

Attendance:

Laura Roche, Board of Education
 Kathy Hamilton, Board of Education
 David Freedman, Board of Education (left meeting
 at 9:08)

Dr. Gejda, Assistant Superintendent
 Julie Haggard, Director of Pupil Services
 (joined meeting at 8:15)

- **CALL TO ORDER**

The Board of Education policy subcommittee meeting was called to order at 8:08 am.

- **PUBLIC PARTICIPATION**

None

- **APPROVE MINUTES**

Motion made by Ms. Roche and second by Mr. Freedman to approve the minutes of both February 27, 2014 & March 12, 2014. All in favor.

- **COMMUNICATIONS/ANNOUNCEMENTS**

- ***Information from Director of Buildings and Grounds*** – Gino Faiella has forwarded the policy committee potential policies for Pesticide Application (see Attachment A)
- ***Letter from Mary Burnham*** – Ms. Burnham interested in a policy to opt-out of standardized testing. Both Dr. Gejda and Ms. Haggard specified that the state does not allow students to opt-out of testing because of NCLB. Schools that receive public funds need to be accountable. Dr. Gejda had met with Ms. Burnham and two other parents. Dr. Gejda will forward documentation to Ms. Hamilton confirming.
- ***Policy Committee Moving Forward*** – Ms. Hamilton met with Dr. Erardi about the policy committee process and time commitment. Dr. Erardi is going to meet with CABE representative Vincent Mustaro to discuss their involvement with Newtown’s policy development. There also may be additional help from Newtown staff in the Fall. Ms. Hamilton will update the group after the CABE meeting takes place.

Motion made by Ms. Roche and second by Mr. Freedman to add review of FERPA (Family Educational Rights and Privacy Act) with respect to the student record policy to “Unfinished Business”. All in favor.

- **UNFINISHED BUSINESS**

Student Records (Family Educational Rights and Privacy Rights), (Newtown 7-303/CABE 5125) –

The group discussed the marked up version of Newtown policy #7-303 which was modified by the BOE legal counsel with input from Julie Haggard. See Attachment B for comments.

Other questions/comments:

1. Ms. Hamilton to forward CABE policy 5125 to Ms. Haggard for her review.
2. Suggestion that a policy statement be made such that records should be kept when transitioning from school to school.

3. Who is ultimately responsible for student records?
4. Should the BOE be the final arbiter over deciding whether or not a record is to be modified or does that violate FERPA?
5. What electronic files need to be kept and for what timeframe?

Because of time, the rest of the agenda will be discussed at the next policy meeting to be coordinated by Kathy June.

- **UNFINISHED BUSINESS - REVIEW AND UPDATE STATUS OF OPEN ACTION ITEMS:**

Review and Update Status of Open Action Items – See below for Action Item List.

- **NEW BUSINESS - DISCUSS AND POSSIBLE ACTION ON NEXT SET OF POLICIES TO REVIEW:**

The policies below were not discussed. Carry forward as new business.

| Newtown Policy Number | CABE Equivalents | Policy Content |
|------------------------------|--|---------------------------------------|
| 8-300 | 6141.328, 6141.321, 6141.322, 6141.323 | Acceptable Use of Technology |
| 8-605 | 5131.911, 5131.91 | Safe School Climate (Bullying/Hazing) |

- **PUBLIC PARTICIPATION** - No public participation.

- **ADJOURNMENT**

A motion by Ms. Roche and second by Ms. Hamilton was made to adjourn the meeting at 9:33 am. All in favor.

Action Items:

| Responsible Party | Action | Comments | Due Date |
|--------------------------|--|-----------------|-----------------|
| Committee | Approve for first read by the BOE policies: 4000.1, 5131.111, 6114, 6114.1, 6114.3, 6114.7, 6121, 6121.1, 1331 | | Next Meeting |
| Julie Haggard | Combine suggested changes from policy Newtown policy 7-303 into CABE policy 5125 | | Next Meeting |
| Committee | Complete Review of Changes to 7-303 | | Next Meeting |
| Dr. Gejda | Coordinate meeting with Ms. Hamilton to discuss Title IX policy direction | | Next Meeting |

| | | | |
|------------------------|---|--|-----------|
| Ms Hamilton | Review/Update of comments received from Dr. Reed and David Abbey | Policy # 5136 (Use of privately owned technological devices by students) | 2/27/2013 |
| Dr. Gejda | Review and Approve Title IX policies: 4000.1, 4111, 4111.1, 4118.11, 4118.113, 5145.5, 5145.51, 5145.52, 5145.6, 6121, 6121.1 | Carried forward | 2/27/2013 |
| Dr. Gejda & Principals | Review & Approve policy 5114 (Newtown policy 7-401) | | 2/27/2014 |
| Ms. Hamilton | Combine CAFE policy 3524/3524/1 with Newtown policy 3-900 (Pesticide Application) | Carried forward: Review any proposed changes with Mr. Faiella | 2/27/2014 |
| Dr. Gejda | Consider adding policy for online learning | | 2/27/2014 |
| Committee | Add changes to incorporate new legislation for recess (8-704/6142.101) | | 2/27/2014 |
| Committee | Consider Weston Policy #4118.35 (Employee Use of the district's computer systems and electronic communications) | | TBD |
| Committee | Consider Weston Policy #4118.5 (Personnel – Social Networking) | | TBD |
| Committee | Superintendent Review Process: 2-103, 2-103.1, 2-103.2 | Begin work in conjunction with new Superintendent | TBD |
| Committee | CAFE policies: 3432, 3433 (Budgeting and expense reporting) | For Future Thought | TBD |

Submitted: Kathy Hamilton, Policy Committee Chair

Pesticide Application

In the best interest of the students and staff of the [District] Public Schools, the use of pesticides shall be minimized within our buildings and on our grounds.

Pests shall be managed in accordance with the Integrated Pest Management Plan of the [District] Public Schools. Whenever a natural or nonchemical means is available to effectively control the problem at a reasonable cost, it will be used. Pesticide applications will only be done as frequently as needed to control the situation and in all cases strengths will be the minimum required. Pesticides shall not be applied during school hours or planned activities, except in the case of an emergency. All applications will be done by people licensed for such work and detail records will be kept of all such applications. Records of all applications shall be maintained in each building in accordance with existing laws and regulations, and shall be made available to interested parties.

Legal References:

Connecticut General Statutes: §10-231a, §10-231b, §10-231d

Connecticut Public Act 07-168 An Act Banning Pesticide Use on School Grounds

POLICY REGARDING PESTICIDE APPLICATION ON SCHOOL PROPERTY

It is the policy of the [District] Board of Education to implement an integrated pest management plan to reduce the amounts of pesticides applied in any building, or the grounds of any [District] public school; by using all available pest control techniques including judicious use of pesticides, when warranted, to maintain a pest population at or below an acceptable level, while decreasing the use of pesticides.

The decision to apply pesticide in any building, or the grounds of any [District] public school is dependent on results of periodic monitoring for pest populations to determine if a pest problem exists that exceeds acceptable threshold levels.

No application of pesticide shall be made in any building, or the grounds of any [District] public school during regular school hours or during planned activities at any school except as provided by Connecticut statute or regulation.

Parents or guardians of children in any school and/or staff members in any school may register for prior notice of pesticide application at their school. Each school shall maintain a registry of persons requesting such notice, and shall provide notice to registered individuals in accordance with applicable Connecticut statutory and regulatory provisions.

The Superintendent may direct that an emergency application of a lawn care pesticide be made without prior notice to parents or guardians of children in any school and/or staff members in the event of a threat to human health, subject to applicable Connecticut statutory and regulatory provisions.

The Superintendent may direct that an emergency application of a pesticide be made during regular school hours or during planned activities at school without prior notice to parents or guardians of children and/or staff members in any school in the event of an immediate threat to human health, subject to applicable Connecticut statutory and regulatory provisions.

There shall be no application of any lawn care pesticide on the grounds of any school with students in grade eight (8) or lower, except on an emergency basis, subject to applicable Connecticut statutory and regulatory provisions.

Legal References:

Connecticut General Statutes: §10-231a, §10-231b, §10-231d

Connecticut Public Act 07-168 An Act Banning Pesticide Use on School Grounds

Student Records (Family Education Rights and Privacy)

The Newtown Board of Education (the Board) recognizes its obligation to comply with state and federal law, including the Family Educational Rights and Privacy Act of 1974 (FERPA), as amended, and its regulations, and the Federal No Child Left Behind Act, regarding student records.

Superintendent to Establish Procedures

The Superintendent will be responsible for ensuring that all requirements under federal and state statutes related to student education records shall be carried out by the district. To carry out this responsibility, the Board directs the Superintendent of Schools to establish regulations, [guidelines](#) and procedures for the disclosure, amendment, destruction, retention and maintenance of student education records. The regulations, guidelines and procedures shall include, but are not limited to, the following: procedures for annual notification to [parents and eligible students](#) of their rights, a description of student information designated as directory information, opt-out procedures for refusing disclosure of directory information, requirements for the disclosure of records to third parties, requirements for the retention, destruction and safeguarding of student education records including notification requirements in the event of a breach of confidentiality, and for the maintenance of a record of disclosures of personally identifiable information from a student's education record and [for](#) permitting [parents and eligible students](#) to inspect that record.

Comment [KLF1]: Perhaps we should define parents (guardians) and eligible students at the outset. Should include "legal guardian" in addition to parent.

Rights of Parents/Eligible Students

Parents and eligible students [who are students either](#) over the age of [eighteen \(18\) or attending a postsecondary institution years](#) shall have the right to inspect and review all education records pertaining to the student. [If an educational record contains information about other students](#), the right to inspect and review extends only to that information pertaining to the child/student himself or herself, and not to inspect or review information pertaining to other students. Information pertaining to other students will be redacted from any records containing information regarding multiple students. In the event that the redaction of the record is not feasible and/or if the disclosure of a redacted record would result in the disclosure of personally identifiable information regarding other students, the records will not be disclosed. In the event that a record contains information that is inaccurate, misleading, or in violation the student's privacy rights, the parent or eligible student may request that the record be amended to correct the problem. In most instances, student records will not be disclosed to third parties in the absence of written consent from the parent or eligible student. The Board complies with state and federal laws pertaining to the disclosure of records to third parties with and without

Comment [KLF2]: What about students who are in high school. Should they be able to review their records?

consent from the parent or eligible student. Parents of eligible students may continue to have access to the eligible student's educational records so long as the student is a dependent on the parent for purposes of federal tax laws. -In the event that a parent or eligible student believes that his or her rights have been violated regarding the retention, destruction or disclosure of educational records, the parent or eligible student may file a complaint with the appropriate state or federal agency.

Nothing in this policy should be construed to prohibit disclosures based on personal knowledge or observations, rather than information derived solely from a student's educational record.

Legal References:

[20 U.S.C §1232 g Family Education Rights and Privacy Act \(FERPA\):-](#)

[34 CFR Part §§ 99 .1 to 99.67 FERPA Regulations](#)

[42 U.S.C. 1320d-1320-8 Health Insurance and Portability and Accountability Act of 1996 \(HIPPA\)](#)

[R.C.S. A. §10-76d-18 Education Records and Reports](#)

[Connecticut Towns, Municipalities and Boards of Education Retention Schedule M8](#)

[Connecticut General Statutes](#)

[§1-210 \(Formerly Sec. 1-19\) Access to public records. Exempt records.](#)

[§ 7-109. Destruction of documents](#)

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[§10-59b Access of parent or guardians to student's records](#)

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[§10-154a\(b\) Professional communications between teacher or nurse and student. Surrender of physical evidence obtained from student.](#)

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[§10-209 Records not to be public](#)

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[§10-220h Transfer of student records.](#)

[10-221b Boards of education to establish written uniform policy re: treatment of recruiters.](#)

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[§11-8a. Retention, destruction and transfer of documents. Centralized microcopying services.](#)

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[§11-8b. Transfer or disposal of public records. State Library Board to adopt regulations](#)

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[§ 46-56\(e\) Access to Records of Minors.](#)

[Owasso Independent Sch. Dist. No. 1-011 v. Falvo, 534 U.S. 426 \(2002\)](#)

Policy Adopted:

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Regulations

Definitions

Parent is defined as a natural parent, an adoptive parent, a legal guardian or an individual acting as a parent in the absence of a parent or guardian. If parents are divorced or legally separated, both parents have the same right of access to the student's education records, unless a court order [or other legally binding document](#) prohibits or restricts access.

Student is defined as an individual who is or has matriculated in the school district. This may include situations where a student is not physically present, including attendance by electronic and telecommunication technologies, out of district placement, or homebound or hospitalized instruction.

[Eligible student- is a student who has turned eighteen years of age or one who attends an institution of postsecondary education. Eligible students hold all rights formerly possessed by their parents.](#)

Disclosure is defined as permitting access to or the release, transfer, or other communication of personally identifiable information contained in education records to any party, by any means, including oral, written or electronic means to any party except the party that provided or created the record.

Educational record is defined as those records, files, documents, and other materials including but not limited to, handwritten or printed materials, computer media, video or audio tape, film, microfilm or microfiche, that contain information directly related to a student and are maintained by the Board or by a person acting for the Board.

Comment [KLF3]: These definitions should all be in the policy.

Records that are typically considered to constitute a student's education record include the following: the cumulative education file (defined by the Public Records Administrator of the State of Connecticut), health records, attendance and disciplinary records, and special education or other confidential records including planning and placement team meeting reports and minutes.

The following are not defined as educational records:

- 1.) Records maintained by a law enforcement unit of the school district that were created by the law enforcement unit for the purpose of law enforcement;
- 2.) Student work, including but not limited to work graded or edited by peers and teachers prior to collection and recording of a grade by a teacher;

- 3.) Records in the sole possession of instructional, supervisory or administrative personnel that are not accessible or revealed to any other person except a substitute, including teacher notes and raw data;
- 4.) Records considered privileged under section 10-154a(b) of the Connecticut General Statutes, which precludes disclosure of any information acquired through a “professional communication” with a student, when such information concerns alcohol or drug abuse or any alcoholic or drug problem of such student;
- 5.) Video captured by a school or bus surveillance camera, except as such video data becomes part of a student record as a result of disciplinary or other investigations concerning the student. In the event of a request for disclosure of such video data, the district shall determine whether and to what extent the record should be considered the educational record of one or more students whose whereabouts and other information may have been recorded on the video.

6.) Electronic mail (“e-mail”) between and among staff or between parents and staff concerning students, except as determined by the school to be a necessary record of the student’s educational program and progress, in which case, the e-mail record shall be printed and stored or saved electronically to a folder or file designated specifically for the student to be maintained along with the student’s educational records. E-mails of a general and transitory nature, such as those concerning scheduling and other matters similar in nature to verbal communications, shall not be stored or maintained as part of the student’s records. [These will be purged periodically according to a schedule as determined by the Superintendent.](#) Requests for copies or access to electronic communications such as e-mail will be handled pursuant to the Freedom of Information Act (FOIA), and to the extent that such communications contain information concerning individual students, such information shall be redacted prior to disclosure to protect personally identifiable information of students under the Family Educational Rights and Privacy Act (FERPA).

7.) Records on a student who is 18 years of age older, or is attending an institution of postsecondary education that are: made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional -capacity or assisting in a paraprofessional capacity; made, maintained, or used only in connection with treatment of the student and disclosed only to individuals providing the treatment. “Treatment” does not include remedial educational activities or actives that are poart of the program of instruction at the agency or institution.

Information directly related to a student is defined as information that is personally identifiable , including the student’s name, the name of the parent or other family members, the address of the student or student’s family, a personal identifier such as the student’s

Comment [KLF4]: about
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Comment [KLF5]: Need clarification from counsel
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security number, or student number or other indirect identifiers, such as the student's date of birth, place of birth and mother's maiden name, or other information that, alone or in combination, is linked or linkable to a specific student that 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, or information requested by a person whom the educational agency reasonably believes knows the identity of the student to whom the educational record relates.

Directory information is defined as the following information contained in a student's education record that would not generally be considered harmful or an invasion of privacy if disclosed: student name, grade, ID number (only to the extent that the number cannot be used to gain access to educational records unless used in conjunction with a password or other information possessed only by the authorized user), address, telephone number, date and place of birth, clubs, sports and extracurricular or co-curricular activities, photographic, computer and/or video images of the student participating in school and school-sponsored activities, electronic mail address, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the current school attended by the student. A student's social security number is not directory information.

School Official is defined as a person employed by the District as an administrator, supervisor, teacher, instructor, coach or support staff member, including health or medical staff and law enforcement unit personnel, a person serving on the Board of Education, a person or company with whom the district has contracted to perform a special task (such as an attorney, auditor, advisor, consultant, or therapist), or a parent, student or other volunteer serving on an official committee such as disciplinary or grievance committee, or assisting another school official in performing his/her tasks, and contractors or vendors to whom services or functions otherwise performed by employees have been outsourced.

Law enforcement unit is defined as an individual office, department, division, or other component of the district that is authorized or designated by the district to (1) enforce laws or refers matters of law enforcement to appropriate authorities, or (2) maintain the physical security and safety of the school or district. This includes but is not limited to school security officials, local law enforcement officials whether or not assigned to a specific school as a school resource officer, and state and federal police.

Education Program is defined as any program administered by the district, including but not limited to early childhood education, elementary and secondary education, transition services for students aged 18 to 21, special education, job training, career and technical education, and adult education.

Annual Notification of Rights

An Annual Notification of Rights will be provided by the school district to parents and eligible students through a notice placed in student handbooks and/or on the Board website and/or through a parent letter. The school district will effectively notify parents or eligible students who are disabled, or those who have a primary or home language other than English, of their rights.

Through such notification parents and eligible students will be informed of their rights and the procedures to exercise them. Such rights include: the right to inspect and view all education records pertaining to their child/themselves; to seek to have the records amended on the grounds that the records contain inaccurate, misleading information or information that is in violation the student's privacy rights; to consent to disclosure of personally identifiable information from the records; and to file a complaint with United States Department of Education concerning alleged failures by the district or school to comply with requirements of the Family Rights and Privacy Act (FERPA). The notice will additionally include an explanation of who constitutes a school official and what constitutes a legitimate educational interest.

Directory Information Notice to be included with Annual Notification Rights

The annual notification of rights shall include a directory information public notice. The directory information notice shall designate what information will be considered directory information and provide an opportunity and set a deadline by which parents or eligible students must indicate their election not to have such information disclosed.

Consent

Generally

No education records will be disclosed without the prior written consent of the parent or eligible student, with the exceptions to prior written consent noted [d herein, d below](#).

Parental Consent of Parent of Special Education Student Specifically Required by IDEA in Two Instances

As stated above, generally consent by a parent or eligible student is required for disclosure of student education records. Consent is specifically required under the IDEA when: 1.) information is disclosed to agency officials providing or paying for secondary transition services

and 2.) when a student enrolls, or plans to enroll, in a private school not under the auspices or direction of the school district.

Procedures for Responding to Requests for Records

Form of Consent

1. Consent must be in writing, be signed, dated and specify the records to be disclosed, the reasons for the disclosure, and indicate to whom disclosure is to be made.
2. Parents/eligible students must make a separate request and provide written consent each time they want to inspect and review their child's or their own education records, or have those records released to or accessed by a third party.
3. Electronic copies of the written consent provided by the parent or eligible (such as faxed or e-mailed copies) will be accepted as valid consent if such consent otherwise meets the requirements of this section and the parent or eligible student can be authenticated as the source of the consent. School personnel may reject electronic requests if the electronic consent otherwise fails to meet the consent requirements or cannot be authenticated.
4. Any consent received by the school or school district is to be reviewed by the designated school or district level keeper of the records to determine whether it complies with the above requirements. Parents and eligible students will be notified if the request is insufficient in some way and given the opportunity to resubmit the request.

~~5.~~ 5. Upon receipt of a request to review and inspect educational records, the parent or eligible student will be contacted to arrange for the inspection and review of the requested records. Parents and eligible students reviewing and inspecting original educational records shall be accompanied by district personnel during the review and inspection. If copies of records are required, they shall be made by the school or the district in accordance with procedures set forth herein.

~~A record of the review and inspection shall be maintained in the student's file.~~

1. 6. Upon receipt of a request from a third party for disclosure of a student record or personal information contained in the record, the keeper of the records at the school or district level, as applicable, will confirm that valid parent or eligible student consent has been obtained for the requested disclosure, or that a valid exception to the prior written consent requirement applies. The parent or eligible student may be asked to pay for copying charges associated with the disclosure if appropriate and as provided by law.

~~6. Upon receipt of a request by a parent or eligible student to disclose educational records to a third party, the school or district designated keeper of the records shall contact the parent or eligible student to arrange for the secure transfer of the requested records. If the parent or eligible student requests a copy of the records disclosed, a copy shall be provided.~~

Comment [CD6]: The Board should consider whether it will require notification to parents and students to be in writing or what protocols will need to be followed. For example, if contact by phone or email is permissible, will a log of such contact be maintained or copies of emails placed in the student's file.

Comment [CD7]: Same comment as CD2

Comment [KLF8]: Is there any requirement if the parties want electronic copies of a record? Would there or can there be charges associated with providing a copy. How do we assure that the records have not been modified.

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Comment [CD9]: Same as above regarding the nature of the contact.

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2. 7. In the event that an exception to the prior written consent requirement applies, the keeper of the record will determine whether the parent or eligible student must receive prior notice of the disclosure if required by law, and if required, shall notify the parent or eligible student regarding the disclosure.

~~7-8.~~ The school or district shall respond to reasonable requests by the parent or eligible student for explanations and interpretations of the record~~d~~.

~~**Recordkeeping Requirements concerning requests and disclosures**~~

~~**Schools must maintain a record/log of each request for access to and each disclosure of personally identifiable information from those records of each student.** A record of the disclosure shall be maintained with the student's education records specifying to whom the records were disclosed, what records were disclosed, the date of the disclosure, and the reason for the disclosure, unless the law does not permit a record of the disclosure to be maintained. The log shall be maintained with a student's education records for so long as the records are maintained.~~

~~**No record of access or disclosure is required to be maintained with respect to requests from, or disclosure to: 1.) the parent or eligible student, 2.) a school official, 3.) a party with written consent from the parent or eligible student, 4.) a party seeking directory information or 5.) a party receiving information in accordance with a judicial order or lawfully issued subpoena.**~~

Recordkeeping Requirements concerning requests for access and disclosures

Schools must maintain a record/log of each request for access to and each disclosure of personally identifiable information from those records of each student. A record of the disclosure shall be maintained with the student's education records specifying to whom the records were disclosed, what records were disclosed, the date of the disclosure, and the reason for the disclosure, unless the law does not permit a record of the disclosure to be maintained. The log shall be maintained with a student's education records for as long as the records are maintained.

No record of access or disclosure is required to be maintained with respect to requests from, or disclosure to: 1.) the parent or eligible student, 2.) a school official, 3.) a party with written consent from the parent or eligible student, 4.) a party seeking directory information or 5.) a party receiving information in accordance with a judicial order or lawfully issued subpoena.

Recordkeeping for Special Education Records

A record of access or disclosure shall be maintained for all special education records. The Superintendent in consultation with Pupil Personnel Staff and other staff deemed

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Comment [KLF10]: What has changed here?

appropriate will determine and implement any additional protocols not otherwise specified in these regulations for the carrying out the district's responsibilities under law for the filing, protection, confidentiality, classification, review and destruction of special education records.

Procedure for Challenging Content of a Student Record

In the event a parent or eligible student desires to challenge the content of a student's records for being inaccurate, misleading, or otherwise in violation of the student's privacy or other rights of students, such party is afforded an opportunity for such challenge with the following procedure:

1. Submission of a written statement identifying the record or records which are believed to be inaccurate, misleading, or otherwise in violation of privacy. A statement of the reasons for such a challenge of the records shall be filed with the school principal. In the event that the challenged record was created by or otherwise directly involves the building principal, the parent may request that the Superintendent designate another person to review the challenge to the record.
2. The school principal or designee will respond within a reasonable period of time to such a challenge. The written response shall indicate which records are inaccurate, or otherwise inappropriate, and the extent to which the records have been corrected. The parent or eligible student will be given an opportunity to present facts or evidence supporting such challenge. In the event that the request to amend or correct the record is denied, the principal or designee shall provide a written response containing the reasons for the denial, therefor.
3. When a decision by the principal or designee is not acceptable to the parent or eligible student, the parent or eligible student may request a hearing conducted by the Superintendent at which the parent or eligible student will be given the right to present evidence in support of his/her belief that the record is erroneous and to rebut any evidence submitted in support of the record. In the event that the challenged record was created by or directly involves the Superintendent, the parent or eligible student may request that another person, not directly interested in the record, hear the challenge to the record. A written decision shall be issued at the conclusion of the review stating the disposition of the challenge and the reasons for the determination.
4. If the hearing results in a decision that the records remain as they are, the parent or eligible student shall be allowed to insert into the record a written statement outlining objections to the material. This statement shall become a permanent part of the student record and will be disclosed whenever the relevant records of the student are disclosed.

Comment [CD11]: These procedures are modified slightly from those currently in place in Newtown as reflected in 7-303.1

Comment [KLF12]: Can we be more specific for the length of time? How about 30 days.

Comment [KLF13]: The reason for denial should be kept in the student record. Decision is kept in record

Comment [KLF14]: Why wouldn't the board be the final arbiter?

Third Party Disclosure Request

School officials are prohibited from transmitting or disclosing student records or personally identifiable information that may be contained in those records to third parties unless prior written consent of the parent or eligible student has been obtained, or unless an exception to prior written consent applies as noted below.

Procedures for Third Party Disclosure

1. Upon receipt of a request from a third party for disclosure of a student record or personal information contained in the record, the keeper of the records at the school or district level, as applicable, will confirm that valid parent or eligible student consent has been obtained for the requested disclosure, or that a valid exception to the prior written consent requirement applies. The parent or eligible student may be asked to pay for copying charges associated with the disclosure if appropriate and as provided by law.
2. In the event that an exception to the prior written consent requirement applies, the keeper of the record will determine whether the parent or eligible student must receive prior notice of the disclosure if required by law, and if required, shall notify the parent or eligible student regarding the disclosure.
3. A record of the disclosure shall be maintained specifying to whom the records were disclosed, what records were disclosed, the date of the disclosure, and the reason for the disclosure, unless the law does not permit a record of the disclosure to be maintained.
4. In the event that the records are reviewed and inspected by a third party either with authorization of a parent or eligible student, or under an exception as provided by law, the third party shall be accompanied and supervised by a district official during the review and inspection of the student records. The third party may be required to sign and date a receipt indicating that the review of records has been completed.
5. If appropriate, for example, in the event of a disclosure to a third party who is under contract to the district to perform a specific service involving the use of the records, school officials will provide, at the time of disclosure, written warning against the further dissemination, copying, or disclosure of the student records or personally identifiable information contained in those records without consent of the parent or eligible student, and warn against the use of the records by the third party for any reason other than as authorized, unless such disclosure is otherwise excepted under state or federal law.

Exceptions to Written Prior Consent

An exception to the prior written consent requirement will be made for the following reasons:

- 1.) Directory information (as defined herein and in the annual parent notification) may be disclosed absent consent, unless the parent or eligible student has opted out of the directory information disclosure as detailed herein.
- 2.) Disclosures may be made to “school officials” (as defined herein) who have “legitimate educational interests” in the records or information.
- 3.) In emergency situations, disclosures may be made absent consent when knowledge of the information is necessary to protect the health or safety of the student or other individuals and there is an articulable and significant threat to health or safety. Disclosures made pursuant to this exception must be limited to that information needed to limit or mitigate the threat, and must be limited to those individuals in a legitimate position to be able to limit or mitigate the threat, for example, law enforcement officials, medical or public health officials.
- 4.) Disclosures may be made pursuant to a lawfully issued subpoena or judicial order in accordance with state and federal laws. Reasonable efforts will be made to notify parents or eligible students prior to such a release, pursuant to these regulations.
- 5.) Transfer or disclosure of education records including health and disciplinary records may be made to officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll, or where the student is already enrolled.
- 6.) Records and information may be disclosed to federal law enforcement officials pursuant to a valid subpoena for records relevant to an investigation or prosecution of an alleged act of terrorism. In the event that records are disclosed under this exception, no record of the disclosure may be maintained by the school district.
- 7.) In the event of a lawsuit brought by a parent against the school district, the district is permitted to disclose to the court, without order or subpoena, the student’s education records relevant for the district to defend itself.
- 8.) Disclosures may be made to certain third parties for use as data in studies to develop tests, to administer student aid programs or to improve instruction in accordance with conditions set forth by state and federal laws. This exception is subject to specific requirements that must be met in developing a contract with the third party to who the information will be disclosed in order to further protect the confidentiality of the information disclosed.
- 10.) Information regarding students with disabilities may be made available to the Office of Protection and Advocacy for the purpose of fulfilling their statutory responsibilities to individuals with disabilities.

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11.10.) Routine disclosures of students' names, addresses, and telephone numbers to military recruiters upon request may be made without specific consent, subject to a parent's or eligible student's right to opt out of the disclosure of such information absent consent.

Comment [KLF15]: What about having an "opt-in" policy? Ask counsel. – Need backup that parents are notified.

~~12.11.~~) Disclosures may be made to authorized representatives of the U. S. Comptroller General, the U. S. Attorney General, the U.S. Secretary of Education, or State and local educational authorities, such as the State educational agency (SEA), in connection with an audit or evaluation of Federal- or State-supported education programs, or for the enforcement of or compliance with Federal legal requirements that relate to those programs. These entities may make further disclosures of personally identifiable information to outside entities that are designated by them as their authorized representatives to conduct any audit, evaluation, or enforcement or compliance activity on their behalf.

132.) Disclosures may be made in connection with financial aid for which the student has applied or which the student has received, if the information is necessary to determine eligibility for the aid, determine the amount of the aid, determine the conditions of the aid, or enforce the terms and conditions of the aid.

13.) Disclosures may be made to parents of eligible students if the eligible student is -a dependent child as defined in the IRS code. The school reserves the right to require from the parents proof of dependency.

Timeframe for Response to Request for Disclosure of Records for Regular and Special Education Students

For Regular Education Students

Compliance with a request for disclosure must occur within a reasonable time from receipt of consent, but in no case more than forty-five (45) days after receipt of a valid request.

-For Special Education Students

Compliance with the request must be made within ten (10) days of such request or within three (3) days if the parents need to review the records to prepare for a PPT meeting or a due process hearing.

Response to Disclosure Requests

No Obligation to Create Records, Re-Create Lost or Destroyed Records

The district will refrain from destroying records when there is a pending inspection request. The district has no obligation to create records in its efforts to be responsive to a disclosure

request from a parent or eligible student nor is it required to re-create records that have been lost or stolen.

Copies and Fees for Records

If it is not feasible for a parent or eligible student to view or access the education records, copies will be made and the parent or student charged a reasonable fee for copying in accordance with state statute. Costs for copying will be collected prior to copying. No parent or eligible student will be denied copies of student records for financial reasons if to do so would effectively deny the individual(s) access to the requested records.

No fee shall be assessed to search for or to retrieve the education records of a student.

One Free Copy for Special Education Students

Parents of a child requiring special education and related services shall be provided one free copy of their child's education records within five (5) school days of such request. Such request must be made in writing by the parent.

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No fee shall be assessed to search for or to retrieve the education records of a student.

Parents of a child requiring special education and related services shall be provided one free copy of their child's education records within five (5) school days of such request.

Record of Disclosures

The Board is required by law to keep records of disclosures of personally identifiable information from education records of each student. The Superintendent of Schools shall establish protocols for the recording of disclosures. Such protocols shall minimally require that a log be placed in each student's cumulative file to record who has requested and received records, the parties' legitimate interest in obtaining the records, and whether the requests were granted or denied. A record of disclosure shall be maintained in the student's record for as long as the record is maintained.

Legal Exceptions to Requirement for Record of Disclosures

There is no requirement under FERPA regulations for recording disclosure to the following: the parent or eligible student, a school official, a party with written consent from the parent or eligible student, a party seeking directory information, or a party seeking or receiving records in

~~accordance with judicial order or lawfully issued subpoena as set forth in FERPA regulations, 34 CFR 99.31a(9) (ii)(A)-(C). Records are not permitted to be maintained pertaining to disclosures to law enforcement in connection with investigations or prosecutions of alleged acts of terror.~~

Breach of Confidentiality/Unauthorized Disclosure

Recognizing the importance of maintaining the confidentiality of student records and the information contained in those records, and acknowledging the rise in incidence of identity theft, the Superintendent, in consultation with appropriate business and technology school personnel, will adopt reasonable measures to secure and protect student records and the confidentiality of those records, particularly those maintained in electronic format. Physical safeguards such as locked offices and/or file cabinets will be used to maintain the safety and security of physical records and to restrict access to authorized personnel only.

The Board is not required by law to notify students that information from their education records was stolen or otherwise subject to an unauthorized release, but is required to maintain a record of each disclosure.

Preventive and Responsive Protocols

The Superintendent is charged with enumerating and describing the student records maintained by the school system and with establishing protocols to prevent and respond to a breach of information. Such protocols shall include an inventory of computer programs and electronic files in order to determine the types of personal, private information that is maintained or used by the district, and review the safeguards in effect to secure and protect that information as well as include an incident response plan that provides for appropriate notification in the event of a breach and applicable timelines.

The Superintendent shall develop such guidelines in accordance with recommendations or guidance from the United States Department of Education, Family Policy Compliance Office (FPCO) and should consider one or more of the following steps, in the event of a breach of confidential student information: 1.) reporting the incident to law enforcement authorities, 2.) determining exactly what information was compromised, i.e. names, addresses, SSN's, ID numbers, credit card numbers, grades etc., 3.) taking steps immediately to retrieve data and prevent and further disclosures, 4.) identifying all affected records and students, 5.) determining how the incident occurred, including school officials that had control of and responsibility for the information that was compromised, 6.) determining whether the incident occurred because of a lack of monitoring and oversight, 7.) conducting a risk assessment and identifying appropriate physical, technological and administrative measures to prevent similar incidents in the future, 8.) notifying students that the Department of Education has a website detailing what to do if identity theft is suspected.

The Superintendent's protocols may include recommendations for appropriate disciplinary action to be taken against any student, staff member, or other individual or individuals responsible for, or who contributed to any breach by either deliberate or negligent conduct.

Training

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The Superintendent shall implement training for all staff including the staff of the Information Technology (IT) department regarding FERPA. IT staff should receive training on how to effectively search the district's electronic system in response to FERPA requests. Training for all staff shall include, but is not limited to, instruction regarding the obligation to redact personally identifiable student education records, retention and destructions protocols, and should include instruction that it is improper to retain student education records where there is no legitimate education need for such record and review of district protocols for responding to requests for education records by parents/eligible students and third parties.

Further, staff shall receive training regarding the district's acceptable use of technology policy including use of the district's email system and networks and such training shall reinforce that under no circumstances should district technology and specifically, the email system, be used to retain or transmit student education records for staff's private purposes such as employment with another school district.

Social Security Numbers

To protect the privacy of a student, a student's social security number shall not be used or incorporated in any school record as a means of identification. In the event that a breach results in the sharing of student social security numbers, prompt notification to parents or eligible students is mandated and will occur.

Document Retention/Destruction

The Superintendent will be responsible for overseeing the orderly retention and disposition of the district's student records including special education records in accordance with applicable district policy and regulations, federal and state statutes and Connecticut Public Records Administration Schedule M8 . Schedule M8 which provides timeframes for the retention of education records as well as directives regarding for the retention and their disposition. destruction of education records. Schedule M8 provides for minimum retention requirements and does not prohibit longer retention.

The Superintendent shall appoint a record keeper/manager for the district who is charged with carrying out the Superintendent's directives for the retention and disposition of education records in accordance with Schedule M8.

No records may destroyed until the district has received the signed approval form from the Office of the Public Records Administrator.

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The following represents a summary of the most recently revised Schedule M8 (revised February 2005). Schedule M8 is revised periodically and the retention/disposition of district education records shall be in accordance with the most recent schedule. These regulations shall be modified periodically to reflect ongoing revisions to Schedule M8.

Documentation that requires permanent retention:

District Policy and Procedures manuals must be retained permanently; they may be revised as required, but old policy/procedure manuals shall be maintained separately.

Physician's standing orders and nursing protocols must be retained permanently; these may be revised as required, but must keep old copy separate.

Records to be retained for Fifty (50) Years

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The following records must be retained for fifty (50) years after a student leaves the school district and thereafter, may be destroyed in accordance with state law and district procedures: academic achievement (grades/transcript) (caveat: when a student graduates from high school, the high school may discard K-8 transcripts), attendance records(days absent/present/tardy), basic biographical information, records of immunization.

Records to be retained for Six (6) Years

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The following education records are required to be maintained for six (6) years after a student leaves the school district, and thereafter, may be destroyed in accordance with state law and district procedures : awards, diagnostic test results (non-special ed), extracurricular activities, letters of recommendation, child-study and student assistance team records, standardized group test scores, diplomas, family with service needs records, school counselor, school psychologist, social –work and speech and language pathology case records and truancy records including referrals and records of parental conferences.

Student Health records to be retained for Six (6) Years

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The following health records must be retained for six years and thereafter, may be destroyed in accordance with state law and district procedures: accident or incident reports, school entrance health histories, child abuse forms, cumulative health records, emergency care plan, individualized health care plan, health assessment records, parental authorization and physicians orders for medication/treatment, nursing records (health assessment data, nursing process notes and third party health records),referral forms for services based upon results

from mandated screenings, sports historyies and physical-examination reports and medication administration records (until superseded by yearly summary on the cumulative health record or 6 years after the student leaves the school district)

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Transportation Records

Surveillance videotapes made on the bus must be retained for two weeks and then may be recycled unless the tape becomes evidence in any kind of disciplinary proceeding, or litigation, or otherwise takes on a status that would require a longer retention period according to Schedule M8. If so, it will be retained in accordance with the schedule and until all actions are resolved.

Comment [CD16]: Schedule M*8 footnote provides this information.

Comment [KLF17]: Look at bus safety policy. Julie to call edconn regarding surveillance and new contract.

Bus routes are required to be retained for three (3) years and then may be destroyed in accordance with state law and district procedures: .

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Enumeration Records/Field Sheets

Will be retained three (3) years and then may be destroyed in accordance with state law and district procedures.

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Student Disciplinary Records

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Records of student detention, incident reports and referrals are not required to be retained; records of suspension or expulsion must be retained in accordance with C.G. S. 10-233c(3) regarding suspensions, and C.G.S. 10-233d(f) governing expungement of student expulsion records. Records of suspensions and expulsions typically are retained until a student graduates high school with limited exceptions set out in the law allowing for earlier destruction.

Grade Books

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Shall be retained for the current school year plus one year, and then may be destroyed in accordance with state law and district procedures.

Tardy slips from parents/guardians

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Retained until the completion of the school year; then may be destroyed in accordance with state law and district procedures.

Student Portfolio work (SPW)

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SPW produced for grading assessment shall retained until b in accordance with state law and district procedures.

Parent's/eligible student's signed release forms

Will be retained as long as the records are maintained.

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Retention and Destruction of Special Education Records

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Pursuant to Municipal Records Retention Schedule M8, the following special education and related services records (birth through 21) will be retained minimally for six (6) years after a student leaves the district: assessment/evaluation reports, due process records including complaint, mediations and hearings, Individual Transition Plan (ITP) records, Individualized Education Program (IEP) records, Individualized Family Service Plan (IFSP) records, Planning and Placement Team (PPT) records, special education referral form, Section 504 records, pupil personnel (school counselor, nurse, psychologist, social-work, and speech/language pathology) service records.

Parent's/eligible student's release forms will be retained as long as the records are maintained.

Test protocols are maintained at the discretion of the school district and accordingly, will be retained for three (3) years, or until the next triennial reevaluation is completed, whichever comes first. Data concerning the implementation and tracking of progress on IEP goals and objectives will be retained for at least two years.

Comment [CD18]: Time for retention is discretionary and may differ by district. This is only a recommendation. Same for progress on IEP goals.

Parents will be notified when special education records are no longer needed for purposes of providing special education and related services to their child, particularly when the child graduates. If the parent requests that such documentation be destroyed, the district shall destroy the records in accordance with state and federal law.

Destruction of Records Pending Request

The district or schools will refrain from destroying records when there is a pending inspection request.

Connecticut's Freedom of Information Act (FOIA) and FERPA

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Pursuant to C.G. S. 1-210, also known as the Freedom of Information Act (FOIA), all records maintained or kept on file by any public agency which includes public schools are designated as public records subject to inspection and copying by all persons. Educational records which are not subject to disclosure under FERPA are exempt from disclosure under FOIA. Additionally, pursuant to FOIA, the names or addresses of students enrolled in any public school or college are exempt without the consent of each student whose name or address is to be disclosed who is eighteen years of age or older and consent of a parent or guardian of each student who is younger than eighteen years of age.

Notwithstanding the FERPA exception for education records, students, parents and staff should be aware that the district may be required by law to comply with specific FOIA requests for student records. In which case, a student's personally identifiable information contained in those records will be redacted to maintain student confidentiality.

MODEL ANNUAL PARENT NOTIFICATION OF RIGHTS

Dear Parent, Guardian or Student,

The Family Educational Rights and Privacy Act (FERPA) affords parents and students who are 18 years of age or older ("eligible students") certain rights with respect to the student's education records. These rights are:

1. The right to inspect and review the student's education records within 45 days after the day the Newtown Public Schools ("School") receives a request for access.

Parents or eligible students should submit to the school principal [or appropriate school official] a written request that identifies the records they wish to inspect. The school official will make arrangements for access and notify the parent or eligible student of the time and place where the records may be inspected

2. The right to request the amendment of the student's education records that the parent or eligible student believes are inaccurate, misleading, or otherwise in violation of the student's privacy rights under FERPA.

Parents or eligible students who wish to ask the School to amend a record should write the school principal, clearly identify the part of the record they want changed, and specify why it should be changed. If the School decides not to amend the record as requested by the parent or eligible student, the School will notify the parent or eligible student of the decision and of their right to a hearing before the Superintendent or designee regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the parent or eligible student when notified of the right to a hearing.

3. The right to provide written consent before the school discloses personally identifiable information (PII) from the student's education records, except to the extent that FERPA authorizes disclosure without consent.

One exception, which permits disclosure without consent, is disclosure to school officials with legitimate educational interests. A school official is a person employed by the school as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel) or a person serving on the school board. A school official also may include a volunteer or contractor outside of the school who performs an institutional service of function for which the school would otherwise use its own employees and who is under the direct control of the school with respect to the use and maintenance of PII from education

records, such as an attorney, auditor, medical consultant, or therapist; a parent or student volunteering to serve on an official committee, such as a disciplinary or grievance committee; or a parent, student, or other volunteer assisting another school official in performing his or her tasks. A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.

Upon request, the School discloses education records without consent to officials of another school district in which a student seeks or intends to enroll, or is already enrolled if the disclosure is for purposes of the student's enrollment or transfer. If the School receives notice that your child has transferred to another district, and you have not provided consent for the transfer of educational records, we will transfer the records and send you notification of the transfer pursuant to State law.

4. The right to file a complaint with the U.S. Department of Education concerning alleged failures by the School to comply with the requirements of FERPA. The name and address of the Office that administers FERPA is:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

FERPA permits the disclosure of PII from students' education records, without consent of the parent or eligible student, if the disclosure meets certain conditions found in §99.31 of the FERPA regulations. Except for disclosures to school officials, disclosures related to some judicial orders or lawfully issued subpoenas, disclosures of directory information, and disclosures to the parent or eligible student, §99.32 of the FERPA regulations requires the school to record the disclosure. Parents and eligible students have a right to inspect and review the record of disclosures. A school may disclose PII from the education records of a student without obtaining prior written consent of the parents or the eligible student —

- To other school officials, including teachers, within the educational agency or institution whom the school has determined to have legitimate educational interests. This includes contractors, consultants, volunteers, or other parties to whom the school has outsourced institutional services or functions, provided that the conditions listed in §99.31(a)(1)(i)(B)(1) - (a)(1)(i)(B)(2) are met. (§99.31(a)(1))
- To officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll, or where the student is already enrolled if the disclosure is for purposes related to the student's enrollment or transfer, subject to the requirements of §99.34. (§99.31(a)(2))
- To authorized representatives of the U. S. Comptroller General, the U. S. Attorney General, the U.S. Secretary of Education, or State and local educational authorities, such as the State educational agency in the parent or eligible student's State (SEA).

Disclosures under this provision may be made, subject to the requirements of §99.35, in connection with an audit or evaluation of Federal- or State-supported education programs, or for the enforcement of or compliance with Federal legal requirements that relate to those programs. These entities may make further disclosures of PII to outside entities that are designated by them as their authorized representatives to conduct any audit, evaluation, or enforcement or compliance activity on their behalf. (§§99.31(a)(3) and 99.35)

- In connection with financial aid for which the student has applied or which the student has received, if the information is necessary to determine eligibility for the aid, determine the amount of the aid, determine the conditions of the aid, or enforce the terms and conditions of the aid. (§99.31(a)(4))
- To State and local officials or authorities to whom information is specifically allowed to be reported or disclosed by a State statute that concerns the juvenile justice system and the system's ability to effectively serve, prior to adjudication, the student whose records were released, subject to §99.38. (§99.31(a)(5))
- To organizations conducting studies for, or on behalf of, the school, in order to: (a) develop, validate, or administer predictive tests; (b) administer student aid programs; or (c) improve instruction. (§99.31(a)(6))
- To accrediting organizations to carry out their accrediting functions. (§99.31(a)(7))
- To parents of an eligible student if the student is a dependent for IRS tax purposes. (§99.31(a)(8))
- To comply with a judicial order or lawfully issued subpoena. (§99.31(a)(9))
- To appropriate officials in connection with a health or safety emergency, subject to §99.36. (§99.31(a)(10))
- Information the school has designated as "directory information" under §99.37. (§99.31(a)(11))

MODEL ANNUAL NOTIFICATION
FOR DIRECTORY INFORMATION

The *Family Educational Rights and Privacy Act* (FERPA), a Federal law, requires that the Newtown Board of Education, with certain exceptions, obtain your written consent prior to the disclosure of personally identifiable information from your child's education records. However, the Newtown Board of Education may disclose appropriately designated "directory information" without written consent, unless you have advised the District to the contrary in accordance with District procedures. The primary purpose of directory information is to allow the Newtown Board of Education to include this type of information from your child's education records in certain school publications. Examples include:

- A playbill, showing your student's role in a drama production;
- The annual yearbook;
- Honor roll or other recognition lists;
- Graduation programs; and
- Sports activity sheets, such as for wrestling, showing weight and height of team members.

Directory information, which is information that is generally not considered harmful or an invasion of privacy if released, can also be disclosed to outside organizations without a parent's prior written consent. Outside organizations include, but are not limited to, companies that manufacture class rings or publish yearbooks. In addition, two federal laws require local educational agencies (LEAs) receiving assistance under the *Elementary and Secondary Education Act of 1965* (ESEA) to provide military recruiters, upon request, with the following information – names, addresses and telephone listings – unless parents have advised the LEA that they do not want their student's information disclosed without their prior written consent.

If you do not want the Newtown Board of Education to disclose directory information from your child's education records without your prior written consent, you must notify the District in writing no later than **[DATE]**. The Newtown Board of Education has designated the following information as directory information:

- Student's name
- Address
- Telephone listing
- Electronic mail address
- Photograph
- Date and place of birth
- Major field of study
- Dates of attendance
- Grade level
- Participation in officially recognized activities and sports
- Weight and height of members of athletic teams
- Degrees, honors, and awards received
- The most recent educational agency or institution attended

- Student ID number, user ID, or other unique personal identifier used to communicate in electronic systems that cannot be used to access education records without a PIN, password, etc. (A student's SSN, in whole or in part, cannot be used for this purpose.)

DIRECTORY INFORMATION OPT-OUT FORM

I do not wish for the Newtown Public Schools to disclose directory information regarding my child without my specific consent. I understand that this means my child's name and information will not be included on mailing lists, class lists, or provided to the media or other outlets without my specific consent for each instance:

Signature: _____

Print Name: _____

Date: _____

I do not wish for the Newtown Public Schools to disclose my child's information to military recruiters without my specific consent:

Signature: _____

Print Name: _____

Date: _____