



Chelsea Public Schools
Office of the Superintendent

City Hall
500 Broadway
Chelsea, MA 02150
(617) 466-4477
(617) 889-8361 (Fax)

Re: M.G.L. Chapter 71, Section 34 H

Access to Student Records by Non-Custodial Parents

Dear Non-Custodial Parent:

The guidelines for a non-custodial parent to gain access to his or her child's school records are written into Massachusetts General Law Chapter 71 Section 34H. We have enclosed a copy of the law. As a parent who does not have physical custody of your child, you must submit a written request to the principal of the school your child attends in order to have access to your child's records. (A request form is attached.)

Upon the principal's receipt of your request for student records, the Chelsea Public Schools must immediately notify the custodial parent by **certified mail** and **by first class mail** that you have made a request. The student record information will be sent to you after 21 days unless the custodial parent submits to the principal a copy of a court order, as described in Section 34H, that prohibits your contact with the child or that forbids the distribution of such information to you. As well, if there is a temporary or permanent restraining order issued against you, you will not have access to the records.

We hope that you will remain involved in decisions relative to your child's education. We look forward to working with you. Please feel free to call or write if you have any questions.

Sincerely,

Mary M. Bourque, Ed. D.
Superintendent



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Records Management

Destruction of Student Records

A student record includes all information that is organized on the basis of a student name or in a way that such a student may be individually identified and that is kept by Chelsea Public Schools. The location or physical form of such records is irrelevant. The student record excludes notes or other memory aids kept by the teacher in her/his personal files and not reported on in any way to authorized school personnel. The student record is divided into two categories:

1. The Transcript
2. The Temporary Record

The Transcript

The transcript is the administrative record which constitutes the minimum data necessary to reflect the student's educational progress and to operate an educational system. This data is limited to the following:

- Student name, address, phone number, birth date
- Parent name, address, phone number
- Course titles, grades (or grade equivalent), course credit
- Grade Level Completed and year of completion

The Temporary Record

The temporary record is all other student information maintained on each student.

Record Destruction Schedule

A transcript may be destroyed 60 years after graduation, transfer, withdrawal or disenrollment.

A temporary record may be destroyed 7 years after graduation, transfer, withdrawal or disenrollment.

The high school shall inform students and parents no later than May 31 in the year the student will graduate that their student file will be destroyed by a specific date, seven years from the date of graduation date and that their transcript will be available for sixty years from the date of graduation. This letter will also include a statement that parent or student has a right to receive the information in whole or in part, prior to the date of destruction.

If a student leaves Chelsea Public Schools for reason of transfer, withdrawal or disenrollment, the school where the student was enrolled prior to the transfer, withdrawal or disenrollment shall send the previously described letter to the parent.

Mailing such a letter to the last known address in the student's record shall be sufficient for delivery, unless otherwise informed of a different current address.



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Student Records (informational)

The student record shall consist of the transcript and the temporary record, including all information recording and computer tapes, microfilm, microfiche, or any other materials regardless of physical form or characteristics concerning a student that is organized on the basis of the student's name or in a way that such student may be individually identified, and that is kept by the public schools of the Commonwealth. The term as used in 603 CMR 23.00 shall mean all such information and materials regardless of where they are located, except for the information and materials specifically exempted by 603 CMR 23.04.

The transcript shall contain administrative records that constitute the minimum data necessary to reflect the student's educational progress and to operate the educational system. These data shall be limited to:

- Ⓢ student name/address/ phone number/ DOB
- Ⓢ parent or guardian name/address/ phone number
- Ⓢ course titles
- Ⓢ grades
- Ⓢ course credit
- Ⓢ grade level completed
- Ⓢ year completed

The temporary record shall consist of:

- Ⓢ all the information in the student record which is not contained in the transcript and must be of importance to the educational process. Such information may include:
 - standardized test results
 - class rank
 - extracurricular activities
 - evaluations by teachers, counselors, and other school staff.

Third party shall mean any person or private or public agency, authority, or organization other than the eligible student, his/her parent, or authorized school personnel.

Destruction of Student Records

The student's transcript shall be maintained by the school department and may only be destroyed 60 years following his/her graduation, transfer, or withdrawal from the school system.

(2) During the time a student is enrolled in a school, the principal or his/her designee shall periodically review and destroy misleading, outdated, or irrelevant information contained in the temporary record provided that the eligible student and his/her parent are notified in writing and are given opportunity to

receive the information or a copy of it prior to its destruction. A copy of such notice shall be placed in the temporary record.

(3) The temporary record of any student enrolled on or after the effective date of 603 CMR 23.00 shall be destroyed no later than seven years after the student transfers, graduates, or withdraws from the school system. Written notice to the eligible student and his/her parent of the approximate date of destruction of the record and their right to receive the information in whole or in part, shall be made at the time of such transfer, graduation, or withdrawal. Such notice shall be in addition to the routine information letter required by 603 CMR 23.10.

(4) In accordance with M.G.L. c 71, section 87, the score of any group intelligence test administered to a student enrolled in a public school shall be removed from the record of said student at the end of the school year in which such test was so administered.

STUDENT RECORDS IN MASSACHUSETTS

Massachusetts law governs how schools must keep student records. It also regulates how schools should respond to parent or student questions about records. If you want to read the actual regulations about school records, you can find them at 603 Code of Massachusetts Regulations, Chapter 23.00. If you have access to the internet, you can look them up on the Massachusetts state law library's web page: www.lawlib.state.ma.us/cm.html.

There are also federal rules about student records. Some of them are part of what is called the Family Educational Rights and Privacy Act ("FERPA"). FERPA is very similar to the Massachusetts rules. If you would like to read the federal rules about student records, you can find them at 34 Code of Federal Regulations, Chapter 99.00. The federal regulations are also available on the web at: www.access.gpo.gov/nara/cfr/.

What is in a student record?

A student record should have two parts:

- 1) the transcript and
- 2) the temporary record.

The transcript includes the name, birth date, address, and phone number of the student; contact information for the student's parent or guardian; and the course titles, grades received, and credits and grades completed. (603 C.M.R. 23.02)

The temporary record is made up of all other information, in any form, that the school keeps about the student. The school cannot keep just any information in the record. Information kept in the record has to be "important to the educational process." Important information includes evaluations of the student by teachers or other staff, standardized test results, class rank, and information about extra-curricular activities in which the student participates. (603 C.M.R. 23.02)

While the student is in school, the school must look at the temporary record from time to time to make sure that everything in it is correct, up to date, and "important to the educational process." The school should notify the student and parent if information is going to be destroyed in this process, and they should be allowed to receive the information prior to it being destroyed. (603 C.M.R. 23.06(2)).

What is NOT in a student record?

Informal notes kept by teachers are not usually part of the record. For example, if a teacher keeps notes about a student's progress for the purpose of helping her remember what the student has done, these notes are not part of the record. But, if a child's teacher shares the notes with other staff, in a TEAM meeting for instance, the notes are part of the record. A student's homework, quizzes, and/or academic papers are not considered part of the student record.

Who can see a student's record?

Students who are over fourteen and the student's custodial parent or guardian can see the student's

entire school record, regardless of the physical location of the record. The school must show the person the entire record within ten days of the person's request. (603 C.M.R. 23.07(2)). It is best to make your request in writing. Any student, regardless of their age should be given a copy of their transcript upon request.

There are special rules that non-custodial parents must follow to obtain a copy of their child's records these can be found at the website listed above at 603 C.M.R. 23.07(5). In addition, in certain instances, schools can release information to other agencies or personnel of the state and federal government about individual students. 603 C.M.R. 23.07(5).

What if I need a copy of my child's record?

If you are the custodial parent or guardian of the child, the school must make a copy of the record if you request it. The school is allowed to charge a reasonable fee for the cost of copies, however, the school cannot charge a fee if it would mean that you could not exercise your right to inspect and review the records. (603 C.M.R. 23.07(2)(a))

How long will the school keep a student record?

Schools must keep the transcript for at least 60 years after the student graduates, or leaves the school system. (603 C.M.R. 23.06(1)). The temporary record must be destroyed no later than 7 years after the student graduates or leaves the school system. (603 C.M.R. 23.06(3))

What if something in the record is misleading, wrong, or unimportant to the child's education?

You can always add something to the record that explains or offers your side of a story. For example, if you disagree with the results of a school disciplinary hearing, you could place a letter or statement in the record explaining why you disagree with the result. (603 C.M.R. 23.08(1))

What will the school do with my statement?

FERPA says that a statement that is added to a student record must be kept with the material it relates to. Whenever someone asks to see the record, or the record is released, your statement must be included with the record. (34 C.F.R. 99.21(c)(1-2))

What if adding something is not enough?

If you think that adding a statement is not enough, you can ask for an item to be changed or removed from the record. (603 C.M.R. 23.08(2)(a)). But the school will not consider removing information put there by an Evaluation Team until after an IEP is accepted, or the special education appeals process is complete. (603 C.M.R. 23.08(2))

How do I ask for something in a student record to be changed?

Make your request in writing to the principal or another person chosen by the principal, or in a face to face meeting. In your letter, explain what part of the record you disagree with and why. Tell the principal what you would like to have removed, or what you want to add. (603 C.M.R. 23.08(a))

What will the principal do?

The principal, or school staff assigned by the principal, must respond to your request within a week. The school's response must be in writing. It must explain the reasons for the decision. If the principal agrees to the change, she must make sure that it is made promptly. (603 C.M.R. 23.08(b))

What if the school will not make the changes?

If the school refuses to make the changes you asked for and you are not satisfied with the reasons for the refusal, you can appeal the decision. (603 C.M.R. 23.09(1)) Your appeal should be to the superintendent

of schools. Your appeal must be in writing. Explain in your letter why you disagree with the school's reasons, and what you would like the superintendent to do for you.

What will the superintendent do?

The superintendent, or someone designated by her, must respond to your request within two weeks. The response must be in writing. It must explain The written response must explain the reason for the decision. (603 C.M.R. 23.09(2)). If the decision is in your favor, the decision must go into effect promptly.

What if I am still not satisfied?

If the superintendent refuses to make the changes you have asked for, your next option is to write to the chairperson of the school committee to request a "fair hearing." (603 C.M.R. 23.09(3))

What will the school committee do?

The school committee must hold a fair hearing on your request within four weeks of receiving your letter. (603 C.M.R. 23.09(4))

What happens at a school committee hearing?

The school must convince the school committee that its reasons for refusing to honor your request are adequate. (603 C.M.R. 23.09(4)(a-c)) At the hearing, both you and the school will have a chance to explain your side of the issue. You can do this by asking people who have information that supports your position to come to the hearing as witnesses for you. If the school has witnesses at the hearing, you have a right to ask them questions. You can also present other evidence that supports your position, including other records, letters of support, or other items.

You have the right to bring an attorney, or another advocate, to represent you at the hearing. You also have a right to question witnesses, including witnesses from the school, present other evidence, and have the hearing tape recorded.

What happens after the fair hearing?

The school committee must make a write a decision about the issue. You must receive the decision within two weeks of the hearing. (603 C.M.R. 23.09(4)(b)). If you still disagree with the decision, you can go to court to challenge it.

Questions Often Asked About the Student Record Regulations

Massachusetts DOE

A. Access to Student Record

1. Do guardians or divorced/separated, foster, or unmarried parents have access to the student record?

A. Yes, according to 603 CMR 23.02, unless a contrary written agreement between parents or a court order governing the rights of such parents is brought to the attention of the principal.

2. May a staff member accompany a parent or eligible student who is inspecting the student's record?

A. Yes. 603 CMR 23.07(2)(c) allows the eligible student or parent, upon request, to meet with school personnel and have the record interpreted. The regulations neither specifically allow nor

specifically prohibit the school from requiring persons inspecting student records to do so in the presence of school personnel. In view of the school official's duty to assure the security of all students records, it is reasonable for the school to impose such a requirement, since parents and eligible students have the right to receive a copy of any information in the student record, which they may then inspect in privacy

3. May a school withhold a report card or diploma from a student who has outstanding school fees or unreturned property?

A. No. Any information that identifies a student individually - including a report card or a diploma - is considered part of the student record, as defined in the regulations. Under 603 CMR 23.07(2), the eligible student or parent is entitled to have access to the student record (including receiving a copy of it) within two consecutive days, unless the requesting party consents to a delay. The regulation does not authorize a school to withhold access to a student record for disciplinary reasons. School districts have other remedies for dealing with students who have outstanding fees or unreturned property.

4. Must a school give the parent or eligible student the original transcript?

A. No. Under 603 CMR 23.07(2)(a) a parent or eligible student is entitled only to a copy of a student record. Therefore a school is not required to give the eligible student or the parent an original record.

5. May employees of educational collaboratives providing services to students with special needs gain access to student record information without prior parental consent?

A. Administrators, teachers and counselors employed by an educational collaborative who are working directly with students in an administrative, teaching, counseling or diagnostic capacity are considered authorized school personnel and thus may obtain access to the records of the students they work with pursuant to 603 CMR 23.02.

6. May a speech therapist who the school district contracts on a consultant basis to provide services to students obtain access to student record information without prior parental consent?

A. Yes. Professionals who are not employed by the school district but who work directly with a student in an administrative, teaching, counseling and/or diagnostic capacity under an agreement between the school committee and a service provider may obtain access without prior parental consent. Pursuant to 603 CMR 23.02 access is limited to information that is required for them to perform their duties.

B. Access of Third Parties

7. What "directory" information may a school release to third parties without prior consent?

A. Under 603 CMR 23.07(4)(a) a school may release the following information without prior consent: "a student's name, address, telephone listing, date and place of birth, major field of study, dates of attendance, weight and height of members of athletic teams, class, participation in officially recognized activities and sports, degrees, honors and awards, and post- high school plans." However, before the school releases this information it must give public notice that it releases these types of information and it must inform parents and eligible students that they have the right to request that this information not be released without prior consent. This notice may be included in the routine information letter the school publishes under 603 CMR 23.10(1).

8. May a school release student names and addresses to regional vocational schools, county agricultural schools, or other schools or organizations?

A. Yes. 603 CMR 23.07(4)(a) allows, but does not require, a school to release student names and addresses without consent, provided that the school has followed the public notice procedure in that regulation. The regulation would permit the school to release student names and addresses to schools and organizations such as:

- regional vocational schools
- county agricultural schools
- post-secondary schools, colleges and universities
- recruiters for the Armed Forces
- school alumni organizations

Please note that when the school publishes notice of the types of information it may release under 603 CMR 23.07(4)(a), it must allow eligible students and parents a reasonable time after such notice to request that this information not be released without their prior consent.

9. May lists of students in a particular class or on a specific bus be released to a third party, such as a parent organization?

A. Yes. A school may, but is not required, to release the names of students in a particular class, etc., provided that the school has followed the public notice procedure in 603 CMR 23.07(4)(a).

10. May a school district's attorney have access to student records?

A. Yes. A school district's attorney, acting as an authorized agent of the school district, may obtain access to student records without parental consent when access is necessary in connection with the enforcement of federal and state education laws or programs (for example, in relation to legal proceedings in which the school district and the student are parties). 603 CMR 23.07(4)(d) requires that the attorney protect the confidentiality of any information that personally identifies students or their parents, and destroy it when no longer needed.

11. May independent auditors conducting audits pursuant to the Single Audit Act obtain access to student records?

A. Yes. 603 CMR 23.07(4)(d) permits school districts to designate independent auditors, conducting audits under the Federal Single Audit Act, as their authorized agents in connection with the audit or enforcement of federal and state education laws or programs. The designation should be made in writing, should include a statement designating the particular auditor as an authorized agent of the school district for the purpose of conducting the audit, and should incorporate the requirement that any data collected must be protected in a manner that does not permit personal identification of individuals by anyone except those designated, and must be destroyed when no longer needed.

12. May a school release student record information to the Department of Children and Families (DCF) in cases of suspected child abuse?

A. Section 51A of G.L. c.119 requires mandated reporters (including teachers and other school personnel) to report cases of suspected child abuse or neglect to DC F. Section 51B requires mandated reporters to disclose to DCF, upon request, any information that may be relevant to an investigation of a case of suspected abuse or neglect. See 603 CMR 23.07(4)(c) and (e).

13. May school officials notify the police if a student brings a gun or other dangerous weapon to school?

A. Yes. In fact section 37L of G.L. c. 71 requires school department personnel to report any incidents involving a dangerous weapon to the chief of police and the Department of Children and Families. 603

CMR 23.07(e) allows school officials to disclose information about a student to appropriate parties without consent, in connection with a health or safety emergency.

14. What should school officials do when student records are subpoenaed?

A. 603 CMR 23.07(4)(b) requires school officials to make a reasonable effort to notify the eligible student or parent before they comply with a lawfully issued subpoena or court order to produce student records.

15. What information may a school provide to the Department of Public Safety's Bureau of Special Investigations (Bureau) in cases of welfare fraud investigations?

A. Under G.L. c. 22, s. 15D(9) the Bureau may inspect enrollment and attendance records of any student who is being investigated for welfare fraud or any student who is the child, ward or dependent of someone who is being investigated for welfare fraud. The law prohibits the Bureau from obtaining access to academic, medical and evaluative records.

16. May a school release a student's attendance records to the Department of Transitional Assistance?

A. Yes. Under the Welfare Reform Law, in order to receive benefits under the Transitional Aid to Families with Dependent Children Program, children under the age of 14 must meet specific school attendance requirements. The school may release attendance records to DTA under 603 CMR 23.07(4)(a).

17. What should school officials do when they are notified by the police that a former student has been reported missing?

A. The student record of the missing student should be marked to indicate that the student has been reported missing, and the school should notify the police whenever there is an inquiry regarding the records. See 603 CMR 23.07(4)(f).

C. Amending the Student Record

18. May an eligible student or parent request that an individual course grade or grades be withheld when the student's transcript is released to a third party?

A. Yes. The eligible student or parent may make such a request, but the school is not required to honor it, if the third party receiving the transcript would reasonably assume that the transcript is complete. On the other hand, the school should honor a request to release or withhold a certain category or categories of courses or grades if the third party would not reasonably assume that the transcript is complete. For example, the eligible student or parent may request that only the student's math and science grades, or only the student's grades since ninth or tenth grade, be released.

D. Destruction of Student Records

□ How long should schools keep the records of students who graduated many years before the Student Record Regulations went into effect?

A. The records of students enrolled before February 1975 are not subject to the regulations. Therefore, it is in the school district's discretion to decide how long to keep such records. In keeping with the intent of 603 CMR 23.06, however, the time limit for destruction of the record should probably be not less than sixty years for a transcript and not more than five years for the temporary record.

May a school district "destroy" a student's temporary record within five years of the student's graduation, transfer or withdrawal by handing over the only copy to the eligible student and/or parent?

A. Yes, as long as the eligible student or parent is notified in writing that this is the only copy and that this is the school's method of disposing of the record, in accordance with 603 CMR 23.06(3).

Is an announcement in the local newspaper of the destruction of the temporary records of students who have left the system adequate notification to the former students and parents?

A. Generally, no. 603 CMR 23.06(3) requires written notice to the student and parent, which is not satisfied by publication in a local newspaper unless the paper is sent to all parents and students. A preferable method of notification would be an announcement included in whatever information packets go out to graduating students. Students who leave the system at other times should receive the notice at those times.

Are there any situations in which a school should maintain copies of a student's temporary record for more than five years after the student has left the school system?

A. Yes. The School Finance Regulations require school districts to maintain school registers, pupil census, IEPs, and other documentation to support data reported to the Department of Education on the annual End of Year Pupil and Financial Report for seven years after its submission. See 603 CMR 10.21(9). Any records that are the subject of an audit or investigation should be maintained until the audit or investigation is complete. In addition, where school health personnel administer immunizations to students, Federal law requires that documentation of immunizations be retained at least 10 years following the end of the calendar year in which the vaccine was administered.

E. Confidentiality

23. Is the process of determining selections for the National Honor Society and other awards subject to the confidentiality requirements of the Student Records Regulations?

A. Under 603 CMR 23.07(3), authorized school personnel may obtain access to student records without consent when they need access to perform their duties. Any written material produced or introduced (even from the personal files of school employees) during the selection process becomes part of the student record if it individually identifies the student and is kept by the school. The material is then subject to the regulations, including the right of an eligible student and parent to obtain access and the prohibition against releasing the information to third parties without consent.

24. What procedures must be taken to ensure confidentiality if the student record is computerized?

A. Computerized records are subject to the same restrictions regarding confidentiality and access as any other form of student records.

F. Tests and Test Scores

25. Are tests, completed by a student and containing his/her name, protected under these regulations?

A. Yes. Any information that is organized on the basis of the student's name or in a way that such student may be individually identified, and that is kept by the public schools of the Commonwealth, is part of the student record. If the school system plans to administer the exact same test to these students or their peers in the future, or if the same test is used in neighboring school systems, the test questions should appear on a separate sheet that does not contain the student's name.

26. Must schools release average or mean S.A.T. scores?

- A. Yes. Anonymous statistical information or anonymous data that do not individually identify students are not considered part of the student record and may be released under the Student Records Regulations. Moreover, an advisory by the Supervisor of Public Records determined that average S.A.T. scores fall under the definition of public records and are subject to the Public Records Law.

27. Are test protocols considered part of the student's special education record?

A. The answer depends on the circumstances. The protocol of a test, usually administered by a school psychologist (most frequently as part of a student's evaluation for special education) may include standardized test scoring forms; student answers, drawings and verbal responses noted by the tester; and the tester's written observations of student behavior. If the test protocol individually identifies the student, and is accessible to other authorized school personnel or third parties, then it is considered part of the student record, and the eligible student or parent has access to it under 603 CMR 23.07(2). However, if the protocol does not individually identify the student, it is not considered part of the student record. Furthermore, it is not considered part of the student record even if it does identify the student, provided that it is kept in the tester's personal files and is not released, in whole or in part, to authorized school personnel or any third party. In those cases, it is permissible but not required to share the protocol with the parent or eligible student.

G. Student Health Records

28. What record keeping procedures should be followed by school nurses with respect to student health records?

A. Student health records are part of a student's temporary record and as such are protected from disclosure to third parties without the written consent of the eligible student or parent. These records are accessible to the eligible student, the student's parents or guardians and authorized school personnel.

Massachusetts public health laws provide special confidentiality protections for certain health records. For example, under G. L. c.111, s.70F, a health care provider cannot disclose information about an individual's AIDS/HIV status without specific, informed, written consent of the individual. Therefore, it is recommended that school nurses keep this information in a separate confidential part of the health record, as personal nursing notes. Under 603 CMR 23.04, information that is maintained in the personal files of a school employee is not part of the student record if it is not accessible to or revealed (written or orally) to authorized school personnel or third parties. The information may be shared with the student and with a substitute or replacement nurse without becoming a part of the student's temporary record.

For further information on procedures regarding AIDS/HIV status please see Updated Medical Policy Guidelines: Children and Adolescents with HIV Infection/AIDS in School Settings, Massachusetts Department of Public Health, August 1991.

29. Should special record keeping procedures be followed with respect to student health records that are maintained by the school physician, or in a health clinic that is affiliated with or based in a school?

A. A physician's records, including a school physician's records, regarding treatment are confidential and may not be released to anyone without either the written consent of the parent (or the student in instances where the student consents to treatment), or a proper judicial order. Records kept by a school-based health clinic operating as a satellite health center are considered medical records of that health center and are subject to medical records regulations, not Student Record Regulations.

H. Transfer of Records

30. Must the school obtain consent from the eligible student or parent before forwarding a student's record to a new school?

A. No. Under 603 CMR 23.07(4)(g) consent is not required to forward a transferring student's records to the new school if the school the student is leaving provides notice that it forwards student records to the new school when a student transfers. This notice may be included in the routine information letter required in 603 CMR 23.10.

31. When a student transfers from one school to another, what records must be provided to the new school?

A. Under section 37L of G.L. c.71, any student transferring into a new school district must provide the new district with "a complete school record," including but not limited to, "any incidents involving suspension or violation of criminal acts or any incident reports in which such student was charged with any suspended act." 603 CMR 23.07(4)(g) allows a school district to release the entire student record of a transferring student to the new school without prior consent, provided that it gives notice that it forwards student records to other school in which the student seeks or intends to transfer. This notice may be included in the routine information letter required under 603 CMR 23.10(1).

32. Should a student's health record be sent to the new school when a student transfers?

A. Yes. However, because student health records may contain information that is particularly confidential, the health records of a transferring student should be sent by the school nurse of the school the student is leaving directly to the school nurse of the new school.

I. 18 Year Olds

33. May a student who is eighteen years of age limit his/her parents' rights under these regulations?

A. Yes, except that a parent always retains the right to inspect the student records pursuant to G.L. c. 71, s. 34E. A student who is eighteen years of age or older, may exercise the rights referred to in the regulations, without restriction. The student's parent may continue to exercise the rights, until expressly limited by the adult student under 603 CMR 23.01(3).

J. Teacher Notes

34. Does an eligible student or parent have access to information about the student that is contained in the teacher's grade book?

A. Perhaps. The school system may determine whether a teacher's grade book is part of the student record or part of the teacher's personal files. If the grade book is part of the teacher's personal files, the book cannot be accessible or revealed to other school personnel or third parties, except for substitute or replacement teachers during the school year. The teacher may share information in the teacher's personal files with the student or parent, but the regulations do not require the teacher to do so.

K. Teacher Recommendations

35. Are recommendations by teachers and counselors part of the student record? May access by the parent and eligible student be waived?

A. Yes, to both questions. A recommendation that is released to a third party becomes part of the student record and is subject to all the provisions of these regulations, including the right of

access by eligible students and parents. However, the parent and eligible student may waive their right of access to the letter of recommendation. To be valid, a waiver of the right of access must be in writing, freely given and not coerced. The school may not require the waiver as a condition for providing the necessary recommendations for college application.

L. Fees

36. May schools charge a fee for providing copies of student records to parents or eligible students?

A. 603 CMR 23.07(2)(a) allows schools to charge a reasonable fee, not to exceed the cost of reproduction. However, schools cannot charge a fee if charging a fee would prevent the parent or eligible student from exercising their right to inspect and review the records.

37. What "reasonable fee" may schools charge to cover the cost of reproducing student records?

A. The Student Record Regulations do not mandate a maximum fee per page as photocopying rates may vary from town to town, depending on local facilities. However, the cost of reproduction cannot include the cost of secretarial time spent locating, copying, and refiling a record. Although the maximum allowable fee of \$.20 per page for providing copies of public records is not applicable to student records, it is useful as a guideline as to what constitutes a reasonable fee.

M. Closed Schools

38.38. What procedures should be followed to maintain student records when private or public schools close permanently?

A. Pursuant to G.L. c. 71, s. 34G, when a private school closes, the records of students shall be transferred to the school the students will be attending. The transcripts of all other students, including those of former students, shall be transferred to the Department of Education. Notification should be sent to students regarding the new location. In the case of a public school, the records should be transferred to the school department's central administrative offices and maintained in accordance with 603 CMR 23.06.

N. Private Schools

39. Are private schools subject to any of these regulations?

A. Generally, no, since the regulations apply to student records maintained by public elementary and secondary schools in Massachusetts. However, private day and residential programs that provide publicly-funded special education services are required to comply with the Student Record Regulations. See 603 CMR 18.05(11). In addition, a separate statute, General Law, c. 71, s. 34A, requires any educational institution (public or private) in Massachusetts to provide to any student or former student a written transcript of his/her record as a student.



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Location and Access to Student Records

- All files for Chelsea Public School students are to be kept in a (secure) file cabinet in the main office of the child's school. Chelsea school department staff having direct involvement with the student can inspect files during business hours. (A sign-in log attached to the cover of each file records information about personnel reviewing the files.)
- Any material received from other districts, evaluators, hospitals etc., should be forwarded to the student's school, addressed to the Assistant Principal. Copies of documents from other districts, evaluators, hospitals, etc. will be disseminated from there to the appropriate school administrator and filed accordingly. If the student has an IEP, it can be shared with staff directly involved with a student. Chelsea High School Guidance office should have a copy of the student's current Individual Education Program (IEP). When a student transfers to another district, the current IEP and/or file documents can follow the student with other materials in accordance with the transfer process. All other evaluation materials require a specific release (attached).
- Discussions regarding information in a student's file are confidential. Issues pertaining to special services, evaluations or hearings should be discussed at administrative or IEP Team meetings and limited to the confines of the those meetings.
- All other questions regarding information in a student's file, including questions of custody, should be forwarded to the building Principal for clarification.



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Chapter 285 of the Acts of 1998
Access to Student Records by Non-Custodial Parents

AN ACT PROVIDING FOR THE DISTRIBUTION OF INFORMATION TO CERTAIN PARENTS OF CHILDREN ENROLLED IN ELEMENTARY AND SECONDARY SCHOOLS

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Chapter 71 of the General laws is hereby amended by inserting after section 34G the following section:

Section 34H (a) Each public elementary and secondary school shall provide the following information in a timely and appropriate manner to the parent of a child enrolled in the school if the parent is eligible for information pursuant to this section and requests the information in the manner set forth in this section: report cards and progress reports; the results of intelligence and achievements tests; notification of a referral for a special needs assessments; notification of enrollment in a transitional bilingual program; notification of absences; notification of illnesses; notification of any detentions; suspensions or expulsion; and notification of permanent withdrawal from school. Each school shall also make reasonable efforts to ensure that other written information that is provided to the custodial parent but not specified in the preceding sentence be provided to the requesting parent if that parent is eligible for information pursuant to this section and requests the information in the manner set forth herein. All address and telephone number information shall be removed from information provided pursuant to this section. Receipt of this information shall not mandate participation in any proceeding to which notification pertains nor shall it authorize participation in proceedings and decisions regarding the child's welfare which are not granted through the award of custody.

Access Procedures for Non-Custodial Parents. As required by M.G.L. c. 71, § 34H, a non-custodial parent may have access to the student record in accordance with the following provisions.

- (a) A non-custodial parent is eligible to obtain access to the student record unless:
1. the parent has been denied legal custody based on a threat to the safety of the student or to the custodial parent, or
 2. the parent has been denied visitation or has been ordered to supervised visitation, or
 3. the parent's access to the student or to the custodial parent has been restricted by a temporary or permanent protective order, unless the protective order (or any subsequent order modifying the protective order) specifically allows access to the information contained in the student record.

(b) The school shall place in the student's record documents indicating that a non-custodial parent's access to the student's record is limited or restricted pursuant to 603 CMR 23.07(5)(a).

(c) A parent eligible for information pursuant to this section who wishes to have this information shall submit a written request to the school principal.

(d) Upon receipt of a request for information pursuant to this section the school shall immediately notify the custodial parent of the receipt of the request. Notification must be made by certified mail and by first class mail in both the primary language of the custodial parent and in English. The school may seek reimbursement for the cost of postage from the requesting parent. The notification shall also inform the custodial parent that information requested pursuant to this section shall be provided to the requesting parent after 21 days unless the custodial parent provides to the principal of the school documentation of any court order which prohibits contact with the child, or prohibits the distribution of the information referred to in this section or which is a temporary or permanent order issued to provide protection to the custodial parent or any child in the custodial parent's custody from abuse by the requesting parent unless said protective order or any subsequent order which modifies said protective order, specifically allows access to the information described in this section.

(e) The school must delete the electronic and postal address and telephone number of the student and custodial parent from student records provided to non-custodial parents. In addition, such records must be marked to indicate that they shall not be used to enroll the student in another school.

(f) At any time the principal of a school is presented with an order of a probate and family court judge which prohibits the distribution of information pursuant to this section the school shall immediately cease to provide said information and shall notify the requesting parent that the distribution of information shall cease.

(g) The principal of each public elementary and secondary school shall designate a staff member whose duties shall include the proper implementation of this section.

(h) Requests for information made pursuant to this section which are made while a permanent protective order restricting access to the custodial parent or to any child in the custodial parent's custody is in effect shall constitute a violation of said protective order and be subject to the applicable penalties.

(i) The department of education shall promulgate regulations to implement the provisions of this section. Said regulations shall include provisions which assure that the information referred to in this section is properly marked to indicate that said information may not be used to support admission of the child to another school.



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Capítulo 285 de los Actos de 1998
Acceso a registros de estudiantes por padres no-custodios

UN ACTA QUE ESTIPULA LA DISTRIBUCIÓN DE INFORMACIÓN A CIERTOS PADRES DE NIÑOS/AS INSCRIPTOS EN ESCUELAS ELEMENTALES Y SECUNDARIAS.

Siendo promulgada en reunión de la Corte General por el Senado y la Cámara de Representantes, y por su autoridad, como sigue:

Por la presente el capítulo 71 de las leyes generales se enmienda insertando luego de la sección 34G la sección siguiente:

Sección 34H (a) Cada escuela elemental o secundaria proporcionará la información siguiente en tiempo y forma apropiada al padre de un/a niño/a incripto/a en la escuela si el padre es apto para información según esta sección y solicita la información en la manera expuesta en esta sección: informes escolares e informes de progreso; los resultados de pruebas de inteligencia y desempeño; notificación para una derivación para evaluaciones de necesidades especiales; notificación de inscripción en un programa bilingüe de transición; notificación de ausencias; notificación de enfermedades; notificación de cualquier detención; suspensión o expulsión; y notificación del retiro permanente de la escuela. Cada escuela hará esfuerzos razonables para asegurar que otra información escrita que es ofrecida al padre custodio pero no especificada en la oración anterior sea provista al padre solicitante si el padre es apto para la información según esta sección y solicita la información en la manera expuesta aquí. Toda la información de dirección y números de teléfono será eliminada de la información provista según esta sección. El recibo de esta información no autorizará participación en ningún procedimiento al cual la notificación pertenece o autorizará participación en procedimientos y decisiones en referencia al bienestar del niño/a que no sean otorgados a través de la adjudicación de la custodia..

Gestiones de acceso para padres no-custodios. Como es requerido por M.G.L. c. 71, § 34H, un padre no-custodio puede tener acceso al registro del estudiante de acuerdo con los suministros siguientes.

- (a) Un padre no-custodio es apto para obtener acceso a los registros del estudiante a menos que:
1. el padre haya sido negado de la custodia legal basándose en la amenaza de la seguridad del estudiante o del padre custodio, o
 2. el padre haya sido denegado de visitación o ha sido ordenado con visitación supervisada, o
 3. el acceso del padre al estudiante o al padre custodio ha sido restringido por una orden protectora temporaria o permanente, a menos que la orden protectora (o cualquier orden

subsecuente modificando la orden protectora) específicamente permita acceso a la información contenida en el registro del estudiante.

(b) La escuela colocará en los registros del estudiante documentos indicando que el acceso a los registros del estudiante es limitado o restringido al padre no-custodio según 603 CMR 23.07(5)(a).

(c) Un padre apto para información según esta sección que desea tener esta información presentará una petición escrita al director de la escuela.

(d) Luego del recibo de una petición para la información según esta sección la escuela inmediatamente notificará al padre custodio del recibo de la petición. La notificación deberá ser realizada por correo certificado o primera clase, tanto en el idioma primario del padre custodio como en inglés. La escuela puede buscar un reembolso por el costo postal del padre solicitante. La notificación también informará al padre custodio que la información según esta sección se proveerá al padre solicitante después de 21 días a menos que el padre custodio presente al director de la escuela documentación de alguna orden de la corte que prohíba contacto con el niño/a, o prohíba la distribución de la información referida en esta sección o que sea una orden temporaria o permanente expedida para dar protección al padre custodio o algún niño/a en la custodia del padre custodio del abuso del padre peticionante a menos que dicha orden protectora o alguna orden subsiguiente que modifica dicha orden protectora, específicamente permita el acceso a la información descrita en esta sección.

(e) La escuela debe borrar la dirección electrónica y postal, y el número de teléfono del estudiante y del padre custodio del registro del estudiante que se le provee al padre no-custodio. Además, esos registros deben estar marcados para indicar que no podrán ser usados para inscribir al estudiante en otra escuela.

(f) En cualquier momento en que se le presenta al director de una escuela con una orden de un juez del juzgado de tutelas o de familia que prohíbe la distribución de la información según esta sección, la escuela cesará inmediatamente la provisión de dicha información y notificará al padre solicitante que la distribución de la información cesará.

(g) El director de cada escuela elemental o secundaria designará a un miembro del personal cuyas obligaciones deberá incluir la implementación correcta de esta sección.

(h) Peticiones hechas para información según esta sección que son hechas mientras una orden protectora restringiendo el acceso al padre custodio o a algún niño/a en la custodia del padre custodio está en efecto constituirá una violación de dicha orden protectora y será sujeta a las penalidades aplicables.

(i) El departamento de educación promulgará regulaciones para implementar los suministros de esta sección. Dichas regulaciones incluirán suministros que aseguren que la información referida en esta sección es apropiadamente marcada para indicar que dicha información no podrá ser utilizada para apoyar admisión del niño en otra escuela.



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STUDENT RECORDS

In order to provide students with appropriate instruction and educational services, it is necessary for the Chelsea Public Schools to maintain extensive and sometimes personal information about them and their families. It is the policy of the Chelsea Public Schools that all individual student records of the Chelsea Public Schools are confidential, including individual addresses and telephone numbers. It is essential that pertinent information in these records be readily available to appropriate school personnel, be accessible to the student's parents or legal guardian and/or the student in accordance with law, and yet be guarded as confidential information.

The Superintendent will provide for the proper administration of student records in keeping with state and federal requirements, and shall obtain a copy of state student records regulations (603 CMR 23.00). The temporary record of each student enrolled on or after June 2002 will be destroyed no later than seven years after the student transfers, graduates, or withdraws from the school district. Written notice to the eligible student and his/her parent of the approximate date of destruction of the temporary record and their right to receive the information in whole or in part, shall be made at the time of such transfer, graduation, or withdrawal. The student's transcript may only be destroyed 60 years following his/her graduation, transfer, or withdrawal from the school system.

603 CMR 23.00

603 CMR 23.00 is promulgated by the Massachusetts Board of Education pursuant to its powers under M.G.L.c.71, s.34D which directs that “the board of education shall adopt regulations relative to the maintenance of student records by the public elementary and secondary schools of the commonwealth,” and under M.G.L.c.71, s.34F which directs that “the board of education shall adopt regulations relative to the retention, duplication, and storage of records under the control of school committees, and except as otherwise required by law may authorize the periodic destruction of any such records at reasonable times.” 603 CMR 23.00 was originally promulgated on February 10, 1975, and was reviewed and amended in June 1995. 603 CMR is in conformity with federal and state statutes regarding maintenance of and access to student records, and are to be construed harmoniously with such statutes.

Application of Rights

603 CMR 23.00 is promulgated to insure parents’ and students’ rights of confidentiality, inspection, amendment, and destruction of students’ records and to assist local school systems in adhering to the law. 603 CMR 23.00 should be liberally construed for these purposes.

- (1) These rights shall be the rights of the student upon reaching 14 years of age or upon entering the ninth grade, whichever come first. If a student is under the age of 14 and has not yet entered the ninth grade, these rights shall belong to the student’s parent.
- (2) If a student is from 14 through 17 years or has entered the ninth grade, both the student and his/her parent, or either one acting alone, shall exercise these rights.
- (3) If a student is 18 years of age or older, he/she alone shall exercise these rights, subject to the following. The parent may continue to exercise the rights until expressly limited by such student. Such student may limit the rights and provisions of 603 CMR 23.00 which extend to his/her parent, except the right to inspect the student record, by making such request in writing to the school principal or superintendent of schools who shall honor such request and retain a copy of it in the student record. Pursuant to M.G.L. c.71, s.34E, the parent of a student may inspect the student record regardless of the student’s age.
- (4) Notwithstanding 603CMR 23.01(1) and 23.01(2), nothing shall be construed to mean that a school committee cannot extend the provisions of 603 CMR 23.00 to students under the age of 14 or to students who have not yet entered the ninth grade.

Definition of Terms

The various terms as used in 603 CMR 23.00 are defined below:

Access: shall mean inspection or copying of a student record, in whole or in part.

Authorized school personnel: shall consist of three groups:

- (1) School administrators, teachers, counselors, and other professionals who are employed by the school committee or who are providing services to the student under an agreement between the school committee and a service provider, and who are working directly with the student in an administrative, teaching, counseling, and/or diagnostic capacity. Any such personnel who are not employed directly by the school committee shall have access only to the student record information that is required for them to perform their duties.
- (2) Administrative office staff and clerical personnel, including operators of data processing equipment or equipment that produces microfilm/microfiche, who are either employed by the school committee or are employed under a school committee service contract, and whose duties require them to have access to student records for purposes of processing information for the student record. Such personnel shall have access only to the student record information that is required for them to perform their duties.
- (3) The evaluation team that evaluates a student.

Eligible student: shall mean any student who is 14 years of age or older or who has entered 9th grade, unless the school committee acting pursuant to 603 CMR 23.01(4) extends the rights and provisions of 603 CMR 23.00 to students under the age of 14 or to students who have not yet entered 9th grade.

Evaluation Team: shall mean the team which evaluates school-age children pursuant to M.G.L.c.71B (St. 1972, c.766) and 603 CMR 28.00,

Parent: shall mean a student's father or mother, or guardian, or person or agency legally authorized to act on behalf of the child in place of or in conjunction with the father, mother, or guardian. Any parent who by court order does not have physical custody of the student, is considered a non-custodial parent for purposes of M.G.L.c.71, s.34H and 603 CMR 23.00. This includes parents who by court order do not reside with or supervise the student, even for short periods of time.

Release: shall mean the oral or written disclosure, in whole or in part, of information in a student record.

School-age child with special needs: shall have the same definition as that given in M.G.L. c.71B (St 1972, c.766) and 603 CMR 28.00.

School Committee: shall include a school committee, a board of trustees of a charter school, a board of trustees of a vocational-technical school, a board of directors of a educational collaborative and the governing body of an M.G.L. c.71B (Chapter 766) approved private school.

Student: shall mean any person enrolled or formerly enrolled in a public elementary or secondary school or any person age three or older about whom a school committee maintains information. The term as used in 603 CMR 23.00 shall not include a person about whom a school committee maintains information relative only to the person's employment by the school committee.

The student record: shall consist of the transcript and the temporary record, including all information, recording and computer tapes, microfilm, microfiche, or any other materials, regardless of physical form or characteristics concerning a student that is organized on the basis of the student's name or in a way that such student may be individually identified, and that is kept by the public schools of the Commonwealth. The terms as used in 603 CMR 23.00 shall mean all such information and materials regardless of where they are located, except for the information and materials specifically exempted by 603 CMR 23.04.

The temporary record: shall consist of all the information in the student record which is not contained in the transcript. This information clearly shall be of importance to the educational process. Such information may include standardized test results, class rank (when applicable, extracurricular activities, and evaluations by teachers, counselor, and other school staff.

Third party: shall mean any person or private or public agency, authority, or organization other than the eligible student, his/her parent, or authorized school personnel

Log of Access: A log shall be kept as part of each student's record. If parts of the student record are separately located, a separate log shall be kept with each part. The log shall indicate all persons who have obtained access to the student record, stating: the name, position, and signature of the person releasing the information; the name, position, and, if a third party, the affiliation if any, of the person who is to receive the information; the date of access; the parts of the record to which access was obtained; and the purpose of such access. Unless student record information is to be deleted, or released, this log requirement shall not apply to:

- (a) Authorized school personnel under 603 CMR 23.02(9)(a) who inspect the student record
- (b) Administrative office staff and clerical personnel under 603 CMR 23.02 (9)(b), who add information to or obtain access to the student record; and
- (c) School nurses who inspect the student health record.

Access of Third Parties: Except for the provisions of 603 CMR 23.07(4)(a) through 23.07(4)(h), no third party shall have access to information in or from a student record without the specific, informed written consent of the eligible student or the parent. When granting consent, the eligible student or parent shall have the right to designate which parts of the student record shall be released to the third party. A copy of such consent shall be retained by the eligible student or parent and a duplicate placed in the temporary record. Except for the information described in 603 CMR 23.07(4)(a), personally identifiable information from a student record shall only be released to a third party on the condition that he/she will not permit any other third party to have access to such information without the written consent of the eligible student or parent. Such notice may be included in the routine information letter under 603 CMR 23.10.

- (a) A school may release the following directory information: a student's name, address, telephone listing, date and place of birth, major field of study, dates of attendance, weight and height of members of athletic teams, class, participation in officially recognized activities and sports, degrees, honor and awards, and post-high school plans without the consent of the eligible student or parent; provided that the school gives public notice of the types of information it may release under 603 CMR 23.07 and allows eligible students and parents a reasonable time after such notice to request that this information not be released without the prior consent of the eligible student or parent. Such notice may be included in the routine information letter required under 603 CMR 23.10.

Access Procedures for Non-Custodial Parents: As required by M.G.L. c.71, s.34H, a non-custodial parent may have access to the student record in accordance with the following provisions.

- (a) A non-custodial parent is eligible to obtain access to the student record unless:
 - 1. The parent has been denied legal custody based on a threat to the safety of the student or to the custodial parent, or
 - 2. The parent has been denied visitation or has been ordered to supervised visitation, or
 - 3. The parent's access to the student or to the custodial parent has been restricted by a temporary or permanent protective order, unless the protective order (or any subsequent order modifying the protective order) specifically allows access to the information contained in the student record.
- (b) In order to obtain access, the non-custodial parent must submit a written request for the student record to the school principal.
- (c) Upon receipt of the request the school must immediately notify the custodial parent by certified and first class mail, in English and the primary language of the custodial

parent, that it will provide the non-custodial parent with access after 21 days, unless the custodial parent provides the principal with documentation that the non-custodial parent is not eligible to obtain access as set forth in 603 CMR 23.07(5)(a).

- (d) The school must delete the electronic and postal address and telephone number of the student and custodial parent from student records provided to non-custodial parents. In addition, such records must be marked to indicate that they shall not be used to enroll the student in another school.
- (e) Upon receipt of a court order which prohibits the distribution of information pursuant to G.L.c.71, s.34H, the school shall notify the non-custodial parent that it shall cease to provide access to the student record to the non-custodial parent.

At least once during every school year, the school shall publish and distribute to students and their parents in their primary language a routine information letter informing them of the following:

- (a) The standardized testing programs and research studies to be conducted during the year and other routine information to be collected or solicited from the student during the year.
- (b) The general provisions of 603 CMR 23.00 regarding parent and student rights, and that copies of 603 CMR 23.00 are available to them from the school.

Revised: August 31, 2005

LEGAL REFS: Family Educational Rights and Privacy Act of 1974
P.L. 93-380, Amended
P.L. 103-382, 1994
M.G.L.66:10 71:34 A, B, D, E, H
Board of Education Student Record Regulations adopted 2/10/77, June 1995
as amended June 2002
603 CMR: Dept of Education publication Student Records: Questions,
Answers and Guidelines, Sept. 1995