

**TITLE 23: EDUCATION AND CULTURAL RESOURCES**  
**SUBTITLE A: EDUCATION**  
**CHAPTER I: STATE BOARD OF EDUCATION**  
**SUBCHAPTER k: SCHOOL RECORDS**  
**PART 375 STUDENT RECORDS**  
**SECTION 375.40 MAINTENANCE AND DESTRUCTION OF SCHOOL**  
**STUDENT RECORDS**

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**Section 375.40 Maintenance and Destruction of School Student Records**

- a) The provisions within the Act and this Part requiring the official records custodian to separate school student records into permanent and temporary categories shall apply only to records of students who are enrolled in the school on or after the effective date. Records of students who have graduated or permanently withdrawn prior to the effective date of this Part are not subject to these classifications except:
  - 1) In compliance with the request of a parent or eligible student that this categorization occur; and
  - 2) The official records custodian shall ensure that information characterized by the Act and this Part as "temporary" shall not be *disclosed except as provided by Section 5 or 6 of the Act or by court order* [105 ILCS 10/4(f)]. For the purposes of this Part, a court order is a document signed by a judge. A subpoena signed by a court clerk, an attorney, or an administrative agency official shall not be considered a court order unless signed by a judge.
- b) Pursuant to Section 4(g) of the Act, student temporary records shall be reviewed every four years or upon a student's change in attendance centers, whichever occurs first, to verify entries and to eliminate or correct all out-of-date, misleading, inaccurate, unnecessary, or irrelevant information pursuant to Section 375.10. The records review is required in any given school year at the time a student first changes attendance centers within a district, but it does not need to be conducted if the student enrolls in a different attendance center later in that same school year.
- c) Destruction of Records
  - 1) Upon graduation, transfer, or permanent withdrawal of a student from a school, the school shall notify the parents and the student of the destruction schedule for the student permanent record and the student temporary record and of the right to request a copy of the student's records at any time prior to their destruction. Notification shall consist of the

following: date of notification, name of parent, name of official records custodian, name of student, and the scheduled destruction date of temporary and permanent records.

- 2) A school may provide reasonable prior notice to a parent or student through:
  - A) *notice in the school's parent or student handbook;*
  - B) *publication in a newspaper published in the school district; or*
  - C) *if no newspaper is published in the school district:*
    - i) *in a newspaper of general circulation within the school district;*
    - ii) *U.S. mail delivered to the last known address of the parent or student; or*
    - iii) *other means provided the notice is confirmed to have been received. (Section 4(h) of the Act)*
- 3) Biometric information collected pursuant to the district's policy, if any, shall not be subject to the retention requirements applicable to the remainder of students' temporary records under Section 4(f) of the Act, and its destruction shall not be subject to authorization by the appropriate Local Records Commission under Section 7 of the Local Records Act [50 ILCS 205]. Instead, the destruction of students' biometric information shall conform to the requirements of Section 10-20.40 or 34-18.34 of the Code, as applicable.
- d) Upon graduation or permanent withdrawal of a student with a disability, as defined in Article 14 of the Code and 23 Ill. Adm. Code 226 (Special Education), special education records, and other information contained in the student temporary record that may be of continued assistance to the student may, after five years, be transferred to the custody of the parent or to the student if the student has succeeded to the rights of the parents. The school shall explain to the student and the parent the future usefulness of these records.
- e) If a certified copy of an order of protection has been filed with a school district, then the district shall notify its school employees that the student records or information in those records of a protected child identified in the order shall not be released to the person against whom the order was issued (see Section 222(f) of the Illinois Domestic Violence Act of 1986 [750 ILCS 60]).

- f) Any final finding report required by Section 8.6 of the Abused and Neglected Child Reporting Act that has been filed in a student's temporary record shall be removed from the student's record and returned to the Department of Children and Family Services (DCFS) upon written request made by DCFS pursuant to Section 8.6 of the Abused and Neglected Child Reporting Act. If a school that receives a request from DCFS has transferred the report to another school as part of the transfer of the student's records, the sending school shall forward a copy of DCFS' request to the receiving school, which shall comply with this subsection. No report other than what is required under Section 8.6 of the Abused and Neglected Child Reporting Act shall be placed in the school student record.
- g) School student records shall be maintained for at least the period of time set forth in Section 4 of the Act.
  - 1) The official records custodian shall take all reasonable measures to protect school student records through administrative, technical, and security safeguards against risks, such as unauthorized access, release, or use.
  - 2) With the exception of material eliminated in accordance with subsections (b), (d), and (f), the destruction or disposal of any records or information contained in those records shall be subject to the provisions of the Act and authorization by the appropriate Local Records Commission (see Section 7 of the Local Records Act).

(Source: Amended at 44 Ill. Reg. 13364, effective July 28, 2020)

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### **SUBTITLE A: EDUCATION**

#### **CHAPTER I: STATE BOARD OF EDUCATION**

##### **SUBCHAPTER k: SCHOOL RECORDS**

##### **PART 375 STUDENT RECORDS**

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###### **Section 375.40 Maintenance and Destruction of School Student Records**

- a) The provisions within the Act and this Part requiring the official records custodian to separate school student records into permanent and temporary categories shall apply only to records of students who are enrolled in the school on or after the effective date of this Part. Records of students who have graduated or permanently withdrawn prior to the effective date of this Part are not subject to these classifications except:
  - 1) In compliance with the request of a parent or eligible student that this categorization occur; and
  - 2) The official records custodian shall ensure that information characterized by the Act and this Part as "temporary" shall not be *disclosed except as provided by Section 5 or 6 of the Act or by court order* [105 ILCS 10/4(f)]. For the purposes of this Part, a court order is a document signed by a judge. A subpoena signed by a court clerk, an attorney or an administrative agency official shall not be considered a court order unless signed by a judge.
- b) Pursuant to Section 4(g) of the Act [105 ILCS 10/4(g)], student temporary records shall be reviewed every four years or upon a student's change in attendance centers, whichever occurs first, to verify entries and to eliminate or correct all out-of-date, misleading, inaccurate, unnecessary or irrelevant information pursuant to Section 375.10 of this Part. The records review is required in any given school year at the time a student first changes attendance centers within a district, but it does not need to be conducted if the student enrolls in a different attendance center later in that same school year.
- c) Upon graduation, transfer or permanent withdrawal of a student from a school, the school shall notify the parents and the student of the destruction schedule for the student permanent record and the student temporary record and of the right to request a copy of the student's records at any time prior to their destruction. Notification shall consist of the following: date of notification, name of parent, name of official records custodian, name of student, and the scheduled destruction date of temporary and permanent records. Biometric information collected pursuant to the district's policy, if any, shall not be subject to the retention requirements applicable to the remainder of students' temporary records under Section 4(f) of the Act, and its destruction shall not be subject to authorization by the appropriate Local Records Commission under Section 7 of the Local Records Act [50 ILCS 205/7]. Instead, the destruction of students' biometric information shall conform to the requirements of Section 10-20.40 or 34-34.18 of the School Code, as applicable.
- d) Upon graduation or permanent withdrawal of a student with a disability, as defined in Article 14 of the School Code [105 ILCS 5/Art. 14] and 23 Ill. Adm. Code 226: Subpart A (Special Education), special education records, and other information contained in the student temporary

record that may be of continued assistance to the student may, after five years, be transferred to the custody of the parent or to the student if the student has succeeded to the rights of the parents. The school shall explain to the student and the parent the future usefulness of these records.

- e) If a certified copy of an order of protection has been filed with a school district, then the district shall notify its school employees that the student records or information in those records of a protected child identified in the order shall not be released to the person against whom the order was issued (see Section 222(f) of the Illinois Domestic Violence Act of 1986 [750 ILCS 60/222(f)]).
- f) Any final finding report required by Section 8.6 of the Abused and Neglected Child Reporting Act that has been filed in a student's temporary record shall be removed from the student's record and returned to the Department of Children and Family Services upon written request made by the Department pursuant to Section 8.6 of the Abused and Neglected Child Reporting Act. If a school that receives a request from the Department has transferred the report to another school as part of the transfer of the student's records, the sending school shall forward a copy of the Department's request to the receiving school, which shall comply with this subsection (f). No report other than what is required under Section 8.6 of the Abused and Neglected Child Reporting Act shall be placed in the school student record.
- g) School student records shall be maintained for at least the period of time set forth in Section 4 of the Act.
  - 1) The official records custodian shall take all reasonable measures to protect school student records through administrative, technical and security safeguards against risks, such as unauthorized access, release or use.

2) With the exception of material eliminated in accordance with subsections (b), (d) and (f) of this Section, the destruction or disposal of any records or information contained in those records shall be subject to the provisions of the Act and authorization by the appropriate Local Records Commission (see Section 7 of the Local Records Act).