

# REGULATION

## BOARD OF EDUCATION DENVER

Operations  
8330. PUPIL RECORDS (M)

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#### A. Definitions

1. “Access” means the right to view, make notes, and/or reproduce the pupil record.
2. “Mandated pupil records” means those pupil records that school districts have been directed to compile by State statute, regulation, or authorized administrative directive.
3. “Parent” means the natural or adoptive parent, the legal guardian, surrogate parent, or a person acting in place of a parent in accordance with N.J.A.C. 6A:32-2.1. Unless parental rights have been terminated by a court of appropriate jurisdiction, the parent retains all rights under N.J.A.C. 6A:32. A foster parent may act as a parent under the provisions of N.J.A.C. 6A:32 if the parent’s authority to make educational decisions on the pupil’s behalf has been terminated by a court of appropriate jurisdiction.
4. “Permitted pupil records” means records that the Board of Education has authorized, by resolution adopted at a regular public meeting, to be collected in order to promote the educational welfare of the pupil.
5. “Pupil record” means information related to an individual pupil gathered within or outside the school system and maintained within the school system regardless of the physical form in which it is maintained. Any information that is maintained for the purpose of second party review is considered a pupil record. Therefore, information recorded by certified school personnel solely as a memory aid, not for the use of a second party, is excluded from this definition.
6. “Parent surrogate(s)” means an individual or individuals approved by the Board in accordance with N.J.A.C. 6A:14-2.2 to act on behalf of a pupil whose parent(s) is not available to assure the pupil’s educational rights.
7. “Pupil information directory” means a publication of the district which includes the following information relating to a pupil: the pupil’s name, grade level, date and place of birth, dates of attendance, major field 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.

B. General Considerations

1. 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 certified school personnel who originate the record.
2. The district shall notify parents annually in writing of their rights in regard to pupil records and pupil participation in educational, occupational, and military recruitment programs. Copies of the applicable State and Federal laws and local policies shall be made available upon request. The district shall make every effort to notify parents in their dominant language.
3. A non-adult pupil may assert rights of access only through his or her parents. However, nothing in Policy or Regulation 8330 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.
4. The parent shall have access to their own records and have access to or be specifically informed about only that portion of another pupil's record that contains information about his or her own child.
5. The Superintendent or designee shall require all permitted pupil records of currently enrolled pupils to be reviewed annually by certified school personnel to determine the education relevance of the material contained therein. The reviewer shall cause data no longer descriptive of the pupil or educational program to be deleted from the records except that prior notice shall be given for classified pupils in accordance with N.J.A.C. 6A:14, Special Education. Such information shall be disposed of and not be recorded elsewhere. No record of any such deletion shall be made.
6. No liability shall be attached to any member, officer, or employee of the Board of Education permitting access or furnishing pupil records in accordance with Department of Education rules.
7. When the parent's dominant language is not English or the parent is deaf, the district shall provide interpretation of the pupil's records in the dominant language of the parents.
8. Pupil health records shall be maintained separately from other pupil records and handled, according to the requirements of N.J.A.C. 6A:32-7.1, until such time as graduation or termination whereupon the health history and immunization

record shall be removed from the pupil's health record and placed in the pupil's mandated record.

C. School Contact Directory

1. The district shall compile and maintain, but need not publish, a school contact directory for official use, which is separate and distinct from the pupil information directory.
  - a. School personnel shall provide information from the school contact directory for official use only to judicial and law enforcement personnel, and to medical personnel who are currently providing services to the pupil in question.
  - b. Upon request from a court, other judicial agency, law enforcement agency, or medical service provider who is currently providing services to the pupil in question, school personnel shall promptly verify the enrollment of a pupil and provide the requester with all the information about that pupil that is contained in the school contact directory for official use.
2. In order for a parent to exclude any information from the school contact directory for official use, the parent shall notify the Superintendent or designee in writing on a form prescribed by the Commissioner of Education.
  - a. The form shall explain the purpose of the school contact directory for official use is to allow judicial, law enforcement, and medical personnel to contact the parent when necessary, and that the school contact directory for official use is only accessible by school, judicial, law enforcement, and medical personnel who are currently providing services to the pupil in question.

D. Mandated and Permitted Pupil Records

1. Mandated pupil records shall include the following:
  - a. The pupil's name, address, telephone number, date of birth, name of parent(s), gender, citizenship, standardized assessment and test answer sheets (protocol), grades, attendance, classes attended, grade level completed, and year completed;
  - b. Record of daily attendance;
  - c. Descriptions of pupil progress according to the system of pupil evaluation used in the school district;

- d. History and status of physical health compiled in accordance with State regulations, including results of any physical examinations given by qualified school district employees;
  - e. Records pursuant to rules and regulations regarding the education of pupils with disabilities; and
  - f. All other records required by the State Board of Education.
2. Permitted pupil records are authorized by the Board to promote the pupil's educational welfare and include the following as authorized by this Board upon adoption of Policy and Regulation 8330. These records include, but may not be limited to:
- a. Personally authenticated observations, assessments, ratings, and anecdotal reports recorded by teaching staff members in the performance of their professional responsibilities and intended for review by another person, provided the record is dated and signed by the originator. Information recorded solely as a memory aid for the originator becomes a pupil's record when it is reviewed by any other person, including a substitute;
  - b. Information, scores, and results obtained from standardized tests or by approved tests conducted by professional personnel;
  - c. Educationally relevant information provided by the parent regarding the pupil's achievements or school activities;
  - d. Any correspondence with the pupil and/or the pupil's parents;
  - e. Emergency notification form;
  - f. New pupil registration form;
  - g. Withdrawal or transfer form;
  - h. Change of schedule form;
  - i. Records of disciplinary infractions, penalties, and disciplinary hearings;
  - j. Records of the pupil's co-curricular and athletic activities and achievements;
  - k. Class rank;
  - l. Awards and honors;

- m. Notations of additional records maintained in a separate file;
- n. The statement from a pupil's parent regarding a contested portion of the record; and
- o. Entries indicating review of the file by an authorized person.

E. Maintenance and Security of Pupil Records

1. The Superintendent or designee shall be responsible for the security of pupil records maintained in the school district. Policy and Regulation 8330 assures that access to such records is limited to authorized persons.
2. 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 other such records may be found is required.
3. Pupil health records shall be maintained and located in a locked cabinet or room in the school building or complex which the pupil is assigned. Records kept in electronic form shall be both accessible and secure. Pupil health records shall be maintained separately from other pupil records, until such time as graduation or termination whereupon the health history and immunization record shall be removed from the pupil's health record and placed in the pupil's mandated record. Records shall be accessible during the hours in which the school program is in operation.
4. Security blocks will be installed for records stored in computerized systems to protect against security violations of the records stored therein. To guard against the loss of pupil records, the district shall maintain an updated hard copy and backup versions of pupil records.
5. Mandated pupil records required as part of programs established through State administered entitlement or discretionary funds from the U.S. Department of Education shall be maintained for a period of five years after graduation, termination from the school district, or age 23, whichever is longer, and shall be disposed of in accordance with N.J.S.A. 47:3-15 et seq.
6. Any district internet website shall not disclose any personally identifiable information about a pupil, in accordance with N.J.S.A. 18A:36-35.

F. Access to Pupil Records

1. The district shall control access to, disclosure of, and communication regarding information contained in pupil health records to assure access only to those persons under the conditions permitted by Federal and State statute and regulations.

2. The district may charge a reasonable fee for reproduction, not to exceed the schedule of costs set forth in N.J.S.A. 47:1A-2, provided that the cost does not effectively prevent the parents from exercising their rights under N.J.A.C. 6A:32-7 or under rules and regulations regarding pupils with disabilities.
3. Access to and disclosure of a pupil's health record shall meet the requirements of the Family Education Rights and Privacy Act, 34 C.F.R. Part 99 (FERPA).

G. Authorized Organizations, Agencies, and Persons with Access to Pupil Records

Access shall include only the following:

1. A pupil who has the written permission of a parent and the parent of a pupil under the age of eighteen whether or not the child resides with that parent except per N.J.S.A. 9:2-4;
  - a. The place of residence shall not be disclosed; and
  - b. Access shall not be provided if denied by a court.
2. The pupil's parent who has the written permission of such pupil, except that the parent shall have access without consent of the pupil as long as the pupil is financially dependent on the parent and enrolled in the public school system or if the pupil has been declared legally incompetent by a court of appropriate jurisdiction. The parent of the financially dependent adult pupil may not disclose information contained in the adult pupil's record to a second or third party without the consent of the adult pupil.
3. Certified school district personnel who have assigned educational responsibility for the pupil shall have access to the general pupil record, but not to the pupil health record, except under conditions permitted in N.J.A.C. 6A:16-1.5.
4. Certified educational personnel who have assigned educational responsibility for the pupil and who are employed by agencies listed below shall have access to the general pupil record, but not to the pupil health record except under conditions permitted in N.J.A.C. 6:16-1.5:
  - a. An approved private school for the disabled;
  - b. A State facility;
  - c. Accredited nonpublic schools in which pupils with educational disabilities have been placed according to N.J.S.A. 18A:46-14; or
  - d. Clinics and agencies approved by the Department of Education.

5. In order to fulfill its legal responsibility as a Board, the Board has access through the Superintendent or designee to information contained in a pupil's record. Information shall be discussed in executive session unless otherwise requested by the parent.
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 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.
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 district Boards of Education within the State of New Jersey or other educational agencies or institutions where the pupil is placed, registered, or seeks to enroll subject to the following conditions:
  - a. Original mandated pupil records school districts have been directed to compile by New Jersey statute, regulation, or authorized administrative directive shall be forwarded to the receiving school district with written notification to the parent;
  - b. Original permitted pupil records which the Board has required shall be forwarded to the receiving school district only with the written consent of the parent except where a formal sending-receiving relationship exists between the school districts;
  - c. All records to be forwarded, including disciplinary records as specified in N.J.S.A. 18A:36-19(a), shall be sent to the Superintendent or designee of the school district to which the pupil has transferred within ten school days after the transfer has been verified by the requesting school district;
  - d. The Superintendent or 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 school district;
  - e. The Superintendent or designee of the school district of last attendance shall upon request, provide a parent(s) or an adult pupil with a copy of the records disclosed to other educational agencies or institutions; and

- f. 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.
11. Officials of the United States Department of Education who have assigned responsibilities which necessitate review of such records.
12. Officers and employees of a State agency who are responsible for protective and investigative services for pupils referred to that agency, pursuant to N.J.S.A. 9:6-8.40. Wherever appropriate, the district shall ask such State agency for its cooperation in sharing the findings of the investigation.
13. Organizations, agencies, and persons from outside the school if they have the written consent of the parent, except that these organizations, agencies, and persons shall not transfer pupil record information to a third party without the written consent of the parent.
14. Organizations, agencies, and individuals outside the school, other than those specified in N.J.A.C. 6A:32-7.5(e), upon the presentation of a court order.
15. Bona fide researchers who explain in writing, in advance to the Superintendent, the nature of the research project and the relevance of the records sought and who satisfy the Superintendent or designee that the records are to be used under strict conditions of anonymity and confidentiality. Such assurance shall be received in writing by the Superintendent prior to the release of information to the researcher.

#### H. Conditions for Access to Pupil Records

All authorized organizations, agencies, and persons with access to pupil records shall have access to the records of a pupil subject to the following conditions:

1. No pupil record shall be altered or disposed of during the time period between a 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 shall submit their request in writing together with any required authorization, to the Superintendent or designee.
3. The Superintendent or 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 other than parents, pupil, or individuals who have assigned educational responsibility for the individual pupil, an entry shall be made in the pupil's 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 district shall, prior to the disclosure of any pupil records to organizations, agencies, or persons outside the school district pursuant to a court order, give the parent 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 those records related to the specific purpose of the court order shall be disclosed.
5. A record may be withheld from a parent of a pupil under eighteen or from an adult pupil only when the district obtains a court order or is provided with evidence that there is a court order revoking the right to access. Only that portion of the record designated by the court may be withheld. When the district has or obtains evidence of such court order, the parent shall be notified in writing within five days of his or her request that access to the record has been denied, and that the person has the right to appeal this decision to the court issuing the order.

#### I. Rights of Appeal for Parents

1. Pupil records are subject to challenge by parents on grounds of inaccuracy, irrelevancy, impermissible disclosure, inclusion of improper information, or denial of access to organizations, agencies, and persons. The parent may seek to: expunge inaccurate, irrelevant, or otherwise improper information from the pupil's record; insert additional data as well as reasonable comments as to the meaning and/or accuracy of the records; and/or request an immediate stay of disclosure pending final determination of the challenge procedure as described in N.J.A.C. 6A:32-7.7.
2. To request a change in the record or to request a stay of disclosure pending final determination of the challenged procedure, the process shall be as follows:
  - a. A parent shall notify the Superintendent in writing of the specific issues relating to the pupil's record.
  - b. Within ten days of notification, the Superintendent or designee shall notify the parent of the school district's decision.
  - c. If the school district disagrees with the request, the Superintendent or designee shall meet with the parent to revise the issues set forth in the appeal.
  - d. If the matter is not satisfactorily resolved, the parent may appeal this decision either to the Board of Education or the Commissioner of Education within ten days.

- e. If appeal is made to the Board of Education, a decision shall be rendered within 20 days. The decision of the Board may be appealed to the Commissioner pursuant to N.J.S.A. 18A:6-9 and N.J.A.C. 6A:4, Appeals.
  - f. 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's record with copies made available to the parent.
- 3. Appeals relating to the records of pupils with disabilities shall be processed in accordance with the requirements above.
  - 4. Regardless of the outcome of any appeal, a parent shall be permitted to place a statement in the pupil's record commenting upon the information in the pupil's record or setting forth any reasons for disagreement with the decision of the agency.
    - a. Such statements shall be maintained as part of the pupil's 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 shall also be disclosed to that party.

#### J. Retention and Disposal of Pupil Records

- 1. A pupil's record is considered to be incomplete and not subject to the provisions of the Destruction of Public Records Law, N.J.S.A. 47:3-15 et seq., while the pupil is enrolled in the school district.
  - a. The school district shall retain the pupil's health record and the health history and immunization record according to the School District Records Retention Schedule, as determined by the New Jersey State Records Committee.
- 2. Pupil records of currently enrolled pupils, other than the records that must be maintained for one hundred years as described in 6. below, may be disposed of after the information is no longer necessary to provide educational services to a pupil.
  - a. Such disposition shall be accomplished only after written parental notification and written parental permission has been granted or after reasonable attempts of such notification and reasonable attempts to secure parental permission have been unsuccessful.

3. Upon graduation or permanent departure of a pupil from the school district, the parent shall be notified in writing that a copy of the entire pupil's record will be provided to them upon request.
4. Information in pupil records, other than the records that must be maintained for one hundred years as described in 6. below, may be disposed of, but only in accordance with the Destruction of Public Records Law, N.J.S.A. 47:3-15 et seq.
  - a. Such disposition shall be accomplished only after written parental notification, and written parental permission has been granted, or after reasonable attempts at such notification and reasonable attempts to secure parental permission have been unsuccessful, and prior written authorization has been obtained from the New Jersey State Records Committee in the New Jersey Department of State.
5. No additions shall be made to the record after graduation or permanent departure without the prior written consent of the parent.
6. The New Jersey public school district of last enrollment, graduation, or permanent departure of the pupil from the school district shall keep for one hundred years a mandated record of a pupil's name, date of birth, name of parents, gender, citizenship, address, telephone number, health history and immunization, standardized assessment and test answer sheet (protocol), grades, attendance, classes attended, grade level completed, year completed, and years of attendance.

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