



Student Records & Privacy:
Confidentiality

Student Records and Privacy

Federal and state laws and regulations strictly prohibit the unauthorized disclosure of student records and personally identifiable information.

Protected student information includes, but is not limited to:

- *Attendance*
- *Grades*
- *Testing Reports*
- *Achievement*
- *Honors/Awards*
- *Discipline Records*

Privacy & Student Records: *Laws and Regulations*

State student records regulations

- MGL c. 71 §34(A-H)
- 603 CMR 23.00

Federal student records law

- Family Educational Rights and Privacy Act (FERPA)

What is a Student Record?

The student record consists of:

- Permanent Record
 - *Transcript*
- Temporary Record

All information, in any form, that is organized on the basis of the student's name or in a way that the student may be individually identified.

Includes staff emails that contain information regarding a student that would allow the student to be individually identified.

Does not include personal memory aids (notes) of staff so long as they are not revealed to any other individual.

Destruction of Student Records

A student's Permanent Record (Transcript) must be maintained for sixty (60) years

A Student's Temporary Record must be destroyed within seven (7) years after the student's withdrawal, transfer, graduation

- The District must provide prior written notice of destruction of records and an opportunity for the student or parents to obtain copies of the records to be destroyed.
- This is typically done through the posting of a notice of intent in regards to record destruction.

Access to Student Records

Those entitled to access the student record include:

- Parents and students (if 14 or older or in 9th grade);
- Authorized school personnel;
- Other individuals with the written consent of the parents or student (if 14 or older or in 9th grade).

Access of Authorized School Personnel

603 CMR 23.02

Parent/student consent not required prior to releasing student record information to Authorized School Personnel. Authorized personnel includes:

- Administrators, teachers, counselors and other professionals who:
 - Are employed by the school committee or who are providing services to the student under an agreement between the school committee and a service provider; and
 - who are working directly with the student in an administrative, teaching, counseling, and/or diagnostic capacity.
- Administrative office staff and clerical personnel, including operators of data processing equipment or equipment that produces microfilm/microfiche, who are either employed by the school committee or are employed under a school committee service contract, and whose duties require them to have access to student records for purposes of processing information for the student record. Such personnel shall have access only to the student record information that is required for them to perform their duties.
- The Evaluation Team which evaluates a student.

Non-Custodial Parents

Under MGL c.71, § 34H

- The release of student record information to non-custodial parents without providing 21 days written notice to the custodial parent is prohibited.

Non-custodial Parent is defined as:

- A parent who by court order does not have **physical** custody of the student.
- Includes parents who by court order do not reside with or supervise the student, even for short periods of time.

Non-Custodial Parent

MGL c.71, § 34H

Any parent who does not have physical custody of a child shall be eligible for the receipt of information unless:

1. the parent's access to the child is currently prohibited by a **temporary or permanent protective order**, except where the protective order, or any subsequent order which modifies the protective order, specifically allows access to the information described in this section;
1. the parent is **denied visitation** or, based on a threat to the safety of the child, is currently denied legal custody of the child or is currently ordered to **supervised visitation**, and the threat is specifically noted in the order pertaining to custody or supervised visitation.

Process for Releasing Information to Non-Custodial Parents

1. Non-custodial Parent submits written request annually.
2. School promptly notifies custodial parent by certified and First Class mail that records will be provided after 21 days unless custodial parent provides documentation establishing that the Non-Custodial Parent is ineligible to access records and information.
3. If eligible, Non-Custodial Parent is provided with records after 21 days.
4. If records are produced to the non-custodial parent, **the school must remove all addresses and contact information from the documents**
5. Upon receipt of a court order that prohibits the distribution of information pursuant to G.L. c. 71, § 34H, the school will notify the non-custodial parent that it shall cease to provide access to the student record to the non-custodial parent.

Non-Consensual Disclosures

A school may release records and personally identifiable information without consent:

- Upon receipt of a request from DCF, DYS, Probation Officer or a Judge under the provisions of MGL c. 119, sections 51B, 57, 69 and 69A.
- To federal and state education officials
- In response to a lawfully issued subpoena/court order but must provide prior written notice to parents
- To law enforcement authorities, DCF, and other agencies in response to a health or safety emergency

Log of Access

Schools must maintain a log for each student record reflecting:

- Name, position, and signature of the individual authorizing access to the record;
- Name, position/affiliation of the individual accessing the record;
- Date on which the record is accessed;
- Reason for accessing the record.

Exceptions:

- Authorized school personnel
- Administrative and clerical staff
- School nurses who inspect health records

Maintaining Student Privacy: *In School*

- Do not discuss information about students in public places (lunchroom, staff room, bus lines, etc.).
- Share only information that is part of the work process with authorized school personnel.
- Do not leave personal student information in public view or unsecured locations.

Maintaining Student Privacy: *In the Community*

When out of school, do not:

- Discuss any school discipline issue;
- Divulge whether a student is in special education;
- Talk about a student's attendance, grades, or appearance;
- Discuss test scores or academic performance.