

7. Assure limited access to pupil records by secretarial and clerical personnel pursuant to N.J.A.C. 6:3-6.5; and

8. Provide for the access and security of pupil records maintained in a computerized system.

(h) All anecdotal information and assessment reports collected on a pupil shall be dated and signed by the individual who originated the data.

(i) The chief school administrator or his or her 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 to be deleted from the records except that prior notice must be given for classified students in accordance with N.J.A.C. 6A:14. Such information shall be destroyed and not be recorded elsewhere. No record of any such deletion shall be made.

(j) No liability shall be attached to any member, officer or employee of any district board of education permitting access or furnishing pupil records in accordance with these rules.

(k) When the parent's or adult pupil's dominant language is not English or the parent or adult pupil is deaf, the district board of education shall provide interpretation of the pupil record in the dominant language of the parents or adult pupil.

Amended by R.1999 d.342, effective October 4, 1999.
See: 31 N.J.R. 1662(a), 31 N.J.R. 2917(a).

In (i), updated a reference.

Case Notes

Contract to show during homeroom 12-minute television broadcast having two minutes of commercials was not abuse of managerial authority. *New Jersey Education Association v. Trenton Board of Education*. 92 N.J.A.R.2d (EDU) 481.

Student was not improperly denied admission to honor society. *Hook v. Board of Education of Borough of South Plainfield*, 92 N.J.A.R.2d (EDU) 331.

6:3-6.3 Mandated and permitted pupil records

(a) The district board of education shall 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. These data shall include the pupil's name, address, date of birth, name of parent(s), citizenship and sex of the pupil. The district board of

education is prohibited from recording the religious or political affiliation of the pupil and/or parent 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;

v. Records pursuant to rules and regulations regarding the education of educationally handicapped pupils; and

vi. All other records required by the State Board of Education.

2. Permitted pupil records are those which a district 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. The district 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 this subchapter as to relevance and objectivity.

6:3-6.4 Maintenance and security of pupil records

(a) The chief school administrator or his or her designee shall be responsible for the security of pupil records maintained in the 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.

(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.

(d) Mandated or permitted records required as part of programs established through state administered entitlement or discretionary funds from the U.S. Department of Education must be maintained for a period of five years after completion of the program activities.

Case Notes

Trial judge properly balanced alleged sexual abuse victims' right to privacy with defendant's right of confrontation by examining in camera confidential school records of victims sought by defendant in connection with issue of victims' competency to testify. *State of New Jersey v. Krivacska*, 775 A.2d 6 (2001).

Trial judge's denial of defendant's pretrial motion to examine confidential school records of alleged sexual abuse victims, in connection with the issue of victims' competency to testify, did not violate the right of confrontation. *State of New Jersey v. Krivacska*, 775 A.2d 6 (2001).

6:3-6.5 Access to pupil records

(a) Only authorized organizations, agencies or persons as defined herein shall have access to pupil records.

(b) The district board of education 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 or adult pupils from exercising their rights under this subchapter or under rules and regulations regarding educationally handicapped pupils.

(c) Authorized organizations, agencies and persons shall include only:

1. The parent of a pupil under the age of 18 and the pupil who has the written permission of such parent;

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 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;

4. Certified school district personnel who have assigned educational responsibility for the pupil;

5. Certified educational personnel who have assigned educational responsibility for the pupil and who are employed by:

i. An approved private school for the handicapped;

ii. A state facility;

iii. Accredited nonpublic schools in which pupils with educational disabilities have been placed according to N.J.S.A. 18A:46-14; or

iv. Clinics and agencies approved by the Department of Education;

6. A district board of education, in order to fulfill its legal responsibility 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;

7. 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;

8. Accrediting organizations in order to carry out their accrediting functions;

9. 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;

10. Officials of other district boards of education within the State of New Jersey in which the pupil is placed, 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 districts;

iii. All records to be forwarded shall be sent to the chief school administrator or his or her designee of the school district to which the pupil has transferred within 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. The chief school administrator or his or her 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

vi. 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, district boards of education 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 or adult pupil, 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;

14. Organizations, agencies and individuals outside the school, other than those specified in this section, upon the presentation of a court order; and

15. Bona fide 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 or her designee that the records will be used under strict conditions of anonymity and confidentiality. Such assurance must be received in writing by the chief school administrator prior to the release of information to the researcher.

Law Review and Journal Commentaries

Education—Conscientious Employees. Judith Nallin, 138 N.J.L.J. No. 15, 54 (1994).

Case Notes

Trial judge properly balanced alleged sexual abuse victims' right to privacy with defendant's right of confrontation by examining in camera confidential school records of victims sought by defendant in connection with issue of victims' competency to testify. *State of New Jersey v. Krivacska*, 775 A.2d 6 (2001).

Trial judge's denial of defendant's pretrial motion to examine confidential school records of alleged sexual abuse victims, in connection with the issue of victims' competency to testify, did not violate the right of confrontation. *State of New Jersey v. Krivacska*, 775 A.2d 6 (2001).

Access to pupil records; regulation caused teacher to reasonably believe that superintendent's order involved violation of law for purposes of Conscientious Employee Protection Act. *Delran Educ. Ass'n v. Delran Bd. of Educ.*, 277 N.J.Super. 538, 650 A.2d 7 (A.D.1994).

Commissioner of Education lacked jurisdiction to determine parent's request for release of test papers. *Cheung v. Freehold Tp. Board of Education*, 94 N.J.A.R.2d (EDU) 576.

No due process violation in suspending student without hearing; no right to expungement of student records. *F.H. and S.H., Parents of G.H. v. North Warren Regional High School District*, 93 N.J.A.R.2d (EDU) 580.

Parents were not entitled to access to teacher's notes concerning student's school work. *D.B. and K.B. v. Board of Education of City of Vineland*, 93 N.J.A.R.2d (EDU) 546.

Pupil's administration files determined to be pupil records; parents entitled to copies of all records. *GVD v. Ramapo-Indian Hills Regional High School Bd. of Ed.*, 6 N.J.A.R. 480 (1983).

6:3-6.6 Conditions for access to pupil records

(a) All authorized organizations, agencies and persons defined in this subchapter 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 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 together with any required authorization, to the chief school administrator or his or her designee.

3. The chief school administrator or his or 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 other than parents, pupils or individuals who have assigned educational responsibility for the individual student, 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 district board of education 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 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 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 18 or from an adult pupil only when the local education agency 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 local education agency has or obtains evidence of such court order the parent or adult pupil 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.

6:3-6.7 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;

2. Insert additional data as well as reasonable comments as to the meaning and/or accuracy of the records; and/or

3. Request an immediate stay of disclosure pending final determination of the challenge procedure as described in this subchapter.

(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 10 days of notification, the chief school administrator or his or her designee shall meet with the parent or adult pupil to revise the issues set forth in the appeal. If the matter is not satisfactorily resolved, the parent or adult pupil may appeal this decision either to the district board of education or the Commissioner of Education within 10 days. If appeal is made to the district board of education, a decision shall be rendered within 20 days. The decision of the district board of education may be appealed to the Commissioner pursuant to N.J.S.A. 18A:6-9 and rules adopted in accordance with such statute. At all stages of the appeal process, the parent or adult pupil shall be afforded in 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 handicapped pupils shall be processed in accordance with the requirements of N.J.A.C. 6A:14.

(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.

Amended by R.1999 d.342, effective October 4, 1999.

See: 31 N.J.R. 1662(a), 31 N.J.R. 2917(a).

In (c), updated a reference.

Case Notes

Parents could not expunge psychological evaluations from child's reports absent showing of inaccuracy. B.M. v. Union County Regional, 95 N.J.A.R.2d (EDS) 149.

6:3-6.8 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, N.J.S.A. 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 written parental or adult pupil permission has been granted or after reasonable attempts of such notification and reasonable attempts to secure parental or adult pupil 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.

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, N.J.S.A. 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 or adult pupil 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 or adult pupil.

(e) The New Jersey public school district of last enrollment graduation or permanent departure of the pupil from the school district and 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 of parent(s) and citizenship status.

Case Notes

Parents were not entitled to expungement of school psychologist's report from handicapped student's records. B.C. v. Flemington-Raritan Board, 95 N.J.A.R.2d (EDS) 255.

Psychologist's report on student could not be expunged from public school records absent inaccuracy. B.M. v. Union County, 93 N.J.A.R.2d (EDS) 265.

SUBCHAPTER 7. WITHDRAWAL FROM REGIONAL SCHOOL DISTRICTS

6:3-7.1 Application and data for investigation of advisability of withdrawal

(a) Any district board of education constituting part of a limited purpose regional school district or the governing body of such local school district, or the governing body of any municipality constituting part of an all purpose regional school district may apply to the county superintendent of schools to make an investigation as to the feasibility of withdrawal of such constituent district or municipality from the regional district. Such body shall adopt a resolution by a recorded roll call vote of the majority of the full membership requesting that the county superintendent make such investigation. The resolution request submitted to the county superintendent shall include the following information:

1. A general description of the regional district and of the withdrawing constituent district, including but not limited to, the type of educational system, number of schools and grade levels served, community population, and geographical characteristics;
2. Enrollment data, including, but not limited to, the number of pupils enrolled as reported by grade on the

Annual Application for State School Aid and estimated projected enrollments, by grade level, for the succeeding five school years for both the withdrawing district or municipality and the remaining regional district, based on growth factors using average percentages for the last three school years;