator, provided that the release conforms to the requirements of 34 CFR 99.39. The final results may only include the name of the student, the offense committed and the sanction imposed by the BOCES.
14. Information Concerning Registered Sex Offenders: The BOCES may release information provided to it under 42 USC 14071 and the applicable Federal Guidelines.
15. Child Welfare Agencies: The BOCES may release information to an agency caseworker or other representative of a State or local child welfare agency, or tribal organization who has the right to access a student's case plan and when the agency or organization is legally responsible for the child's care and protection to provide accurate information about a child's education history and needs to make informed placement recommendations to the court.

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16. Release in Connection with an Emergency: The BOCES may release information to appropriate parties in connection with an emergency if the release is necessary to protect the health or safety of the student or other persons. The BOCES will consider the following criteria when determining whether the information should be disclosed:
- The seriousness of the threat to the health of the student or other individuals;
 - The need for the information to meet the emergency;
 - Whether the parties to whom the information is disclosed are in a position to deal with the emergency;
 - The extent to which time is of the essence in dealing with the emergency.

The BOCES will record the articulable and significant threat that formed the basis for the disclosure and the parties to whom the information was disclosed

- B. If the BOCES discloses student records to a third party as permitted by this policy, the BOCES will:
1. Advise the third party of its duty to refrain from re-disclosing the information and of its obligation to maintain the confidentiality of the information in accordance with the *Family Educational Rights and Privacy Act*.
 2. Wherever possible, attach to the disclosed record the following statement: "This document contains personal information from a student's education records. It is protected by the Family Educational Rights and Privacy Act (20 U.S.C. 1232g) and may not be re-released without consent of the parent or eligible student."

EDUCATION RECORDS**V. Requests to Inspect Education Records:**

- A. Request: A parent who is interested in inspecting the student's education record must submit his/her request to the Records Management Officer between the hours of 9 am and 3 pm on any school day. Requests should be submitted in writing, on a form provided by the BOCES (Regulation 5050.2). Copies of the form are available in the office of the Records Management Officer. If a parent makes an oral request for access to the education record during a school conference or at any other time, they should be directed to fill out the access request form, after which, the BOCES shall respond accordingly.
- B. Response: Within forty-five days of his/her receipt of a request for inspection, the Records Management Officer must provide the parent/guardian with an opportunity to inspect and review his or her child's education records or advise the person making the request, the records specified in the request are not available for inspection.
1. Records Available: If the records are available for inspection, the Records Management Officer will advise the requestor when and where the record will be available for inspection. If the records contain information about more than one student, the Records Management Officer will remove from the copy of the records shown to the requester, any information which in his/her judgment may constitute an unwarranted invasion of personal privacy of any party (other than the student for whom the inspection has been requested).
 2. Records Not Available: If the records are not available for inspection, the Records Management Officer will note the reason for the unavailability on the request form and will return a copy of the request form to the requesting party.
 3. Explanation of Records: The Records Management Officer will respond to reasonable requests for explanations and interpretations of the records.
 4. Copying Fee: The fee for copies of records is twenty-five cents per page, which is required to be paid at the time the copy is requested. The BOCES may waive the fee if the fee effectively denies the parent an opportunity to inspect and review the education record.
 5. Maintaining a record of requests: The Records Management Officer shall keep with the education record of each student, a record of all individuals, agencies or organizations which have requested or obtained access to the

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student's record (Regulation 5050.3) and a record of all re-disclosures it has authorized.

- The record will indicate the parties who requested or received the information and the legitimate interest the party had in the information.
- The BOCES does not have to keep this record if the requester is the parent or eligible student, a school official with a legitimate educational interest in the information, a party with written consent from the parent or eligible student, a party seeking directory information, or a party seeking information through certain subpoenas or court orders where the issuing court or agency has ordered that the existence or the contents of the subpoena or information not be disclosed.

VI. Request to Amend Education Records:

- A. If a Parent believes the education records relating to the student contain information that is inaccurate, misleading, or in violation of the student's rights of privacy, he or she may ask the educational agency or institution to amend the record.
1. The request shall be directed to the Records Management Officer during regular business hours on the prescribed form. Copies of the form are available in the District Superintendent's office or the office of the Records Management Officer. (See Regulation No. 5050.4).
 2. The request shall identify, in writing, the record or records which the parent believes to be inaccurate, misleading or otherwise in violation of the student's rights of privacy, with a statement of the reasons for the challenge to the record.
- B. The Records Management Officer will make a written response to the request to amend an education record within twenty days of his/her receipt of the request. The response will indicate whether the Records Management Officer:
1. Finds that the record in question is inaccurate, misleading or an invasion of the student's rights of privacy and that the record will be amended as requested, or
 2. Finds that there is an insufficient basis to amend the record in question. If the Records Management Officer finds that there is an insufficient basis to amend the record in question, he/she will notify the requesting party in

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writing of the opportunity for a hearing and will provide the requesting party with a form to request the hearing.

VII. Request for Hearing:

- A. Request: If a parent disagrees with the Records Management Officer's finding that there is an insufficient basis to amend the education record the parent may request a hearing. The request must be submitted to the District Superintendent within ten days of the parent's receipt of the Records Management Officer's decision, on a form provided by the BOCES. The hearing will be conducted within ten days of the District Superintendent's receipt of the request for a hearing.
- B. Notice: The BOCES will mail a hearing notice to the requesting party reasonably in advance of the hearing. The hearing notice will include the date, time and place of the hearing.
- C. Hearing: The Hearing will be conducted by the District Superintendent (or by another person designated by the District Superintendent who does not have a direct interest in the outcome of the hearing). During the hearing, the requesting party may be represented by an individual or individuals (including an attorney) at his/her own expense. The requesting party will have a full and fair opportunity to present relevant evidence.
- D. Decision: The District Superintendent (or designee) will submit a written decision within ten days after completion of the hearing. The decision must be based solely on the evidence presented at the hearing, and must include a summary of the evidence and the reasons for the decision.
 - 1. If the District Superintendent (or designee) finds that the record should be amended, he/she will amend the record and will inform the parent of the amendment in writing.
 - 2. If the District Superintendent (or designee) finds that the record should not be amended, he/she will inform the parent in writing of the right to place a statement in the record commenting on the contested information and/or stating why he/she disagrees with the decision of the BOCES. The BOCES will maintain the statement with the contested part of the record for as long as the record is maintained and will disclose the statement whenever it discloses the portion of the record to which the statement relates.

EDUCATION RECORDS**VIII. Notification of Rights:**

- A. The BOCES shall annually disseminate a notice to parents and eligible students of their rights relative to education records. The notice will allow parents at least thirty days to ask the BOCES not to disclose some or all of the directory information. (See Regulation No. 5050.5).
- B. Parents and eligible students have the right to file a complaint with the U.S. Department of Education concerning alleged failures to comply with FERPA. Written complaints may be filed with: The Family Policy Compliance Office, U.S. Department of Education, 400 Maryland Avenue, SW, Washington, D.C. 20202-5920.

Jefferson-Lewis-Hamilton-Herkimer-Oneida Board of Cooperative Educational Services

Legal Ref: The Federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232; 34 CFR 99; October 9, 2002 Joint Memorandum from Secretary of Education Rod Paige and Secretary of Defense Donald H. Rumsfeld; February 7, 2003 Memorandum to Superintendent's from LeRoy S. Rooker, Director of the Family Policy Compliance Office, US Dept. of Education; the Individuals with Disabilities Education Act, 20 U.S.C. § 1401 et seq; the Uninterrupted Scholars Act, Pub Law 112-278 (Jan. 2013), and N.Y. Education Law § 2-d.

Approved by the District Superintendent: 07/05/00, 05/14/03, 06/21/17