



## **Final Amendments to Illinois Student Records Regulations Published**

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**By Amy K. Dickerson**

On February 10, the final amendments to the Illinois State Board of Education (ISBE) student records regulations, **23 Illinois Administrative Code Part 375**, were published in the Illinois Register (amended at 36 Ill. Reg. 2220). Effective January 24, 2012, the amendments include various changes to the definitions of permanent and temporary student records, directory information, the “emergency situation” exception to disclosing student records without parental consent, and the treatment of photographs and security videos of students.

While the Amendments include changes to almost every section of the student records regulations, some of the more significant changes include the following:

### **Definitions of permanent and temporary records revised**

The Amendments contain several new definitions for the types of records required to be included in a student’s permanent and temporary record, including defining the following terms: accident report, health record, health-related information, official records custodian, and special education records. See 23 Ill. Admin. Code 375.10.

### **Security videos excluded from student record definition**

The Amendments expressly exclude the following types of recordings from the definition of school student record:

- Video or electronic recordings created and maintained by law enforcement professionals working in the school or for security or safety reasons or purposes, provided the information was created at least in part for law enforcement or security or safety reasons or purposes.
- Electronic recordings made on school buses. See 23 Ill. Admin. Code 375.10.

### **Email notification of student and parental rights permitted**

The Amendments now permit a school district to provide the notification of student and parental rights required under the Illinois School Student Records Act via email. See 23 Ill. Admin. Code 375.30.

### **Court order exception for release of information clarified**



- **Defines court order for purposes of releasing information without prior written consent** – Section 375.40 of the regulations clarifies that the exceptions for releasing student information without prior written consent from the student’s parents (or a student if 18 years old) apply to students who have graduated or withdrawn. It also now clarifies that, to release records pursuant to a court order, the order must be signed by a judge; a subpoena signed by an attorney, clerk, or administrative official is not sufficient. See 23 Ill. Admin. Code 375.40.
- **Removes parent notification requirement for students named in a court order** - Typically, before producing records pursuant to a court order, school districts must notify the student’s parents that such records will be produced. Now, the Amendments provide that for those court orders that identify the students by name, the parents of such students are deemed to have notice. Thus, so long as districts wait five days before producing the records pursuant to that court order, districts do not have to send the notification to the parents of the student(s) named in the order. See 23 Ill. Admin. Code 375.70.

### **Limits inclusion of abuse/neglect records in a student’s temporary record**

The Amendments provide that no report from the Department of Children and Family Services (DCFS) regarding an abuse/neglect report, other than what is required under Section 8.6 of the Abused and Neglected Child Reporting Act (ANCRA), shall be placed in the school student record. Section 8.6 of ANCRA provides that, if a report is indicated, a copy of the final finding report shall be sent to the school that the child-victim attends. Thus, this final finding report is the only type of abuse/neglect record that may be included in a student’s temporary record. See 23 Ill. Admin. Code 375.40.

### **Definition of “Emergency Release of Information” exception limited**

The Amendments define the circumstances under which student records may be released without prior written consent in an emergency. The revised regulations now state that requested information may be released without parental consent in connection with an articulable and significant threat to the health or safety of a student or other individuals. Parents must be notified no later than the next school day after the date the information is released. Notably, the proposed amendments adopted by ISBE (prior to the JCAR review process) also permitted records to be released under this exception in connection with any “other emergency,” not just an “articulable and significant threat to the health or safety of a student or other individuals.” The phrase “other emergency,” however, was removed during the JCAR review process and as a result, the emergency release exception is now more limited. See 23 Ill. Admin. Code 375.60.



### **Clarifies which records must be sent to a student's transferring school**

The new Amendments confirm that a school district must send a "certified copy of a student's record," as defined in 23 Ill. Admin. Code 375.75(h), to the school to which the student transfers.

### **Changes to time period for calculating student annual dropout rate**

The Amendments now provide that if, on or before July 31 following the school year in which a student leaves a school, the school has not received a request for records for the student (or been presented with other documentation that the student has enrolled in another school), the District must count that student in the District's calculations of its annual dropout rate. See 23 Ill. Admin. Code 375.75.

### **Changes to Directory Information**

- **Definition of Directory Information expanded** - The information that may be designated as directory information now includes parents' email addresses and telephone numbers, as well as "photographs, videos or digital images used for informational or news-related purposes (whether by a media outlet or by the school) of a student participating in school or school-sponsored activities, organizations, and athletics that have appeared in school publications, such as yearbooks, newspapers, or sporting or fine arts programs," with exceptions for photographs used for commercial purposes and school security videotapes. The Amendments also expressly prohibit social security numbers and student identifiers from being included in a school district's definition of directory information. See 23 Ill. Admin. Code 375.80.
- **"Opt-out" parental notification requirements for directory information lessened** - Previously, the regulations required school districts to include specific information in the notification provided to parents regarding the release of directory information, including the scheduled date of release, the directory information to be released, and the parents' and students' names. The notification requirements have been streamlined under the new Amendments. Now, parents must simply be notified annually of the information that a school district has designated as directory information and of the procedures to be used by the parents to request that specific information not be released. See 23 Ill. Admin. 375.80.

Interestingly, the version of the proposed amendments originally adopted by ISBE included a definition for the phrase "individually identified," as referenced in the Illinois School Student Records Act's definition of school student record. During the JCAR review process, however, this definition was removed. Had this change remained, it would have expressly included as a school student record most emails or letters containing a student's initials, a student I.D. number, and/or parent or sibling names. Although such correspondence might still be considered a student record, the final amendments keep the term "individually identified" undefined.



School districts should begin the process of reviewing their student records policies, procedures, and parental notifications to determine what if any revisions are necessary in order to comply with the new student records regulations.

### **More Information**

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