

ILLINOIS REGISTER

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULE

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER k: SCHOOL RECORDS

PART 380

STUDENT ONLINE PERSONAL PROTECTION

Section

380.5	Definitions
380.10	Rights of Parents and Students
380.20	Requests for Covered Information
380.30	Cost for Copies

AUTHORITY: Implementing and authorized by Section 33 of the Student Online Personal Protection Act [105 ILCS 85].

SOURCE: Adopted at 45 Ill. Reg. _____, effective _____.

Section 380.5 Definitions

“Covered Information” means *personally identifiable information or material or information that is linked to personally identifiable information or material in any media or format that is not publicly available and is any of the following:*

created by or provided to an operator by a student or the student's parent in the course of the student's or parent's use of the operator's site, service, or application for K through 12 school purposes;

created by or provided to an operator by an employee or agent of a school or school district for K through 12 school purposes; or

gathered by an operator through the operation of its site, service, or application for K through 12 school purposes and personally identifies a student, including, but not limited to, information in the student's educational record or electronic mail, first and last name, home address, telephone number, electronic mail address, or other information that allows physical or online contact, discipline records, test results, special education data, juvenile dependency records, grades, evaluations, criminal records, medical records, health records, a social security number, biometric information, disabilities, socioeconomic information, food purchases, political affiliations, religious information, text messages, documents,

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student identifiers, search activity, photos, voice recordings, or geolocation information.

“K through 12 School Purposes” means *purposes that are directed by or that customarily take place at the direction of a school, teacher, or school district; aid in the administration of school activities, including, but not limited to, instruction in the classroom or at home, administrative activities, and collaboration between students, school personnel, or parents; or are otherwise for the use and benefit of the school.*

“Operator” means, *to the extent that an entity is operating in this capacity, the operator of an Internet website, online service, online application, or mobile application with actual knowledge that the site, service, or application is used primarily for K through 12 school purposes and was designed and marketed for K through 12 school purposes.*

“Parent” has the meaning given to that term under the Illinois School Student Records Act [105 ILCS 10].

“School” means *(1) any preschool, public kindergarten, elementary or secondary educational institution, vocational school, special educational facility, or any other elementary or secondary educational agency or institution or (2) any person, agency, or institution that maintains school student records from more than one school.*

"School Code" or "Code" means 105 ILCS 5.

"SOPPA" means the Student Online Personal Protection Act [105 ILCS 85].

“State Board” means the State Board of Education.

“Student” has the meaning given to that term under the Illinois School Student Records Act.

Section 380.10 Rights of Parents and Students

In addition to any rights granted to parents or students with respect to covered information under Section 33 of the SOPPA or school records under 23 Ill. Adm. Code 375, a school may afford to parents or students any rights granted under this Part.

Section 380.20 Requests for Covered Information

- a) In accordance with any applicable federal regulations, a school must provide a student’s parent a paper or electronic copy of the student’s covered information,

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including any covered information maintained by an operator or the State Board, within 45 days of receiving a request for such information, as provided under subsection (b). If a parent requests an electronic copy of the student's covered information, the school must provide an electronic copy of that information, unless the school does not maintain the information in an electronic format and reproducing the information in an electronic format would be unduly burdensome to the school.

- b) Each request under this Section must be submitted by a parent on a signed and dated request form that includes the parent's name, address, phone number, student's name, and the name of the school from which the request is being made. A school that receives a request under this Section must require a parent to provide proof of identity and relationship to the student before access to the covered information is granted.
- c) If covered information requested by a parent under this Section includes data on more than one student, the parent may inspect and review only the covered information relevant to the parent's student.
- d) A parent may make no more than one request under this Section per State fiscal quarter.

Section 380.30 Cost for Copies

This Section applies to requests made under Section 380.20.

- a) A school may not charge a parent for an electronic copy of a student's covered information.
- b) If a parent requests a paper copy of a student's covered information, a school may charge the parent the actual cost for providing a copy of such information, provided that the cost charged shall not exceed \$0.35 per page. No parent shall be denied a requested paper copy of covered information due to the parent's inability to bear the cost of the copying.