



OnTeam

September, 2007

Dear Parents and Guardians,

I am very pleased to welcome you to the 2007-2008 school year. Enclosed please find the following documents: a Directory Sheet (blue), specific information pertaining to FERPA (lime green), and specific information pertaining to Independent Educator Evaluations (teal green). We have made it easy for you should you want to detach any of the information for your resource files (and or the refrigerator!).

At this time, I'd like to extend a special welcome to Matthew Kidder, our new Out-of-District Coordinator. In addition to a Bachelor of Arts in Psychology from the University of Connecticut, Matt also has a Master's Degree in Special Education. With his many years of teaching and administrative experience in both public and private education, Matt is already proving himself to be an engaged, supportive and responsive educational leader. I know you will enjoy getting to know him better.

Looking Forward.....

Regarding the OnTeam Parent/Guardian Survey issued in May 2007, we are extremely pleased to share that there was a 47% response to our survey. This certainly speaks to the legitimacy of the survey as well as the level of parent/guardian involvement in our community. As we are all aware, input from our teachers, specialists and clinicians, as well as from parents, influence future planning. As a preliminary observation, results confirm the excellent services provided within the Acton and Acton-Boxborough Schools. Our mission will be to sustain this level of excellence and continue to move to a higher level. A summary report will be shared in the October edition of OnTeam which will include general themes and conclusions and how they influenced my Action Plan for 2007-2008. A more detailed report will be available on line.

Welcome Back....

Being the instructional leader of a school brings daily challenges with complex responsibilities and an emphasis on solving problems quickly, but effectively; clearly, but compassionately. Success is maximized by good planning and preparation. Nothing is more important than calming emotional waters, resolving conflicts, and plotting a successful course for a student's progress and growth.

Being the parent of a child with disabilities is, in many ways, the same. Equally challenging; equally complex. I view my commitment to administration - a commitment to listening, learning and leading - as a lifestyle choice, not a job. As parents and guardians, we share this mutual commitment.

In this journey, we have many things in common. As parents and as educators, we improve our ability to serve our children - to be effective advocates - with accurate information. As such, throughout the year, I am planning to address a range of topics pertaining to educational law and regulations pertaining to children with special needs. This month, I'm giving special attention to the issue of student records, covering the rights of students and parents/guardians.

Pupil Services

Directory Information

I am tremendously proud to be working with a leadership team who is committed to offering the finest education services and am sharing a list of the Pupil Services Chairpersons and Coordinators with their areas of responsibility.

Out-of-District Coordinator
Matthew Kidder

264-4700, extension 3266

Coordinator of Early Childhood Services and
Elementary Out-of-District
Carol Huebner

264-2700, extension 3267

Coordinator of Pupil Services – Grade K-6
Lynn Mulrooney

264-4700, extension 3267

Coordinator of Pupil Services – Grade 7-12
Mary Emmons

264-4700, extension 3266

Chairperson of Counseling and Psychological Services – Grade K-6
Ginny Conway

264-4700, extension 3762

Chairperson of Counseling and Psychological Services – Grade 7-12
Stephen Hitzrot

264-4700, extension 3430

Chairperson of Nursing Services – Grade K-6
Jenny Gormley

264-4700, extension 2058

Chairperson of Nursing Services – Grade 7-12
Diana McNicholas

264-4700, extension 3418

FERPA

Family Education Rights and Privacy Act

While the law is full of acronyms, our focus for this month is on FERPA, which stands for the Family Educational Rights and Privacy Act. FERPA was originally enacted as a species of civil rights legislation, and is a federal statute designed to protect the rights of students and their parents. In Massachusetts, we also adhere to statutes and state regulations on this same topic. As such, the federal law must be considered in tandem with state law, as well as local law and policy.

The challenge is to read the laws together in a way that makes sense.

In general, the Massachusetts regulations are more protective of students' rights than the federal regulations. So, you will find that the district's response is generally more conservative when interpreting the law in specific situations.

Together, FERPA and the Massachusetts regulations, when read together, provide parents and eligible students (those who have reached the age of 14 or who have entered the ninth grade) certain rights with respect to the student's educational record. These include:

1. The **right to access** the student's education record by submitting their request to the building principal.
2. The **right to request** an amendment of the record, again, by directing a request to the building principal.
3. The **right to consent** to disclosures of personally identifiable information contained in the records.

The student record includes:

- Health records
- Special education records
- The Cumulative record (the student record that follows a child throughout his/her school career)

The following people have access to the student record without obtaining written consent:

- Parents and/or legal guardians
- School personnel who have a legitimate educational interest (need to know) in reviewing the record to "fulfill their professional responsibilities"
- Student, age 14, or in the 9th grade
- Office staff who maintain the record

Within the “student record”, the school committee designates what selected student records are considered “directory information”. This is information not generally considered harmful if released.

For elementary students, the following has been designated as directory information:

- Name
- Address
- Telephone number
- Date of birth
- Grade
- Classroom Assignment

For middle and high school students, the following is designated as directory information:

- Name
- Address
- Telephone number
- Date of birth
- Graduating class
- Team/class assignment
- Participation in officially recognized activities and sports
- Honors and awards

Important exceptions to be aware of:

We can now disclose certain designated directory information **without parent/guardian consent** (outlined above). The rationale is to help schools facilitate a connection to an outside organization, e.g. a class ring manufacturer, a yearbook publisher, fund raising for the Parent Teacher School Organization (PTSO), military recruiters, college planning, etc.

We can also disclose the complete student record to another school, **without parent/guardian consent**, as long as the student is seeking or intending to enroll in this other school, and is currently in attendance in Acton or Acton-Boxborough.

In other words, if one of the district’s schools receives a request from another school for a child’s student record after the student has already left our school, then Acton cannot forward the record without obtaining parent/guardian consent at our end.

A school official within Acton-Boxborough who has a legitimate interest in reviewing a child’s record may do so, **without parent/guardian consent**, if the official needs to review the record to fulfill his/her professional responsibilities.

Additional Information:

Since 1998, Massachusetts law has had a detailed process regulating the access a parent without physical custody of his/her children (“non-custodial parent”) has to his/her child’s student records. Until recently (2006), non-custodial parents have had the burden of producing documents showing that there are no court documents rendering them ineligible for access to their children’s student records. After receiving a complaint from a

Massachusetts non-custodial parent, the federal government informed the Massachusetts Department of Education that Massachusetts law conflicted with the access rights given to parents under FERPA. The Massachusetts legislature amended the state statute addressing a non-custodial parent's access to student records (MGL ch. 71, section 34H) so that now the burden is on the custodial parent to produce any documents showing that the non-custodial parent is not entitled to access to their child's student records. The process now works as follows:

1. The non-custodial parent must submit a written request for the records to the principal.
2. 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 the non-custodial parent has requested the records and that the school will provide the non-custodial parent with access to the records after 21 days unless the custodial parent provides the principal with documentation that the non-custodial parent is not eligible to obtain access (based on factors set forth in Massachusetts statute and regulations).
3. If the custodial parent does not produce any documentation showing the parent is ineligible to access the records, the school provides the requested records. The school, however, must delete all electronic and postal address and telephone number information relating to either the work or home locations of the custodial parent from the student records and must mark the records to indicate that they must not be used to enroll the student in another school.
4. If the school subsequently receives a court order prohibiting the distribution of the student record information, the school must notify the non-custodial parent that it must stop providing access.

Questions and Answers:

In a divorce situation, how am I to understand the difference between physical and legal custody?

Massachusetts law focuses only on physical custody and who gets it. In most instances, both parents are granted legal custody. It is rare in Massachusetts to have joint physical custody. What is typically ordered is that one parent has physical custody and the other parent has visitation rights. So - you have one custodial parent and one non-custodial parent.

If I am holding a divorce agreement that stipulates JOINT physical and JOINT legal custody – an even sharing of responsibility – are both parents entitled to everything?

Yes. While this is atypical for Massachusetts, it does happen. In this case, you do not have a custodial/non-custodial parent and both parents have equal entitlements when it comes to the child.

Let's say I know who the custodial parent is and I know who the non-custodial parent is. I also know they are both entitled to the record. Does the school have an affirmative duty to send "everything" from the school to both parents?

No, there is no affirmative duty to send "everything" from the school. However, the school district must meet Ch.71, Section 34H requirements **if requested in writing by the non-custodial parent.** 34H requirements are: report cards and progress reports, the results of intelligence and achievement tests, notification that a child requires a special education assessment, notification of enrollment in an ELL program, notification of absences, illnesses,

detentions, suspensions, expulsions, and notification of withdrawal from school. 34H also speaks to the school district making “reasonable efforts” to share information.

If it hasn’t been requested, does the school have an affirmative duty to initiate the sharing of information with the non-custodial parent?

No, but it is the right thing to do. Supporting divorced parents in remaining involved with their children is best for children and adolescents.

When the non-custodial parent requests the record, does the school district simply release it?

No. We still send a letter to the **custodial** parent letting him/her know that the record will be released after 21 days unless the custodial parent produces information that would restrict access. We also send a letter to the non-custodial parent to inform him/her of the process. Please note that the request from the non-custodial parent should be in writing.

If we don’t hear from the custodial parent, does the school have an affirmative duty to release the educational record after the 21 days have passed?

Yes, we are obligated to provide the requested student records and we need to make sure we do so immediately following the 21 day period. Tracking days becomes important.

What’s included in the educational record?

The educational record includes all information concerning a student that is organized by the student’s name or in a way that the student can be individually identified.

If a representative from another school calls and requests the educational record for a student, is the school allowed to produce it even though they don’t have a signed release from the parent or eligible student?

Yes, as long as the school official has a legitimate reason to request it, i.e, the student is seeking or intending to enroll in their school. As a general rule, however, schools need the written consent of a parent or the eligible student before releasing student record information and it would be more prudent to ask that the receiving school put the request in writing. Acton and Acton-Boxborough strongly prefer and encourage obtaining a parent’s written consent.

However, Massachusetts and federal law allow school staff, upon request, to forward a student’s records to another school in which a student seeks or intends to enroll as long as the district has given notice to parents that this is the school district’s practice. Our district has provided the required notice in the school committee’s policy regarding student records and in the annual notice that is sent home to parents.

If a student has already left Acton or Acton-Boxborough and has enrolled in a new school, can the district respond to the new school’s request for records even without a signed release from the parents or eligible student?

No. This exception to the general rule only applies if the student is seeking or intending to enroll in another school. Once the new school enrolls the student, it’s too late to use this exception. You now need a written release to respond to the request.

Outside Agency Forms

Pertaining to Independent Education Evaluations

There have been some questions regarding some Independent Evaluations, and as a result, we have revised our guidelines consistent with the regulations. I thought the following information might be helpful to you as a reference for the future.

While there are parameters the school district must follow, our goal is to provide our parents/guardians with the most accurate and thorough picture of their child's performance and progress in school.

When a parent disagrees with an initial evaluation or re-evaluation done by the school district, the parent may request an independent education evaluation (IEE). At times, outside agencies completing these evaluations will request information from classroom teachers, specialists and clinicians working with your child. It is important to recognize that any document completed by the school becomes part of your child's student record and as such, we are careful when responding.

When submitting your request, please let us know the name, address, phone number, and contact person to whom the completed report will be sent. In order to meet the copyright standards and those of authenticity, we require that any forms submitted for completion are original documents. Photocopied documents cannot be accepted.

You can expect that the outside agency form you have submitted to the school will be completed and sent back to the agency within three weeks of having received your request. A copy will be sent to you and also become part of your child's student record.

We have also initiated a new practice of sending you a letter acknowledging receipt of your request, as well as a release of information. A signed parent/guardian release often facilitates communication between the outside evaluator and the school; clarification and understanding regarding the perspective of both parties is achieved more efficiently. The letter further outlines the district's parameters and a timeline for responding. Most importantly, the letter lets you know who to call for any questions or concerns you may have, including what documents/assessments might best address your child's unique needs.

Please be aware that teachers, specialists and clinicians can only respond objectively to questionnaires and forms within their area of expertise. Thus, certain questions may not be able to be answered by the respective staff. In some cases, the outside agency may request information about attention, organizational skills and/or behavior. Please note that staff, including the counselor and/or the principal, will only rate observable behavior so that all team members (parent, outside agency, and school) will have a clear understanding of your child's educational needs. These are the situations where a signed release allows school staff to speak directly with the independent evaluator and clarification and understanding regarding the perspectives of both parties is achieved more effectively and efficiently.

As we examine the unique and individual needs of your child, we rely upon the student record and if applicable, the special education record, to fully answer the questions being

asked. As such, when answering narrative questions, it is our practice to use the actual documents from the student record, rather than rewording information. It is our experience that materials sent from the school, with written permission from the parent/guardian, usually answer both home and agency questions. Sometimes, asking school staff to complete a Teacher Assessment Form or to write a two to three paragraph report on your child is more useful than simply filling out a form. The school wants to be helpful in using the method that is most comprehensive to assist in educational planning.

Please mail or drop off your written request to whoever is easier for you. That being said, please note that:

- Forms for regular education students route from the classroom teacher to the school counselor, the Counseling Chairperson, and/or the Building Principal.
- Forms for special education students route from the classroom teacher/school counselor/specialist to the Pupil Services Coordinator. Specifically, all forms for special education students must be routed to the Pupil Services Coordinator in the Pupil Services office.
- Please see your Counseling Chairperson, the Pupil Services Coordinator, or the Director of Pupil Services should you have any questions.

Payment for an independent education evaluation is complex. A parent may obtain such an evaluation at private expense at any time when there is a disagreement with the school evaluation, as stated above. However, there are provisions set forth in the 766 regulations for public funding of such evaluations, based upon a sliding fee scale, the type of independent assessments sought, the timetable for both eligibility and completion, the responsibility of the school team to reconvene the TEAM including the parent to consider the new information, and the exceptions to the rule. Because of the complexity of the guidelines for the sliding scale, the Pupil Services Team is more than willing to discuss each parent's needs regarding such a request.

