

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.

**What if I think the school has not obeyed the laws about student records?**

If you think that a school not followed the state rules about student records, you may ask the Massachusetts Department of Education (DOE) to review the school’s actions. You can contact them at:

Massachusetts Department of Education  
350 Main Street  
Malden, MA 01248-5023  
(781) 338-3000

If you think that the school has violated the federal Family Educational Rights and Privacy Act (“FERPA”), you can send a complaint to:

Family Policy Compliance Office  
U.S. Department of Education  
400 Maryland Ave., S.W.  
Washington, D.C. 20202-4605

You must send in your FERPA complaint within 180 days of the time that you think the school violated the rules. (34 C.F.R. 99.64(c))

**What should I put in my FERPA complaint?**

The complaint must be in writing. It should include specific details about what you asked the school to do, and the school’s response. (34 C.F.R. 99.64(a))

**What will the Compliance Office do?**

If your letter shows that the school may have violated the rules, the Office will investigate further. (34 C.F.R. 99.64(b))

**For more information call:**

Children’s Law Center  
298 Union Street  
Lynn, MA 01903  
781-581-1977 (tel)  
781-598-9364 (fax)

Phone Assistance Hours  
Tuesday & Friday 9:30 am—12 noon  
1-888-543-5298

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# ***STUDENT RECORDS***

## ***In Massachusetts***



**CHILDREN’S LAW CENTER  
OF MASSACHUSETTS**

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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/cmrl.html](http://www.lawlib.state.ma.us/cmrl.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/](http://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, like in a TEAM meeting, 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,