

PUPIL RECORDS PROCEDURES

6:3-2.1 Definitions

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

"Access" means the right to view, to make notes, and/or to have reproduction of the pupil record made.

"Adult pupil" means a person who is or was enrolled in a public school and who is at least 18 years of age or an emancipated minor.

"Parent" means the natural parent(s), or legal guardian(s), foster parent(s), or parent surrogate(s) of a pupil. Where parents are separated or divorced, "parent" means the person or agency who has legal custody of the pupil, as well as the natural parents of the pupil, provided such parental rights have not been terminated by a court of appropriate jurisdiction.

"Parent surrogate(s)" means an individual or individuals approved by the district Board of Education in accordance with NJAC 6:28-2.2 to act on behalf of a pupil whose parents are not available to assure the pupil's educational rights.

"Pupil" means a person who is or was enrolled in a public school.

"Pupil record" means information related to an individual pupil gathered within or without the school system and maintained within the school system, regardless of the physical form in which it is maintained. Essential in this definition is the idea that any information which is maintained for the purpose of second party review is considered a pupil record. Therefore, information recorded by any certified school personnel solely as a memory aid, not for the use of a second party, is excluded from this definition.

"Student information directory" means a publication of a district board of education which includes the following information relating to a pupil; the student's name, address, telephone number, grade level, date and place of birth, dates of attendance, major fields of study, participation in officially recognized activities, weight and height relating to athletic team membership, degrees, awards the most recent educational agency attended by the pupil and other similar information.

6:3-2.2 General Considerations

- (a) These regulations apply to all public or private agencies which provide educational services by means of public funds. Public schools and all such agencies shall include, but not be limited to, all local boards of education, county boards of special services school districts, jointure commissions, and educational services commissions.
- (b) Each local school district shall have the responsibility to compile and maintain pupil records and to regulate access, disclosure, or communication of information from educational records in a manner that assures the security of such records in accordance with these rules and regulations.

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- (c) Pupil records shall contain only such information as is relevant to the education of the pupil, and is objectively based on the personal observations or knowledge of the certified school personnel who originate the records.
- (d) The local school district shall notify parents and adult pupils annually in writing of their rights in regard to pupil records and pupil participation in educational, occupational and military recruitment programs, and shall make copies of the applicable State and Federal laws and local policies available upon request. Local school districts shall make every effort to notify parents in the language of the parent.
- (e) A non-adult pupil may assert rights to access only through his/her parents. However, nothing in these rules shall be construed to prohibit certified school personnel, in their discretion, from disclosing pupil records to non-adult pupils or to appropriate persons in connection with an emergency, if such knowledge is necessary to protect the health or safety of the pupil or other persons.
- (f) The parent(s) shall either have access to or be specifically informed about only that portion of another pupil's record that contains information about his/her own child.
- (g) Each local school district shall establish written policies and procedures for pupil records which:
 - 1. Guarantee access to person authorized under this subchapter within ten (10) days of the request but prior to any review or hearing conducted in accordance with State Board of Education regulations.
 - 2. Assure security of the records; and
 - 3. Enumerate and describe the pupil records collected and maintained by the local school district.
 - 4. Provide for the inclusion of educationally relevant information in the pupil record by the parent or adult pupil.
 - 5. Allow for the designation, release and public notice of directory information as defined herein:
 - 6. Accord educational, occupational and military recruiters access to school facilities and student information directories pursuant to NJSA 18A:36-19-1 provided that any adult pupil or parent may request in writing to the Chief School Administrator to be excused from participating in all recruitment programs or having their name appear in student information directories for all recruitment purposes.
 - 7. Assure compliance with the limited access to pupil records by secretarial and clerical personnel pursuant to NJAC 6:3-2.5; and
 - 8. Provide for the access and security of pupil records maintained in a computerized system.

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- (h) All anecdotal information and assessment reports collected on a pupil shall be dated and signed by the individual who originated the idea.
- (i) The chief school administrator or his designee shall require all permitted pupil records of currently enrolled pupils to be reviewed annually by certified school personnel to determine the educational relevance of the material contained therein. The reviewer shall cause to be deleted from the records, data no longer descriptive of the pupil or educational situation. Such information shall not be recorded elsewhere, nor shall a record of such deletion be made.
- (j) No liability shall attach to any member, officer or employee of any local board of education permitting access or furnishing pupil records in accordance with these rules and regulations.
- (k) When the parents' dominant language is not English, or the parent is deaf, the local school district shall make every effort to:
 - 1. Provide interpretation of the pupil record in the dominant language of the parent; or
 - 2. Assist the parents in securing an interpreter.

6:3-2.3 Mandated and permitted pupil records

- (a) The local school district may not compile any other pupil records, except mandated and permitted records as herein defined:
 - 1. Mandated pupil records are those pupil records which the schools have been directed to compile by New Jersey statute, regulation, or authorized administrative directive. Mandated pupil records shall include the following:
 - i. Personal data which identifies each pupil enrolled in the school district. This data shall include the pupil's name, address, date of birth, name of parents and/or guardians, citizenship and sex of the pupil. The local school district is prohibited from recording the religious or political affiliation of the pupil and/or parents unless requested to do so in writing by the parent or adult pupil. The district is also prohibited from labeling the pupil illegitimate;
 - ii. Record of daily attendance;
 - iii. Descriptions of pupil progress, according to the system of pupil evaluation used in the district. Grade level or other program assignments shall also be recorded;
 - iv. History and status of physical health compiled in accordance with State regulations, including results of any physical examinations given by qualified district employees;

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- v. All other records required by the State Board of Education, including those pursuant to rules and regulations regarding the education of educationally disabled pupils, including printed test forms supporting classification and placement.
2. Permitted pupil records are those which a local Board of Education has authorized the district to collect by resolution adopted at a regular public meeting to provide the educational welfare of the pupil. The local Board of Education shall report annually at a public Board meeting a description of the types of pupil records it has authorized certified school personnel to collect and maintain. The pupil records so authorized must also comply with these rules and regulations as to relevance and objectivity.
- i. In accordance with a policy of the Board of Education, permission has also been granted to the administration to compile the following data regarding individual pupils:
 - a) Observations and ratings of individual pupils by professional staff members acting within their sphere of competency.
 - b) Information obtained from professionally acceptable standard instruments of measurement such as: interest inventories, achievement tests, standardized intelligence tests, and pre-kindergarten screening tests.
 - c) Authenticated information provided by a parent or adult pupil concerning achievements and other school activities which the pupil wants to make a part of the record.
 - d) Verified reports of serious or recurrent behavior patterns.
 - e) Extracurricular activities and achievements.
 - f) Rank in class and academic honors earned.

No other record may be accumulated unless the collection of such facts has been authorized by the Board.

6:3-2.4 Maintenance and security of pupil records

- (a) The Chief School Administrator or designee shall be responsible for the security of pupil records maintained in the local school district and shall devise procedures for assuring that access to such records is limited to authorized persons.
- (b) Records for each individual pupil shall be maintained in a central file at the school attended by the pupil. When records are maintained in different locations, a notation in the central file as to where such other records may be found is required.

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- (c) When records are stored in a computerized system, computer programmed security blocks are required to protect against any security violations of the records stored therein. To guard against the loss of pupil records, school districts must maintain an updated duplicate copy of pupil records.

6:3-2.5 Access to pupil records

- (a) Only authorized organizations, agencies or persons defined herein shall have access to pupil records.
- (b) The local Board of Education may charge a reasonable fee for reproduction not to exceed the schedule of costs set forth in NJSA 47:1A-2, provided that the cost does not effectively prevent the parents from exercising their rights under this sub-chapter or under rules and regulations regarding educationally disabled pupils.
- (c) Authorized organization, agencies and persons shall include only:
1. The parent(s), legal guardian(s), foster parent(s), or parent surrogate(s) of a pupil under the age of 18, and the pupil who has the written permission of such parent(s) or guardian(s);
 2. Pupils at least 16 years of age who are terminating their education in the district because they will graduate secondary school at the end of the term or no longer plan to continue their education;
 3. The adult pupil and the pupil's parent(s) or guardian(s) who have the written permission of such pupil, except that the parents or guardians shall have access without consent of the pupil as long as the pupil is financially dependent on the parents or guardians and enrolled in the public school system, or if the pupil is legally incompetent by a court of competent jurisdiction.
 4. Certified school personnel who have been assigned educational responsibility for the pupil;
 5. A district board of education, in order to fulfill its legal duties as a board, has access through the Chief School Administrator or his or her designee to information contained in a pupil's record. Information shall be discussed in executive session unless otherwise requested by the parent or adult pupil.
 6. Secretarial and clerical personnel under the direct supervision of certified school personnel shall be permitted access to those portions of the record to the extent that it is necessary for the entry and recording of data and the conducting of routine clerical tasks. Access shall be limited only to those pupil files which such staff are directed to enter or record information and shall cease when the specific assigned task is completed.
 7. Accrediting organizations in order to carry out their accrediting functions.

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8. The Commissioner of Education and members of the New Jersey Department of Education staff who have assigned responsibility which necessitates the review of such records.
9. Officials of other public school districts, county Boards of special services school districts, jointure commissions, educational services commissions and state operated special education programs within the State of New Jersey in which the pupil is registered or intends to enroll, subject to the following conditions:
 - i. Mandated pupil records shall be forwarded to the receiving district with written notification to the parent or adult pupil;
 - ii. Permitted records shall be forwarded to the receiving district only with the written consent of the parent or adult pupil except where a formal sending-receiving relationship exists between the school district;
 - iii. All records to be forwarded shall be sent to the administrative official of the school to which the pupil has transferred within ten (10) days after the transfer has been verified by the requesting school district.
 - iv. The Chief School Administrator or his or her designee shall request all pupil records in writing from the school district of last attendance within two weeks from the date that the pupil enrolls in the new district.
 - v. Proper identification, such as a certified copy of the pupil's birth certificate, shall be requested at the time of enrollment in a new school district.
10. Officers and employees of a State agency, responsible for protective services to children, engaged in investigations pursuant to NJSA 9:6-8.40 as to a pupil referred to that agency as a minor requiring investigation or supervision by that agency. Whenever appropriate, local school districts shall ask such State agency for its cooperation in sharing the findings of the investigations.
11. Organizations, agencies, and persons from outside the school if they have the written consent of the parents or adult pupils, except that these organizations, agencies, and persons shall not transfer pupil record information to a third party without the written consent of the parent or adult pupil.
12. Organizations, agencies, and individuals outside the school, other than those specified in this rule, upon the presentation of a court order.
13. Bonafide researchers who explain in writing the nature of the research project and the relevance of the records sought, and who satisfy the Chief School Administrator or his designee that the records will be used under strict conditions of anonymity and confidentiality. Such assurances must be received in writing by the Chief School Administrator prior to the release of information to the researcher.

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6:3-2.6 Conditions for access to pupil records

- (a) All authorized organizations, agencies and persons in these regulations shall have access to the records of a pupil, subject to the following conditions:
1. No pupil record shall be altered or destroyed during the time period between a written request to review the record and the actual review of the record.
 2. Authorized organizations, agencies and persons from outside the school whose access requires the consent of parents or adult pupils must submit their request in writing to view the records, together with any required authorization, to the chief school administrator, or his/her designee.
 3. The Chief School Administrator or his/her designee shall be present during the period of inspection to provide interpretation of the records where necessary and to prevent their alteration, damage or loss. In every instance of inspection of pupil records by persons who do not have assigned educational responsibility, an entry shall be made in the pupil record of the names of persons granted access, the reason access was granted, the time and circumstances of inspection, the records studied, and the purposes for which the data will be used.
 4. Unless otherwise judicially instructed, the school district shall, prior to the disclosure of any pupil records to organizations, agencies or persons outside the school pursuant to a court order, give the parent or adult pupil at least three days' notice of the name of the requesting agency and the specific records requested. Such notification shall be provided in writing if practicable. Only these records related to the specific purpose of the court order shall be disclosed.
 5. A record may be withheld from a parent or guardian of a pupil under 18, or from an adult pupil, only when the Chief School Administrator in consultation with the professional staff is convinced that the disclosure would create a substantial risk of harm to the pupil or to a person with whom the record is concerned. When the Chief School Administrator is convinced that the risk is of such high degree, he/she shall notify the parent, guardian, or adult pupil in writing within five days that access to the record has been denied, and that the person has the right to appeal this decision to the Commissioner of Education. If an appeal should be made, the Commissioner shall designate the professional of the same discipline as the originator of the record to review the record and to recommend whether access should be granted. The Commissioner shall make a determination within thirty (30) days of the receipt of the request. Any decision made by the Commissioner may be appealed to the State Board of Education.

6:3-2.7 Rights of appeal for parents and adult pupils

- (a) Pupil records are subject to challenge by parents and adult pupils on grounds of inaccuracy, irrelevancy, impermissible disclosure, inclusion of improper information or denial of access to organizations, agencies and persons. The parent or adult pupil may seek to:
1. Expunge inaccurate, irrelevant or otherwise improper information from the pupil record;

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2. Insert additional data as well as reasonable comments as to the meaning and/or accuracy of the records;
 3. Request an immediate stay of disclosure pending final determination of the challenge procedure as described in these regulations.
- (b) To appeal, a parent or adult pupil must notify the Chief School Administrator in writing of the specific issues relating to the pupil record. Within ten (10) days of notification, the Chief School Administrator or designee shall meet with parent or adult pupil to review the issues set forth in the appeal. If the matter is not satisfactorily resolved, the parent or adult pupil may appeal this decision to the local Board of Education or Commissioner of Education within ten (10) days. If appeal is made to the local school board, a decision shall be rendered within twenty (20) days. The decision of the local school board may be appealed to the Commissioner pursuant to NJSA 18A:6-9 and rules adopted in accordance with such statute. At all stages of the appeal process, the parent shall be afforded a full and fair opportunity to present evidence relevant to the issue. A record of the appeal proceedings and outcome shall be made a part of the pupil record with copies made available to the parent or adult pupil.
- (c) Appeals relating to the pupil records of educationally disabled pupils shall be processed in accordance with the requirements of NJAC 6:28-1.1 et seq.
- (d) Regardless of the outcome of any appeal, a parent or adult pupil shall be permitted to place a statement in the pupil record commenting upon the information in the pupil record or setting forth any reasons for disagreement with the decision of the agency. Such statements shall be maintained as part of the pupil record as long as the contested portion of the record is maintained. If the contested portion of the record is disclosed to any party, the statement commenting upon the information must also be disclosed to that party.

6:3-2.8 Retention and destruction of pupil records

- (a) A pupil record is considered to be incomplete and not subject to the provisions of the Destruction of Public Records Law NJSA 47:3-15 et seq. while the student is enrolled in the school district.
- (b) Mandated pupil records of currently enrolled pupils, other than that described in (e) below may be destroyed after the information is no longer necessary to provide educational services to a pupil. Such destruction shall be accomplished only after written parental or adult pupil notification and and written parental or adult pupil permission has been granted or after reasonable attempts of such notification and reasonable attempts to secure parental permission have been unsuccessful.
- (c) Upon graduation or permanent departure of a pupil from the school system:
1. The parent or adult pupil shall be notified in writing that a copy of the entire pupil record will be provided to them upon request.

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2. Information in pupil records, other than that described in (e) below may be destroyed, but only in accordance with the Destruction of Public Records Law, NJSA 47:3-15 et seq. Such destruction shall be accomplished only after written parental or adult pupil notification and written parental or adult pupil permission has been granted, or after reasonable attempts at such notification and reasonable attempts to secure parental permission have been unsuccessful.
- (d) No additions shall be made to the record after graduation or permanent departure without the prior written consent of the parent of adult pupil.
- (e) The New Jersey public school district of last enrollment shall keep in perpetuity a permanent record of a pupil's name, date of birth, sex, address, telephone number, grades, attendance record, classes attended, grade level completed, year completed, name(s) of parent(s) or guardian(s) and citizenship status.
- (f) Information in pupil records, other than that described above may be destroyed after the information is no longer necessary to provide educational services to a pupil. Such destruction shall be accomplished only after written parental or adult pupil permission has been granted or after reasonable attempts of such notification and reasonable attempts to secure parental permission have been unsuccessful.
- (g) The New Jersey public school district of last attendance shall be responsible for maintaining a pupil's records upon graduation or permanent departure of the pupil from the system of free and appropriate public education pursuant to NJAC 6:1-1 et seq.

Reference: NJAC 18A:36-19

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