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| <p>Subject:</p> <p><i>Student Privacy and School Transparency Statutes</i></p> <p><i>Issued: Aug. 31, 2022</i></p> | <p><i>Legal Reference—[Various]</i></p> |
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This Technical Advisory addresses student privacy and school transparency laws, both at the state and federal level for K-12 public education.

New Hampshire schools work diligently to support their students and families – support that reaches beyond academic instruction. Student privacy and school transparency issues often arise, and can be sensitive topics that schools face on a daily basis. However, there are state and federal statutes in place to provide guidance and direction. As New Hampshire kicks off a new school year, this technical advisory is meant to serve as a resource document providing a clear framework that will allow schools and families to best support each other when they find themselves dealing with these sometimes challenging matters. Understandably, there are many questions from school leaders, educators, parents, guardians, and other groups seeking to understand best practices and statutes related to student privacy and school transparency. This document aims to answer many of those tough questions, while also supporting schools and families throughout the process so that we have, collectively, the best interest of each and every child at the forefront, as we always have.

Parents and guardians have multiple statutory rights to direct the care and education of their minor children, including, but not limited to:

- The right to direct the education of minor children including the right to choose to enroll their child in their assigned resident public school, a public charter school, an approved nonpublic school, public charter school, home education program, or Education Freedom Account program. See RSA 193:1 and RSA 194:F:1, et seq
- The right to request their child be enrolled in a public school other than the public school assigned to them by their residence to avoid a manifest educational hardship. See RSA 193:3
- The right to obtain access for their child in public curricular courses and cocurricular programs offered by the local school district where the student resides while choosing to enroll their child in a nonpublic, public chartered, home education or EFA program. See RSA 193:1-c; RSA 194-F:2(d)
- The right to inspect **any** instructional material used as part of the educational curriculum for the student. The procedures will provide reasonable access to instructional material within a reasonable period of time after the request is received. See 20 U.S.C §1232h, (c)(1)(C).
- The right to exempt a minor child from immunizations if, in the opinion of a physician, the immunization is detrimental to the child or because of religious beliefs. See RSA 141-C:20-a and 141-C:20-c.

- The right to exempt their public-school students from participating in the required statewide assessments (English language arts mathematics, and/or science). See RSA 193-C:6.
- The right to receive information regarding the level of achievement and academic growth of their child in each of the State academic assessments (English language arts, mathematics, and/or science). See Every Student Succeeds Act, Section 1112 (e)(1)(B)(i).
- The right to opt out of certain instruction. See 186:11, IX-b (right to opt out of health or sex education instruction); 186:11, IX-c (parents and legal guardians may opt out of objectionable material).
- The right to access and review education records relating to their minor child within 14 days after the day the school receives a request for access pursuant to RSA 189:66, IV and 34 C.F.R. § 99.5. Annually, schools must notify parents of their rights under the Family Educational Rights and Privacy Act (“FERPA rights”). The school may use several different methods to inform parents of their rights. The methods include publishing a notice in a student handbook, in a specific notice to parents, in a local newspaper, or in a central location in the school. Specifically,
 - Parents (including a noncustodial parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian) may see their child’s education records unless the school has been given a divorce decree or other legal document that specifically revokes these rights. For the purposes of this section, the term “education records” means those records, files, documents, and other materials which—(i) contain information directly related to a student; and (ii) are maintained by an educational agency or institution or by a person acting for such agency or institution except for those specifically excluded in Family Educational Rights and Privacy Act. See 20 U.S. Code § 1232g.
 - They have a right to ask that records be changed if not accurate;
 - They have a right to control disclosing information to others from the records in some situations.

When a student turns 18 years old, or enters a postsecondary institution at any age, the rights under FERPA transfer from the parents to the student (“eligible student”). See 20 U.S.C. § 1232g and 34 CFR Part 99.

- The right to know if a criminal offense has been committed against their minor child. See RSA 193-D:4, unless the criminal activity was a simple assault involving students in kindergarten through grade 12 if the local school board has adopted a discipline policy which sets forth circumstances under which parents shall be notified of simple assaults.
- The right to be notified whenever seclusion or restraint has been used on the child. See RSA 126-U:7.
- The right to be informed of the school district policy regarding school discipline policies and procedures. See RSA 193:13.
- The right to be advised of any non-academic survey or questionnaire to be administered to students and the requirement that the parent consent to a child completing such a survey or questionnaire and

the right to opt their child out of the Youth Risk Behavior Survey developed by the Centers for Disease Control and Prevention. See RSA 186:11, IX-d.

Federal Law Provides for Additional Parent and Family Involvement for Schools that are receiving Title I, Part A; Title I, Part C (migrant); Title III, Part A (EL) funds:

- Parents are entitled to receive information including student reports in an understandable and uniform format, and to the extent practicable, in a language that parents can understand. [Section 1112 (e)(4); 1114 (b)(4); 1116 (e)(5); 1116 (f)].
- Upon the request of a parent, the right to receive information regarding state qualifications of the student's classroom teachers and paraprofessionals providing services to the child. See Section 1112 (e)(1)(A)(i-ii)]
- Parents have the right to receive timely notice that the parent's child has been assigned or taught for four or more consecutive weeks by a teacher who does not meet state certification or licensure requirements. See Section 1112 (e)(i)(B)(ii)
- Parents are entitled to receive an annual local educational agency report card that includes information on such agency as a whole and each school served by the agency. See Section 1111 (h)(2)(A-B)(i-iii).
- The right to receiving information regarding the level of achievement and academic growth of the parent's child in each of the State academic assessments. See Section 1112 (e)(1)(B)(i).
- The Right to receive district-level and school information, including but not limited to a:
 - a written parent and family engagement policy (see Section 1116 (a)(2) and (b)(1));
 - a written school-parent compact (see Section 1116 (d));
 - the schoolwide plan (Section 1114 (b)(4));
 - how parents may be involved in their children's education and be active participants in helping their children attain English proficiency, high achievement levels, and meet state standards, including holding, and sending notice of opportunities for, regular meetings (Section 1112(c)(3)(C)(4)); and
 - an invitation to an informational meeting to inform them about the school's participation in Title I, Part A programs and explain the requirements, their right to be involved, and the opportunity to request regular meetings (Section 1116(c)(1-2) and (4)(A-C))
- Parents are entitled to receive frequent reports on their children's progress. See Section 1116 (d)(2)(B).
- Parents are entitled to request that a student's name, address and telephone listing shall not be released to military recruiters without prior written parental consent. Section 9528(a)(2)

For questions related to this Technical Advisory, please contact:

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