

All student records must be current and maintained with appropriate measures of security and confidentiality. The principal is responsible for complying with all legal requirements pertaining to the maintenance, review, and release of student records retained at the school. For purposes of this policy “student records” or “student education records” are those records, files, documents, and other materials that contain information directly related to the student that are maintained by the school system or by a party acting for the school system.

A. ANNUAL NOTIFICATION OF RIGHTS

The superintendent or designee shall provide eligible students and parents with annual notification of their rights under the Family Educational Rights and Privacy Act (FERPA). The notice must contain all information required by federal law and regulations, including the following:

1. the right to inspect and review the student’s education records and the procedure for exercising this right;
2. the right to request amendment of the student’s education records that the parent or eligible student believes to be inaccurate, misleading, or in violation of the student’s privacy rights; and the procedure for exercising this right;
3. the right to consent to disclosures of personally identifiable information contained in the student’s education records, except to the extent that FERPA authorizes disclosure without consent;
4. the type of information designated as directory information and the right to opt out of release of directory information;
5. that the school system releases records to other institutions that have requested the information and in which the student seeks or intends to enroll;
6. the right to opt out of releasing the student’s name, address, and phone number to military recruiters or institutions of higher education that request such information;
7. a specification of the criteria for determining who constitutes a school official and what constitutes a legitimate educational interest if a school official discloses or intends to disclose personally identifiable information to school officials without consent;
8. notification if the school system uses contractors, consultants, volunteers, or similar persons as school officials to perform certain school system services and functions that it would otherwise perform itself; and

9. the right to file complaints with the Family Policy Compliance Office in the U.S. Department of Education.

School officials are not required to individually notify parents or eligible students of their rights but must provide the notice in a manner reasonably likely to inform the parents and eligible students of their rights. Effective notice must be provided to parents or eligible students with disabilities or those whose primary or home language is not English.

B. DEFINITION OF PARENT AND ELIGIBLE STUDENT

1. Parent

For purposes of this policy, the term “parent” includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian. If the parents of a student are separated or divorced, both parents have the right to access the student’s records as provided in this policy, unless the school system has been provided with evidence that there is a court order, state statute, or other legally binding document that specifically revokes these rights.

2. Eligible Student

For purposes of this policy, an eligible student is a student who has reached 18 years of age or is attending an institution of postsecondary education. The rights afforded to parents under this policy transfer to an eligible student. However, parents may still have access to the records as long as the student is claimed as a dependent by the parent for federal income tax purposes. An eligible student who desires to prevent access to records by his or her parents must furnish to the principal information verifying that the student is not a dependent of his or her parents. If a parent of a student who is at least 18 and no longer attending a school within the system wishes to inspect and review the student’s records, he or she must provide information verifying that the student is a dependent for federal income tax purposes.

A student under age 18 may have access to student records only upon the consent of his or her parents.

C. CLASSIFICATION AND MAINTENANCE OF RECORDS

1. Student Education Records

Student education records may be separated into several categories, including, but not limited to, the following.

a. Cumulative Records

The cumulative record is the official record for each student. The cumulative record includes student identification information, such as the student's name, address (or a homeless student's living situation), sex, race, birthplace, and birth date; family data including the parents' names, addresses, work and home telephone numbers, and places of employment; academic work completed; grades; standardized test scores; health screenings and immunization documentation; attendance records; withdrawal and reentry records; discipline records; honors and activities; class rank; date of graduation; and follow-up records.

b. Discipline Records

Student discipline records are part of the student's official record and must be maintained and reviewed pursuant to policy 4345, Student Discipline Records. Discipline records must be expunged and forwarded pursuant to the requirements of law and the procedures of policy 4345.

c. Records of Students with Disabilities

Students with recognized disabilities must be accorded all rights in regard to their records as provided by state and federal law, including the Individuals with Disabilities Education Act and policy 3520, Special Education Programs/Rights of Students with Disabilities. Records for a student identified as a student with a disability are considered part of the student's official records and must be maintained in accordance with all appropriate federal and state regulations. Access to these records will be restricted to personnel having specific responsibility in this area. A list of all approved personnel having access to these restricted files will be updated as needed, and a current, dated list will be posted in the student records location.

d. Records Received from the Department of Social Services

The Department of Social Services may disclose confidential information to the school system in order to protect a juvenile from abuse or neglect. Any confidential information disclosed under these circumstances must remain confidential and may only be redisclosed for purposes directly connected with carrying out the school system's mandated educational responsibilities.

e. Juvenile Records

Juvenile records include documentation or information regarding students who are under the jurisdiction of the juvenile court. These records may be received from local law enforcement and/or other local agencies authorized to share information concerning juveniles in accordance with G.S. 7B-3100.

These records also may include notice from the sheriff to the board that a student has been required to register with the sheriff because the student has been found to be a danger to the community under G.S. Chapter 14, Part 4. Such documents must not be a part of a student's official records but must be maintained by the principal in a safe, locked storage area that is separate from the student's other records. The principal shall not make a copy of such documents under any circumstances.

Juvenile records will be used only to protect the safety of or to improve the educational opportunities for the student or others. The principal may share juvenile records with individuals who have (a) direct guidance, teaching, or supervisory responsibility for the student and (b) a specific need to know in order to protect the safety of the student and others. Persons provided access to juvenile records must indicate in writing that they have read the document(s) and agree to maintain confidentiality of the records.

The principal or designee must destroy juvenile documents if he or she receives notification that a court no longer has jurisdiction over the student or if the court grants the student's petition for expunction of the records. The principal or designee shall destroy all other information received from an examination of juvenile records when he or she finds that the information is no longer needed to protect the safety of or to improve the educational opportunities for the student or others. If the student graduates, withdraws from school, transfers to another school, is suspended for the remainder of the school year, or is expelled, the principal shall return all documents not destroyed to the juvenile court counselor. If the student is transferring, the principal shall provide the juvenile court counselor with the name and address of the school to which the student is transferring.

f. Other Student Records

School system personnel may also keep other student records but must review such records annually and destroy them in accordance with Section K of this policy.

2. Records Not Considered Education Records (Sole Possession, Employment, and Law Enforcement Records)

Student education records do not include, and release of information under this policy does not apply to:

- a. records made by teachers, counselors, and administrators that are in the sole possession of the maker thereof and that are not accessible or revealed to any other person except a substitute;
- b. employment records of student employees if those records relate

exclusively to the student in his or her capacity as an employee and are not made available for any other use; and

- c. records created by a law enforcement unit of the school system if created for a law enforcement purpose and maintained solely by the law enforcement unit of the school system. However, a law enforcement record containing information that was obtained from a student's confidential file or other education record must be treated as an education record and may be released only in accordance with this policy.

D. RECORDS OF STUDENTS PARTICIPATING IN THE NORTH CAROLINA ADDRESS CONFIDENTIALITY PROGRAM

Students or parents enrolled in the North Carolina Address Confidentiality Program (NCACP) must provide a valid NCACP authorization card to the school principal if they wish to keep their home address confidential. The school system will maintain a confidential record of the actual home address for admission and assignment purposes only and will not release that address except as provided by law. With the exception of such specially-maintained records, student records will include only the substitute address provided by the NCACP and not the actual home address of any students or parents for whom a valid NCACP authorization card is on file.

When transferring the record of a student participating in the North Carolina Address Confidentiality Program to a school outside of the system, the transferring school may send the files to the Address Confidentiality Program participant (parent or guardian) via the substitute address provided by the Address Confidentiality Program.

E. RECORDS OF MISSING CHILDREN

Upon notification by a law enforcement agency or the North Carolina Center for Missing Persons of the disappearance of a child who is currently or was previously enrolled in the school, school officials shall flag the record of that child. If the missing child's record is requested by another school system, the principal shall provide notice of the request to the superintendent and the agency that notified the school that the child was missing. The principal shall provide the agency with a copy of any written request for information concerning the missing child's record.

Any information received indicating that a student transferring into the system is a missing child must be reported promptly to the superintendent and the North Carolina Center for Missing Persons.

F. RECORDS OF MILITARY CHILDREN

School administrators shall comply with any regulations pertaining to the records of military children developed by the Interstate Commission on Educational Opportunity for Military Children.

In addition, children of military families, as defined by policy 4050, Children of Military Families, are entitled to the following.

1. For Students Leaving the School System

In the event that official education records cannot be released to the parents of military children who are transferring away from the school system, the custodian of records shall prepare and furnish to the parent a complete set of unofficial education records containing uniform information as determined by the Interstate Commission.

When a request for a student's official record is received from the student's new school, school officials shall process and furnish the official records to the student's new school within 10 days or within such time as is reasonably determined by the Interstate Commission.

2. For Students Enrolling in the School System

Upon receiving an unofficial education record from the student's previous school, school administrators shall enroll the student and place him or her in classes as quickly as possible based on the information in the unofficial records, pending validation by the official records.

Simultaneous with the enrollment and conditional placement of the student, school administrators shall request the student's official record from his or her previous school.

G. REVIEW, RELEASE OF RECORDS TO PARENT OR ELIGIBLE STUDENT

1. Review by Parent or Eligible Student

A parent or eligible student may access the student's education records upon proper request. The principal or guidance office personnel of the student's school shall schedule an appointment as soon as possible but no later than 45 days after the request by the parent or eligible student. The parent or eligible student may formally review the student's complete education records only in the presence of the principal or a designee competent to explain the records. School personnel shall not destroy any education records if there is an outstanding request to inspect or review the records.

2. Review of Video or Audio Recordings and Photographs

a. Parent's Right to Review

Upon request, a parent or eligible student may inspect and review a video or audio recording or photograph that is determined to be an education record of the student. Individuals acting on behalf of a parent or eligible child, such as advocates or attorneys, will not be permitted to review a video or audio recording or photo unless accompanied by the parent or eligible student.

b. Status as Education Record

A video or audio recording or photo will be deemed an education record of the student if it is directly related to the student and is maintained by the school system or its agent, as provided by law. A photo, video, or audio recording (such as a surveillance video), that is created and maintained by a law enforcement unit for a law enforcement purpose, is not an education record; however, a copy of such photo, video, or audio recording provided to the school for disciplinary or other school purposes may be an education record if it is directly related to a student and is maintained by the school system.

c. Records of More Than One Student

If the recording or photo is an education record of multiple students, the school system shall make reasonable efforts to redact or segregate out the portions of the recording or photo directly related to other students before providing the parent or eligible student access, provided doing so would not destroy the meaning of the record. If redaction or segregation of the recording or photo cannot reasonably be accomplished or would destroy the meaning of the record, then the parent of each student to whom the recording or photo directly relates or such eligible students themselves shall be permitted to access the entire record.

d. Copies of Recordings and Photos

A copy of a video or audio recording or photo will be provided to a parent or eligible student only (1) if circumstances effectively prevent the parent or eligible student from exercising the right to inspect the recording or photo, such as when the parent no longer lives within commuting distance of the school system; (2) when directed by a court order or subpoena; or (3) when otherwise required by law.

3. Request to Amend the Education Record

A parent or eligible student has the right to challenge an item in the student education record believed to be inaccurate, misleading, or otherwise in violation of the student's privacy rights. The principal shall examine a request to amend a student record item and respond in writing to the person who challenges the item.

Subsequent steps, if necessary, will follow the student grievance procedures as provided in policy 1740/4010, Student and Parent Grievance Procedure. If the final decision is that the information in the record is not inaccurate, misleading, or otherwise in violation of the privacy rights of the student, the principal shall inform the parent or eligible student of the right to place a statement in the record commenting on the contested information in the record or stating why he or she disagrees with the decision of the school system.

H. RELEASE OR DISCLOSURE OF RECORDS TO OTHERS

Before releasing or disclosing education records as permitted by law, school officials shall use reasonable methods to identify and authenticate the identity of the party to whom the records are disclosed.

1. Release/Disclosure with Parental Consent

School officials shall obtain written permission from a parent or eligible student before releasing or disclosing student records that contain personally identifiable information, except in circumstances where the school system is authorized by law to release the records without such permission. The written permission must specify the records to be released, the purpose of the release, and the party(ies) to whom they are to be released.

2. Release/Disclosure without Parental Consent

School system officials shall promptly release student records when a student transfers to another school. The records custodian may release or disclose records with personally identifiable information without parental permission to the extent permitted by law, including to other school officials who have a legitimate educational interest in the records.

Personally identifiable information from a student's record may be released or disclosed to someone other than a parent or eligible student without prior written consent of the parent or eligible student only as specifically provided by federal law. Except as otherwise permitted by federal law, when personally identifiable information from a student's record is released or disclosed to someone other than a parent or eligible student without their written consent, the party to whom the information is released must agree not to disclose the information to any other party without the prior written consent of the parent or eligible student.

The superintendent shall employ reasonable methods to ensure that teachers and other school officials obtain access only to those education records in which they have legitimate educational interests.

3. Release of Directory Information

Permission of the parent or eligible student is not required for the release of information that is designated as directory information by the board, provided that the parent or eligible student has been given proper notice and an opportunity to opt out. (See policy 1310/4002, Parental Involvement.)

- a. The board designates the following student record information as directory information:
 - (1) name;
 - (2) address;
 - (3) telephone listing;
 - (4) email address;
 - (5) photograph; or digital image, including still or video images of a student engaged in ordinary school activities;
 - (6) date and place of birth;
 - (7) participation in officially recognized activities and sports;
 - (8) weight and height of members of athletic teams;
 - (9) dates of attendance;
 - (10) grade level;
 - (11) diplomas (including endorsements earned), industry credentials/certifications, and awards received; and
 - (12) most recent previous school or education institution attended by the student.
 - (13) Pictures or videos taken on buses, school grounds, in school buildings and at school activities unless the picture or video may reveal confidential information about a student.
- b. The telephone number and actual address of a student who is or whose parent is a participant in the North Carolina Address Confidentiality Program is not considered directory information and will not be released except as required by law.
- c. Information about a homeless student's living situation is not considered directory information and will not be released.

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- d. As required by law, the names, addresses, and telephone numbers of secondary school students shall be released, upon request, to military recruiters or institutions of higher learning, whether or not such information is designated directory information by the school system. In addition, secondary school students' email addresses (which will be the email addresses provided by the school, if available) must be provided to military recruiters upon request. Students or their parents, however, may request that the student's name, address, email address, and telephone number not be released without prior written parental consent. School officials shall notify parents of the option to make a request and shall comply with any requests made.
- e. All requests for directory information must be submitted to the superintendent or designee for approval. The superintendent is directed to establish regulations regarding the release of directory information. At a minimum, the regulations must:
- (1) specify the types of organizations that are eligible to receive directory information and for what purposes;
 - (2) provide for equal disclosure to organizations that are similar in purpose; and
 - (3) authorize access to directory information to recruiters of military forces of the state or United States for the purpose of informing students of educational and career opportunities available in the military to the same extent that such information is made available to persons or organizations that inform students of occupational or educational options.
 - (4) use the directory information on Elkin City Schools website unless this data would disclose confidential information.

4. Records of Students with Disabilities

Students with recognized disabilities must be accorded all rights in regard to their records as provided by state and federal law, including the Individuals with Disabilities Education Act.

5. Disclosure of De-Identified Information

Education records may be released without consent of the parent or eligible student if all personally identifiable information has been removed. Personally identifiable information includes both direct and indirect identifiers that, alone or in combination, would allow a reasonable person in the school community, who does

not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.

Unless specifically permitted by law, records that have been de-identified must not be released without the consent of the parent or eligible student if school officials reasonably believe that the person requesting the information knows the identity of the student to whom the education record relates.

I. WITHHOLDING RECORDS

School system administrators shall not withhold records upon a valid request by a parent, eligible student, or school to which the student is transferring for any reason, including in order to collect fines assessed to the parent or student.

J. RECORD OF ACCESS AND DISCLOSURE

The principal or designee shall maintain a record in each student's file indicating all persons who have requested or received personally identifiable information from a student's record and the legitimate reason(s) for requesting or obtaining the information. This requirement does not apply to requests by or disclosure to parents, eligible students, school officials, parties seeking directory information, a party seeking or receiving the records under a court order or subpoena that prohibits disclosure, or those individuals with written parental consent.

K. DESTRUCTION OF STUDENT RECORDS

To the extent required by law, school officials shall maintain student records in accordance with the applicable records retention and disposition schedule(s) issued by the North Carolina Department of Natural and Cultural Resources. School officials shall not destroy student records if there is an outstanding request to inspect the particular records.

School officials shall notify parents and eligible students prior to the destruction of personally identifiable information in a student's special education records so that parents may collect the records from the school system if desired. Special education records must be destroyed at the request of parents if no longer needed to provide educational services to the child, including services to protect the safety of the student or others. However, a record of a student's name, address, phone number, grades, attendance record, classes attended, grade level completed, and year completed may be maintained permanently.

L. LONGITUDINAL DATA SYSTEM

School system administrators will comply with the data requirements and implementation schedule for the North Carolina Longitudinal Data System (NCLDS) and will transfer designated student record data to the system in accordance with the NCLDS data security and safeguarding plan and all other requirements of state law, provided that doing so does not conflict with the requirements of FERPA.

M. SURVEYS, EVALUATIONS

No students will be required, as a part of any applicable program, to submit to a survey, analysis or evaluation that reveals information concerning:

- Political affiliations;
- Mental and psychological problems potentially embarrassing to the student or the student's family'
- Sex behavior and attitudes;
- Illegal, antisocial, self-incriminating and demeaning behavior;
- Critical appraisals of other individuals with whom respondents have close family relationships;
- Legally recognized privileged and comparable relationship, such as those of lawyers, physicians and ministers; or
- Income (other than that required by law to determine eligibility for participating in a program or for receiving financial assistance under such program).

Legal References: Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, h, 34 C.F.R. pt. 99; Individuals with Disabilities Education Act, 20 U.S.C. 1411 *et seq.*; Elementary and Secondary Education Act, 20 U.S.C. 7908; McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11431 *et seq.*; 10 U.S.C. 503(c)(1); G.S. 7B-302, -3100; 14-208.29; 115C-47(26), -109.3, -402, -403, -404, -407.5; 116E-6; *Program Records Schedule: Local Public School Units*, N.C. Department of Natural and Cultural Resources (2021), available at <https://archives.ncdcr.gov/documents/local-education-agencies-schedule>; *General Records Schedule Local Government Agencies*, NC Department of Natural and Cultural Resources (2021), available at <https://archives.ncdcr.gov/government/retention-schedules/local-government-schedules/general-records-schedule-local-government>

Cross References: Parental Involvement (policy 1310/4002), Student and Parent Grievance Procedure (policy 1740/4010), Special Education Programs/Rights of Students with Disabilities (policy 3520), Children of Military Families (policy 4050), Homeless Students (policy 4125), North Carolina Address Confidentiality Program (policy 4250/5075/7316), Disciplinary Action for Exceptional Children/Students with Disabilities (policy 4307), Student Discipline Records (policy 4345), Confidentiality of Personal Identifying Information (policy 4705/7825), Surveys of Students (policy 4720), Public Records – Retention, Release, and Disposition (policy 5070/7350)

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