



Policies and Procedures Manual

Chapter 10c

**Compliance with the New York State Education Law
Parents' Bill of Rights and the Family Educational Rights and
Privacy Act (FERPA)**



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I. Parents' Bill of Rights for Data Privacy & Security

Pursuant to an amendment to the Education Law, section 2-D, school districts including Astor are now required to publish on their websites a parents' bill of rights for data privacy and security and to include such information with every contract entered into with a third-party contractor where the third-party contractor receives student (client hereafter) data or teacher or principal data.

The purpose of the Parents' Bill of Rights is to inform parents/authorized representatives (which also includes legal guardians, or persons in parental relation to a client, but generally not the parents/authorized representatives of a client who is age eighteen or over) of the legal requirements regarding privacy, security, and use of client data. In addition to the federal Family Educational Rights and Privacy Act (FERPA), Education Law §2-d provides important new protections for client data, and new remedies for breaches of the responsibility to maintain the security and confidentiality of such data. Attached to this Bill of Rights is Astor's Annual Notification of Rights under FERPA.

In accordance with the Education Law and FERPA, Astor is committed to safeguarding personally identifiable information from unauthorized access or disclosure as set forth below:

1. A client's personally identifiable information will not and cannot be sold or released for any commercial or marketing purposes. It cannot be shared with an unauthorized person
2. Parents/authorized representatives or clients of the age of 18 have the right to inspect and review the complete contents of the client education record. Parents have the right to see the records within 45 days and to dispute any inaccuracies.
3. Astor is committed to implementing safeguards associated with industry standards and best practices under state and federal laws protecting the confidentiality of personally identifiable information, including but not limited to, encryption where required, firewalls and password protection when data is stored or transferred.
4. A complete list of all client data elements collected by the State is available for public review at the New York State Education Department at <https://www.nysed.gov/data-privacy-security/student-data-inventory> or by writing to the Office of Information and Reporting Services, New York State Education Department, Room 863 EBA, 89 Washington Avenue, Albany, NY 12234;
5. Parents/authorized representatives and clients have the right to file complaints with Astor Services about possible breaches of client data by Astor's third-party contractors or their employees, officers, or assignees, or with NYSED. Complaints to Astor should be directed to Astor's Privacy Officer at 845-768-2895 or via email at jlabarbera@astorservices.org or via US Postal mail at Astor Services 6339 Mill St., Rhinebeck, NY 12572. Complaints to NYSED should be directed in writing to the Chief Privacy Officer, New York State Education Department, 89 Washington Ave. Room 152 EB, Albany, NY 12234, e-mail to Privacy@nysed.gov
6. Parents/authorized representatives and clients may challenge the accuracy of the client data that is collected by filing a written request with the Deputy Director of QA/QI, Client Risk, & Compliance/Privacy Officer. Complaints should be sent to Jenifer LaBarbera

Astor has entered into contracts with certain third-party contractors who have been sent client data and/or teacher or principal data. These contracts include supplemental information that requires the third-party contractors to assure privacy and security of such data. Such supplemental information will be posted on the website and includes the following:

1. The exclusive purposes for which the client data or teacher or principal data will be used by the third party contractor;

2. How the third-party contractor will ensure that the subcontractors, persons, or entities with whom the third-party contractor will share the client data or teacher or principal data, if any, will abide by data protection and security requirements;
3. When the agreement expires and what happens to the client data or teacher or principal data upon expiration of the agreement;
4. If and how a parent/authorized representatives, client, eligible client, teacher, or principal may challenge the accuracy of the client data or teacher or principal data that is collected; and
5. Where the client data or teacher or principal data will be stored and the security protections taken to ensure such data will be protected, including whether such data will be encrypted by the third part contractor.

II. Family Educational Rights and Privacy Act (FERPA)

The following is intended to comply with the Family Educational Rights and Privacy Act (FERPA) and is to advise you of your rights. FERPA is a federal law that pertains to release of, and access to, education records. The law only applies to educational agencies and institutions that receive funding under a program administered by the United States Department of Education and the United States Department of Health and Human Services. If an agency does not comply with the FERPA regulations federal funding may be withheld from the agency.

Astor's programs (including Astor's Early Childhood Programs) that receive federal funding from the United States Department of Education, whether directly or indirectly, shall comply with the FERPA regulations, as set forth in this policy.

For the purposes of this document, the following definitions apply:

"Education records" means records that contain information directly related to the client that are maintained by the educational agency or institution or a party acting on the educational agency or institution's behalf. These records can be in any medium, including paper or electronic.

"Protected information" includes educational information, personally identifiable information, and directory information.

"Commercial or Marketing Purpose" means the sale of student data; or its use or disclosure for purposes of receiving compensation, whether directly or indirectly; the use of student data for advertising purposes, or to develop, improve or market products or services to students.

"Eligible client" means that once a client reaches 18 years of age or attends college, the rights pertaining to their educational records are now the client's rights, not the parent's rights.

"School official" refers to an Astor employee that works in one of Astor's Head Start or school-based programs. This includes, but is not limited to, the following: a teacher, administrator, health care staff member, clerical staff member, Astor's attorneys, education-related service consultant, or a contractor, volunteer, or other party to whom Astor has outsourced institutional services or functions.

"Legitimate educational interest" refers to a need to review client educational records in support of the completion of one's job responsibilities in the educational setting.

"Directory information" means information that is not necessarily harmful if disclosed. For Astor, this includes client names, addresses, email addresses, telephone numbers, and dates of attendance.

1. Notice of Parent & Client Rights

FERPA provides families and clients with certain rights pertaining to education records and Astor is responsible for notifying parents/authorized representatives and eligible clients of these rights annually.

The parents/authorized representatives and eligible clients have the right to:

- Be notified annually by Astor of the rights covered under FERPA.
- To be informed of Astor's definition of "school official" and "legitimate education interest."
- Provide written consent prior to permitting Astor to release or disclose protected information.
- Be informed of exceptions to the law which do not require prior written consent.
- Be informed of the types of information Astor defines as directory information.
- Restrict Astor from releasing directory information within 30 days of notification of the definition of directory information.
- Inspect and review the education records within 45 days after Astor receives a request for review. Astor is not required to provide copies of records unless, for reasons such as great distance, it is impossible for parents/authorized representatives or eligible clients to review the records. Schools may charge a fee for copies.
- Request an amendment of an education record, which they believe to be inaccurate or misleading.
- Be informed within 60 calendar days of discovery if your child's data has been breached or an unauthorized release has occurred.
- File a complaint with the United States Department of Education or United States Department of Health and Human Services.

2. Uses and Disclosures of Protected Information and Consent

FERPA prohibits the disclosure of education records and personally identifiable information to anyone (including a third party) without written consent of the parent/authorized representative or eligible client, with some exceptions.

Personally identifiable information shall not be disclosed by any officer or employee of the State Education Department or any school district, or member of a committee on special education or committee on preschool special education to any person other than the parent of such student. Personally identifiable information cannot be sold. It cannot be used for any commercial or marketing purpose by Astor or any third-party contractor or subcontractor.

Education records as defined above, include, but are not limited to, grades, transcripts, test scores, class schedules and disciplinary records. Not included in the definition of education records are private notes kept in possession of the maker and used only as a memory aid, certain employment records, certain medical or psychological treatment records of clients over the age of 18, grades on peer-graded papers before they are recorded by a teacher, and certain law enforcement records.

Personally identifiable information includes, but is not limited to, social security numbers, dates of birth and other information that alone or in combination is linkable to a specific client which would allow an individual to identify the client.

Astor is not required to obtain consent under FERPA before disclosing directory information if Astor defines what directory information is, informs the parents/authorized representatives and clients of their right to refuse the release of client directory information and indicates a time period for their response. Astor includes a summary of the FERPA requirements in the annual notification of the parents' bill of rights which is part of the Early Childhood Handbook, the ALC Day Student Handbook and the Client Rights Chapter.

3. Unprotected Information or Non-consent Disclosures

FERPA does not protect information that a person obtained through observation, personal knowledge or that they have heard orally from others. It only protects the physical educational record.

There are several exceptions to FERPA where prior written consent is not required before education records are released or disclosed. These exceptions include disclosure:

- To a school official with legitimate educational interests.
- To officials of another school or education agency where the client seeks or intends to enroll.
- To authorized representatives of the United States Comptroller General, United States Attorney General, United States Secretary of Education or state and local educational authorities, when in connection with an audit of federal or state supported education programs or legal requirements.
- In connection with financial aid for which the client has applied for or received and only if the information is necessary to determine the eligibility, amount, conditions or to enforce the terms of the aid.
- Where Astor has defined information as directory information.
- To organizations conducting studies for or on behalf of Astor for the purposes of administering predictive tests, client aid or improving instruction.
- To comply with a court order or subpoena.
- To accrediting organizations to carry out accrediting functions and requirements.
- To appropriate officials in connection with a health or safety emergency.
- State and local authorities, within a juvenile justice system, pursuant to specific State law.
- Specified officials for audit or evaluation purposes;

4. Record Retention

FERPA does not dictate a length of time for which records must be kept. The only exception is that an education record may not be destroyed if there is an outstanding parent/eligible client request to inspect or amend the education record.

Otherwise, schools have the discretion to develop their own record retention policies, which should include a deadline by which parents/authorized representatives or clients must respond if they do not wish to have their files destroyed. Once the deadline has passed, and there has been no request for retention, the records may be destroyed.

Please see Chapter 9: Client Records for more information regarding Astor's retention policies.

5. Challenge to Client Records

Parents/authorized representatives and eligible clients shall have an opportunity for a hearing to challenge the content of the school records, to ensure that the records are not inaccurate, misleading, or otherwise in violation of the privacy or other rights of clients, and to provide an opportunity for the correction or deletion of any such inaccurate, misleading, or otherwise inappropriate data contained therein.

A written request may be made with the Deputy Director of QA/QI, Client Risk, & Compliance/Privacy Officer. Complaints should be sent to Jennifer LaBarbera at 6339 Mill St., Rhinebeck, NY 12572.

Parents/authorized representatives and eligible clients do not have the right to correct, delete or expunge grades, an individual's opinion or other substantive decisions of the District that appear in a student's record.

6. Complaints

If a parent or eligible client feels that Astor has failed to comply with FERPA they have the right to file a complaint of this failure with the United States Department of Education or the United States Department of Health and Human Services using the contact methods below.



United States Department of Education
Family Policy Compliance Office
400 Maryland Avenue, SW
Washington, DC 20202

United States Department of Health and Human Services
200 Independence Avenue, S.W., Room 509F HHH Building
Washington, D.C. 20201
Phone: 1-800-368-1019
Email: OCRcomplaint@hhs.gov

Acknowledgment of Annual Notice to Parents & Eligible Clients

Astor is required to inform you annually of your rights covered by the Family Educational Rights and Privacy Act (FERPA).

This chapter outlines the requirements of FERPA, and this acknowledgement is used to confirm that you have read and understood your rights covered by FERPA.

In addition, you are acknowledging that you understand that if you wish to object to the release of specified directory information you must do so in writing.

Student Name: _____ DOB: _____

Authorized Representative Printed Name

Relationship to Student

Authorized Representative Signature

Date