

**Monroe 2-Orleans BOCES Regulation  
Series 6000 – Students  
Regulation #6320R – ACCESS TO STUDENT RECORDS**

**Parent/Legal Guardian Access Rights**

In all cases throughout this policy the definition of parent/legal guardian refers to the complete federal law definition of parents/legal guardians and noncustodial parent(s), whose rights are not limited by court order or formal agreement, of a student under eighteen (18), or a student who is eighteen (18) years of age or older or who is attending an institution of post-secondary education.

The BOCES, shall, upon request of a parent/legal guardian, permit the parent/legal guardian to inspect, review, or copy any education record relating to the student or students of that parent/legal guardian when such record is collected, maintained, or used by the BOCES. The BOCES shall fulfill the request within 45 days after the request is received.

The right to inspect, review, or copy education records includes:

- The right of a parent/legal guardian to request of and receive from the BOCES a reasonable explanation of information contained in the education records of the student;
- The right of a parent/legal guardian to be provided, on request, with a copy of all or part of the education records of the student; and
- The right of a parent/legal guardian to designate a representative who will inspect, review, or copy the records.

If a parent/legal guardian requests copies of education records from the BOCES, the BOCES may charge the parent/legal guardian a reasonable cost which will not exceed the actual expense of the duplication. However, no cost shall be charged to a parent/legal guardian for inspecting and reviewing the record or records. No cost shall be charged to a parent/legal guardian for the search for or retrieval of records.

A parent/legal guardian shall have the right to request a list of the types and the location of the student's educational records collected, maintained, or utilized by the BOCES.

At the discretion of the BOCES and for verification and record keeping purposes only, the BOCES may require all parents/legal guardians to put into writing:

- Their verbal requests to inspect, review, copy or receive copies of education records;
- Their verbal designations of a representative; and
- Their verbal requests for a list of the types and location of records.

**Student Access Rights**

Whenever a student has attained 18 years of age or is attending an institution of post-secondary education, the rights accorded to and the consent required of the parent/legal guardian of the student shall thereafter only be accorded to and required of the student (except as provided below):

**Foster Parents**

Foster parents do not have custody and have no legal rights to inspect or obtain school records unless this authority is delegated to them by the authorizing agency.

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**Access Record**

The BOCES shall keep a record of certain parties who have obtained access to the education records of a student. Not every person who accesses the log is required to sign this log. The access record shall include the name of the party, the date of access, and the purpose for which the party was allowed to use the records.

A parent/legal guardian shall have the right to inspect the access record for the education records of their student.

The BOCES shall maintain, for public inspection, a current list of the names and positions of those employees with legitimate educational interest who are authorized by the BOCES to have access to personally identifiable information.

**Disclosures to Parents/Legal Guardians of Eligible Students**

Even after a student has become an “eligible student” under FERPA (which is defined as a student who is eighteen (18) years of age or older or who is attending an institution of post-secondary education) an educational agency or institution may disclose education records to an eligible student’s parents/legal guardian, without the student’s consent:

- 1) If the student is claimed as a dependent for Federal income tax purposes by either parent/legal guardian;
- 2) In connection with a health or safety emergency;
- 3) If the student attends an institution of postsecondary education, is under twenty-one (21) years of age and the disclosure is regarding the student’s violation of law, an institutional rule or policy governing the use of alcohol or a controlled substance at that institution; or
- 4) If the disclosure falls within any other exception to the consent requirements under FERPA or its Regulations, such as the disclosure of directory information or in compliance with a court order or lawfully issued subpoena.

**Maintenance of Records**

The BOCES shall designate an employee of the BOCES as the official who shall be responsible for insuring that the education records confidentiality policies and procedures are enforced and administered. This official shall:

- Notify parents/legal guardians of the policies and procedures regarding student education records and their rights regarding access.
- Develop the plan for education records, including safeguards which protect the confidentiality of personally identifiable information at the point of collection, storage, release, and destruction.
- Provide in-service training to all records department staff in the implementation of Federal and State record access and confidentiality policies.
- Maintain the current definition of people with legitimate educational interest who are authorized to have access to personally identifiable information.

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**Destruction**

- The BOCES shall inform the parents/legal guardians of a student when personally identifiable information in the records of the student is no longer relevant to the educational services provided to the student.
- Upon the request of the parents/legal guardians, information no longer relevant for the provision of educational services to the student will be destroyed. However, a written record of a student's grades, attendance record, class attended, grade level completed, and year completed will be maintained.
- Prior to the destruction of the information referred to in the first two paragraphs of this subsection above, the agency shall send written notification to the parents/legal guardians which shall inform the parents/legal guardians of their rights to receive a copy of the material to be destroyed.

**Release of Information**

Parental/Legal Guardian consent required:

Written, signed, and dated parental/legal guardian consent shall be obtained by the BOCES before education records or personally identifiable information contained therein is released to any party unless such release is authorized by the Family Educational Rights and Privacy Act, or its implementing regulations as an exception. Consent may be in electronic form that identifies and authenticates a person as the source of the consent and indicates such person's approval of the information in the electronic consent.

One such exception includes: disclosure to BOCES officials and home school district officials with legitimate educational interests.

A BOCES official and/or home school district official is a person employed by the BOCES or home school district as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel); a person serving on the BOCES or home school district board; a person, contractor, company, or volunteer with whom the BOCES or home school district has contracted to perform a special task (such as the vendor of a remote meeting/platform, an attorney, auditor, medical consultant, therapist, or records retention service); or a parent/legal guardian or student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks. A BOCES official or home school district official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.

**Directory Information**

The Family Educational Rights and Privacy Act (FERPA) defines student directory information as any of the items as indicated in the following list.

- Name
- Address
- Telephone listing
- Date and place of birth
- Major field of study

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- Grade level
- Participation in activities
- Dates of attendance
- Honors, degrees and awards
- E-mail address
- Photograph
- Name of educational institution previously attended

Directory information **does not** include:

- a) A student's social security number; or
- b) A student's identification (ID) number, except as provided below.

Directory information includes a student ID number, user ID, or other unique personal identifier used by the student for purposes of accessing or communicating in electronic systems, or that is displayed on a student ID card or badge, but only if the identifier cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user's identity, such as a personal identification number (PIN), password, or other factor known or possessed only by the authorized user.

Parents/legal guardians and eligible students may not, by opting out of disclosure of directory information, prevent a school from requiring a student to wear or present a student identification card or a badge that displays information that may be directory information.

The BOCES will release the following limited directory information to federal, state, or local law enforcement who seek information for any reason about a student: address, telephone listing, photograph, and/or email address, and attendance.

**Military Recruiter Access**

The release of student directory information is not to be confused with the release of names, addresses and telephone listings of eligible students (i.e., a student seventeen (17) years of age or older or in the eleventh grade (or its equivalent or higher) to Military Recruiters. In compliance with the Elementary and Secondary Education Act (ESEA) of 1965, as amended by the No Child Left Behind Act of 2001 (NCLB), and the National Defense Authorization Act, the BOCES shall notify parents/legal guardians that by law it routinely releases this information to Military Recruiters upon request subject to a parents'/legal guardians'/eligible students' written request not to disclose such information.

**Exceptions to Consent**

Health and Safety Emergency Exception

BOCES must balance the need to protect students' personally identifiable information with the need to address issues of school safety and emergency preparedness. Under FERPA, if an educational agency or institution determines that there is an articulable and significant threat to the health or safety of a student or other individuals, it may disclose information from education records, without consent, to

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any person whose knowledge of the information is necessary to protect the health and safety of the student or other individuals during the period of the health or safety emergency. BOCES may release information from records to appropriate parties including, but not limited to, parents/legal guardians, law enforcement officials and medical personnel. A BOCES determination that there is an articulable and significant threat to the health or safety of a student or other individuals shall be based upon a totality of the circumstances, including the information available, at the time the determination is made.

The BOCES must record the articulable and significant threat that formed the basis for the disclosure and maintain this record for as long as the student's education records are maintained.

Audit/Evaluation Exception

The audit or evaluation exception allows for the disclosure of personally identifiable information from education records without consent to authorized representatives of the Comptroller General of the U.S., the Attorney General, the Secretary of Education, and State or local educational authorities ("FERPA permitted" entities). Under this exception, personally identifiable information from education records must be used to audit or evaluate a Federal or State supported education program, or to enforce or comply with Federal legal requirements that relate to those education programs (audit, evaluation, or enforcement or compliance activity).

The BOCES may, from time to time, disclose personally identifiable information from education records without consent to authorized representatives of the entities listed above. The BOCES may also, from time to time, designate its own authorized representative who may access personally identifiable information without consent in connection with an audit or evaluation of an education program within the BOCES. As an example, the BOCES might designate a university as its authorized representative in order to disclose, without consent, personally identifiable information from education records on its former students to the university. The university could then disclose, without consent, transcript data on those former students attending the university to allow the BOCES to evaluate how effectively the BOCES prepared its students for success in postsecondary education.

Studies Exception

This exception allows for the disclosure of personally identifiable information from education records without consent to organizations conducting studies for, or on behalf of, schools, school districts or postsecondary institutions. Studies can be for the purpose of developing, validating, or administering predictive tests; administering student aid programs; or improving instruction.

The BOCES may, from time to time, disclose personally identifiable information from education records without consent to such organizations conducting studies for the District or BOCES, in accordance with its obligations under FERPA.

In addition, other entities outside of the BOCES may, from time to time, disclose personally identifiable information from education records that the BOCES has previously shared with that entity, to organizations conducting studies on behalf of the BOCES. For example, a State Education Agency (SEA) may disclose personally identifiable information from education records provided by the BOCES without consent to an organization for the purpose of conducting a study that compares

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program outcomes across school districts to further assess the effectiveness of such programs with the goal of providing the best instruction.

Social Services Exception

This exception allows disclosure of records to a caseworker or representative of New York State or the County welfare agency (or a tribal organization) who has the right to access the student's case plan, and who is legally responsible for the care and protection of the student provided the records or personally identifiable information will not be disclosed by the agency except to an individual or entity engaged in addressing the student's education needs and authorized by the agency to receive such disclosure in accordance with New York State law.

Subpoena or Judicial Order Exception

This exception allows for release of records where a lawfully issued subpoena or judicial order has been issued, and by providing notice to the parent/legal guardian in advance of compliance of the subpoena or judicial order except when a parent/legal guardian is a party to a child abuse and neglect or a dependency proceeding and the order or subpoena is issued in the context of that proceeding, then an advance notice of compliance with the subpoena or judicial order to the parent/legal guardian is prohibited.

Student Teachers Exception

BOCES may allow student teachers to videotape themselves providing instruction in a classroom to meet their instruction component for their teaching certification. The video is confidential and is not subject to viewing or disclosure to an individual or entity, other than the student teacher applicant and relevant personnel. This is an exception to the parental/legal guardian consent requirement for release of education records under FERPA per New York State Law.

**Records Hearing:**

The BOCES shall, on parent/legal guardian request, provide the parent/legal guardian with an opportunity for a hearing to challenge information in education records if the parent/legal guardian alleges that such information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student. The hearing shall be conducted according to the following provisions:

- The hearing shall be held within a reasonable time after the BOCES receives the request for a hearing from the parent/legal guardian.
- The parent/legal guardian shall be notified in writing of the date, place and time of the hearing.
- The hearing shall be conducted by any individual including a BOCES official who does not have a direct interest in the outcome of the hearing.
- The parent/legal guardian shall be afforded a full and fair opportunity to present evidence relevant to the issues.
- The parent/legal guardian may, at the hearing, be assisted or represented by persons at their expense; such persons may include legal counsel.

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**Decision after hearing:**

The hearing officer shall render a written decision on the issues presented at the hearing within a reasonable time after the conclusion of the hearing. The decision shall be based solely upon evidence presented at the hearing and shall include a summary of the evidence and the reasons for the decision.

**Decision to amend:**

If, as a result of the hearing, the hearing officer decides that the information is inaccurate, misleading, or otherwise in violation of the privacy rights of the student, the BOCES shall amend the education records accordingly and so inform the parent/legal guardian in writing.

**Decision not to amend:**

If, as a result of the hearing, the hearing officer decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy rights of the student, the BOCES shall inform the parent/legal guardian of their right to place in the education record of the student a statement which sets forth the written comments of the parent/legal guardian regarding the information in the education records or reasons for disagreeing with the decision of the hearing officer or both written comments and reasons.

The statement of the parent/legal guardian shall be appended by the agency to the education records so long as the record or the contested portion thereof is maintained by the BOCES.

If the education records of the students or the contested portion thereof are released by the BOCES to any party, the statement of the parent/legal guardian shall also be released to the party.

Nothing in this section shall be interpreted to mean that the parent/legal guardian and the BOCES may not, by mutual agreement, meet prior to either a parent/legal guardian request for a hearing or the hearing itself in order to discuss the concerns of the parent/legal guardian regarding the accuracy or inaccuracy of the records of the student.

Adopted: 1/1/2001  
Reviewed: 10/21/2009  
Revised: 5/9/2012  
Revised: 7/17/2013  
Revised: 9/18/13  
Revised: 8/19/2015  
Revised: 9/19/2018  
Revised: 8/18/2021  
Revised: 11/15/2023  
Reviewed: 8/21/2024