

## Students

### **Administrative Procedure – School Student Records**

This procedure implements policy 7:340, *Student Records*. It contains a **Table of Contents** and lettered **Sections**.

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#### **A. Legal Citations and Definitions**

The legal requirements contained in this procedure are followed by a citation to the controlling rule and/or statute. Citations in parenthesis indicate the location of a named law. For additional clarification regarding a requirement, the cited law should be reviewed.

Definitions are found in the Illinois School Student Records Act (105 ILCS 10/2) and the Illinois State Board of Education rules (23 Ill.Admin.Code §375.10). For easy reference, some definitions are re-printed in this procedure.

The release of confidential information given by a student to a therapist (e.g., school counselor or psychologist) is not included in these procedures but is governed by the Mental Health and Developmental Disabilities Confidentiality Act (740 ILCS 110/).

#### **B. School Student Records Defined**

*School Student Record* means any writing or other recorded information concerning a student and by which a student may be individually identified that is maintained by a school or at its direction or by an employee of a school, regardless of how or where the information is stored. 105 ILCS 10/2(d).

*Special Education Records* means school records that relate to identification, evaluation, or placement of, or the provision of a free and appropriate public education to, students with disabilities under the Individuals with Disabilities Education Act (20 U.S.C. §1400 *et seq.*) and Article 14 of the School Code. These records include the report of the multidisciplinary staffing conference on which placement or nonplacement was based and all records and audio recordings in any format relating to special education placement hearings and appeals. 23 Ill.Admin.Code §375.10.

A school student record does not include any of the following:

1. Writings or other recorded information kept in a school staff member's sole possession that is destroyed not later than the student's graduation or permanent withdrawal, and is not accessible or revealed to any other person except a temporary substitute teacher. 105 ILCS 10/2(d).
2. Information maintained by law enforcement professionals working in the school. 105 ILCS 10/2(d).
3. Video or other electronic recordings created and maintained by law enforcement professionals working in the school or for security or safety reasons or purposes, provided the information was created at least in part for law enforcement or security or safety reasons or purposes. This includes, without limitation, electronic recordings made on school buses, as defined in the exemption from the criminal offense of eavesdropping in 720 ILCS 5/14-3. The content of these recordings may become part of a school student record to the extent school officials create, use, and maintain this content, or it becomes available to them by law enforcement officials for disciplinary or special education purposes regarding a particular student. 23 Ill.Admin.Code §375.10.
4. Any information, either written or oral, received from law enforcement officials pursuant to 105 ILCS 5/22-20 concerning a student less than the age of 17 years who has been arrested or taken into custody. 23 Ill.Admin.Code §375.10.

### **C. Eligible Students Accorded the Rights of Parent/Guardian**

All rights and privileges concerning school student records that are accorded to parents/guardians become exclusively those of the student when the student reaches 18 years of age, graduates from high school, marries, or enters military service, whichever occurs first. 105 ILCS 10/2(g). Such students are called *eligible students* in this procedure.

### **D. Official Records Custodians**

Each Building Principal and Program Coordinator is designated the Official Records Custodian for his or her respective school(s) and has the duties, without limitation, listed below.

1. Is responsible for the maintenance, care, and security of all copies of temporary school student records, whether or not the records are in his or her personal custody or control, and shall take all reasonable measures to prevent unauthorized access to or dissemination of school student records. 105 ILCS 10/4(a)&(b).
2. Reviews copies of temporary school student records at least every 4 years, or upon a student's change in attendance centers, whichever occurs first, to verify entries and correct inaccurate information. The records review is required in any given school year at the time a student first changes attendance centers within the Cooperative, but it does not need to be conducted if the student enrolls in a different attendance center later in that same school year. 23 Ill.Admin.Code §375.40(b).
3. When notified by the Dept. of Children and Family Services (DCFS), purges DCFS's final finding report from the student's record and returns the report to DCFS. If a school has transferred the report to another school as part of the transfer of the student's records, the sending school shall forward a copy of the DCFS's request to the receiving school. 325 ILCS 5/8.6.

4. Takes all action necessary to assure that school personnel are informed of the provisions of the School Student Records Act. 105 ILCS 10/3(c).
5. Performs all actions required of the Cooperative described in this procedure and the laws governing school student records.

The Building Principal or Program Coordinator may delegate any of these duties to an appropriate staff member but shall remain responsible for the duty's execution.

The resident school district manages requests to access school student records, transfers, notification of rights, directory information, opt-out for military recruiters and institutions of higher learning, notification of hearing to challenge entries into school student records, and notification of destruction of permanent and temporary school student records.

#### **E. Maintenance of School Student Records** 105 ILCS 10/2; 23 Ill.Admin.Code §375.10

The Cooperative manages a copy of *temporary school student records* which contains all information not required to be kept in the student permanent record and may include:

1. Record of release of temporary record information that contains the information listed in the subsection on **Record of Release**, below
2. Scores received on the State assessment tests administered in the elementary grade levels (that is, kindergarten through grade 8)
3. Completed home language survey (23 Ill.Admin.Code §228.15(d).)
4. Information regarding serious disciplinary infractions (that is, those involving drugs, weapons, or bodily harm to another) that resulted in expulsion, suspension, or the imposition of punishment or sanction
5. Any final finding report received from a Child Protective Service Unit provided to the school under the Abused and Neglected Child Reporting Act; no report other than what is required under Section 8.6 of that Act shall be placed in the student record (23 Ill.Admin.Code §375.40(f).)
6. Health-related information, defined by ISBE rule as “current documentation of a student’s health information, not otherwise governed by the Mental Health and Developmental Disabilities Confidentiality Act (740 ILCS 110) or other privacy laws, which includes identifying information, health history, results of mandated testing and screenings, medication dispensation records and logs (e.g., glucose readings), long-term medications administered during school hours, and other health-related information that is relevant to school participation (e.g., nursing services plan, failed screenings, yearly sports physical exams, interim health histories for sports)”
7. Accident report, defined by ISBE rule as “documentation of any reportable student accident that results in an injury to a student, occurring on the way to or from school or on school grounds, at a school athletic event or when a student is participating in a school program or school-sponsored activity or on a school bus and that is severe enough to cause the student not to be in attendance for one-half day or more or requires medical treatment other than first aid. The accident report shall include identifying information, nature of injury, days lost, cause of injury, location of accident, medical treatment given to the student at the time of the accident, or whether the school nurse has referred the student for a medical evaluation, regardless of whether the parent,

guardian or student (if 18 years or older) or an unaccompanied homeless youth ... has followed through on that request.”

8. Any documentation of a student’s transfer, including records indicating the school or school district to which the student transferred (23 Ill.Admin.Code §375.75(e).)
9. Completed course substitution form for any student who, when under the age of 18, is enrolled in vocational and technical course as a substitute for a high school or graduation requirement (23 Ill.Admin.Code §1.445.)

The *temporary record* may also consist of:

1. Family background information
2. Intelligence test scores, group and individual
3. Aptitude test scores
4. Reports of psychological evaluations, including information on intelligence, personality, and academic information obtained through test administration, observation, or interviews
5. Elementary and secondary achievement level test results
6. Participation in extracurricular activities, including any offices held in school-sponsored clubs or organizations
7. Honors and awards received
8. Teacher anecdotal records
9. Other disciplinary information
10. Special education records
11. Records associated with plans developed under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §701 et seq.)
12. Verified reports or information from non-educational persons, agencies, or organizations of clear relevance to the student’s education

#### **F. Retention and Destruction of School Student Records**

The resident school district maintains both permanent and temporary school student records. When a student is deactivated from Cooperative services, the copy of the temporary school student record is sent to the student’s resident school district to be incorporated into the official temporary record.

#### **G. Social Security Numbers**

Cooperative officials, with limited exceptions, may not require students or their parents/guardians to provide social security numbers. Privacy Act of 1974, 5 U.S.C. §552a, as supplemented by Pub.L. 93-579. The collection and retention of social security numbers shall be in accordance with Board policy 4:15, *Identity Protection*.

#### **H. Access to School Student Records**

Neither the Cooperative nor any of its employees shall release, disclose, or grant access to information found in any school student record unless as indicated below. Absent a court order, Cooperative officials do not provide educational records to the Immigration Customs Enforcement.

##### **Access to Parent/Guardian or Eligible Student**

1. School student records are accessed through a student’s resident school district, not through the Cooperative or its programs.

**Access Without Notification to or Consent of Parent/Guardian or Eligible Student**

1. Cooperative employees or officials of the Illinois State Board of Education will be granted access to copies of temporary school student records, without parental/guardian consent or notification, when a current, demonstrable, educational or administrative need is shown. Access in such cases is limited to the satisfaction of that need. 105 ILCS 10/6(a)(2). Individual board members do not have a right to see student records merely by virtue of their office unless they have a current demonstrable educational or administrative interest in the student and seeing his or her record(s) would be in furtherance of the interest. 105 ILCS 10/6(a)(2).
2. Access to copies of temporary school student records will be granted, without parental/guardian consent or notification, to any person for the purpose of research, statistical reporting, or planning, provided that no student or parent/guardian can be identified from the information released, and the person to whom the information is released signs an affidavit agreeing to comply with all applicable statutes and rules pertaining to school student records. 105 ILCS 10/6(a)(4).
3. The Cooperative will comply with an *ex parte* court order requiring it to permit the U.S. Attorney General or designee to have access to a copy of the student's temporary school student record without notice to or the consent of the student's parent(s)/guardian(s). 20 U.S.C. §1232(g)(j), as added by the Sec. 507 of the U.S.A. Patriot Act of 2001. An *ex parte* order is an order issued by a court of competent jurisdiction without notice to an adverse party.
4. A SHOCAP (Serious Habitual Offender Comprehensive Action Program) committee member will be granted access to copies of temporary school student records, but only to the extent that the release, transfer, disclosure, or dissemination is consistent with the Family Educational Rights and Privacy Act. 105 ILCS 10/6(a)(10) allows disclosure to SHOCAP committee members who are "state and local officials and authorities" as those terms are used in the federal Family Educational Rights and Privacy Act. This federal law does not define "state and local officials and authorities;" rather, it limits when disclosure may be made to such officials and authorities.
5. Juvenile authorities will be granted access to copies of temporary school student records when necessary for the discharge of their official duties upon their request before the student's adjudication, provided they certify in writing that the information will not be disclosed to any other party except as provided under law or order of court. *Juvenile authorities* means: (a) a circuit court judge and court staff members designated by the judge; (b) parties to the proceedings under the Juvenile Court Act of 1987 and their attorneys; (c) probation officers and court appointed advocates for the juvenile authorized by the judge hearing the case; (d) any individual, public or private agency having court-ordered custody of the child; (e) any individual, public or private agency providing education, medical or mental health service to the child when the requested information is needed to determine the appropriate service or treatment for the minor; (f) any potential placement provider when such release is authorized by the court to determine the appropriateness of the potential placement; (g) law enforcement officers and prosecutors; (h) adult and juvenile prisoner review boards; (i) authorized military personnel; and (j) individuals authorized by court. 105 ILCS 10/6(a)(6.5).

**Access Without Consent of, but With Notification to, Parent/Guardian or Eligible Student**

1. Access will be granted to copies of temporary school student records pursuant to a court order, provided that the parent(s)/guardian(s) shall be given prompt written notice of such order's terms, the nature and substance of the information proposed to be released, and an opportunity to inspect and copy such records and to challenge their contents. 105 ILCS 10/6(a)(5). Parents of students who are named in a court order or parenting plan shall be deemed to have received the required written notice. The Building Principal or Program Coordinator shall respond to the order no earlier than 5 school days after its receipt in order to afford parents/guardians the opportunity to review, inspect, and challenge the records if the parents choose to do so. 23 Ill.Admin.Code §375.70(d).

For the purposes of these procedures, a court order is a document signed by a judge. A subpoena signed by a court clerk, an attorney, or an administrative agency official shall not be considered a court order unless signed by a judge. 23 Ill.Admin.Code §375.40(a).

2. Information may be released without parental consent, in connection with an articulable and significant threat to the health or safety of a student or other individuals, to appropriate persons if the knowledge of the requested information is necessary to protect the health or safety of the student or other individuals. The Building Principal or Program Coordinator shall make this decision taking into consideration the seriousness of the threat, the need for such records to meet the emergency, whether the persons to whom such records are released are in a position to deal with the emergency, and the extent to which time is of the essence in dealing with the emergency. 105 ILCS 10/6(a)(7); 23 Ill.Admin.Code §375.60. The Building Principal or Program Coordinator shall notify the parent(s)/guardian(s) or eligible student, no later than the next school day after the date that the information is released, of the date of the release, the person, agency or organization to whom the release was made, and the purpose of the release.
3. The Cooperative will grant access as specifically required by federal or State statute, provided the individual complies with the requirements in 23 Ill.Admin.Code §375.70(b). 105 ILCS 10/6(a)(6). Prior to granting access, the Building Principal or Program Coordinator shall provide prompt written notice to the parent(s)/guardian(s) or eligible student of this intended action. 105 ILCS 10/6(b); 23 Ill.Admin.Code §375.70. This notification shall include a statement concerning the nature and substance of the records to be released and the right to inspect, copy, and challenge the contents. If the release relates to more than 25 students, a notice published in the newspaper is sufficient.

The Cooperative charges \$.35 per page for copying information from a student's records. No parent/guardian or student shall be precluded from copying information because of financial hardship. 23 Ill.Admin.Code §375.50.

**I. Record of Release**

1. Except as provided below, a record of all releases of information from a copy of temporary school student records (including all instances of access granted whether or not

records were copied) shall be kept and maintained as part of such records. 105 ILCS 10/6(c). This record shall be maintained for the life of the school student record and shall be accessible only to the parent(s)/guardian(s) or eligible student, Building Principal, or other authorized person. The record of release shall include each of the following:

1. Information released or made accessible
2. The name and signature of the Building Principal
3. The name and position of the person obtaining the release or access
4. The date of the release or grant of access
5. A copy of any consent to such release

No record of a disclosure is maintained when records are disclosed according to the terms of an *ex parte* court order. 20 U.S.C. §1232(g)(j)(4).

#### **J. Orders of Protection**

Upon receipt of a court order of protection, the Building Principal or Program Coordinator shall file it in the copy of the temporary school student record of a student who is the *protected person* under the order of protection. No information or records shall be released to the Respondent named in the order of protection. 750 ILCS 60/222(e).

#### **K. Parenting Plans**

Upon receipt of a parenting plan under the Illinois Marriage and Dissolution of Marriage Act (750 ILCS 5/, amended by P.A. 99-90, eff. 1/1/16), the Program Administrator shall file it in the temporary record of a student who is the subject of the parenting plan.

LEGAL REF.: Family Education Rights and Privacy Act, 20 U.S.C. §1232g; implemented by 34 C.F.R. Part 99.  
Illinois School Student Records Act, 105 ILCS 10/2; implemented by 23 Ill.Admin.Code Part 37.  
The Illinois Marriage and Dissolution of Marriage Act, 750 ILCS 5/.  
Mental Health and Developmental Disabilities Confidentiality Act, 740 ILCS 110/.

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