

Summary of Rights and Information for Parents and Students

Green Chimneys is committed to ensuring student privacy in accordance with local, state and federal regulations and district policies.

The State Education Department (S.E.D.) has issued a preliminary Parents' Bill of Rights for Data Privacy and Security. Green Chimneys is issuing this summary of parents' rights under the new law. Parents should be aware that:

Parents (includes legal guardians or persons in parental relationships) and Eligible Students (students 18 years and older) can expect the following:

1. A student's personally identifiable information (PII) cannot be sold or released for any commercial purpose. PII, as defined by Education Law § 2-d and FERPA, includes direct identifiers such as a student's name or identification number, parent's name, or address; and indirect identifiers such as a student's date of birth, which when linked to or combined with other information can be used to distinguish or trace a student's identity.
2. The right to inspect and review the complete contents of the student's education record stored or maintained by an educational agency. This right may not apply to parents of an Eligible Student.
3. State and federal laws such as Education Law § 2-d; the Commissioner of Education's Regulations at 8 NYCRR Part 121, the Family Educational Rights and Privacy Act ("FERPA") at 12 U.S.C. 1232g (34 CFR Part 99); Children's Online Privacy Protection Act ("COPPA") at 15 U.S.C. 6501-6502 (16 CFR Part 312); Protection of Pupil Rights Amendment ("PPRA") at 20 U.S.C. 1232h (34 C.F.R. Part 98); the Individuals with Disabilities Education Act ("IDEA") at 20 U.S.C. 1400 et seq. (34 C.F.R. Part 300); protect the confidentiality of a student's identifiable information.
4. Safeguards associated with industry standards and best practices including but not limited to encryption, firewalls and password protection must be in place when student PII is stored or transferred.
5. A complete list of all student data elements collected by NYSED is available at www.nysed.gov/data-privacy-security , and by writing to: Chief Privacy Officer, New York State Education Department, 89 Washington Avenue, Albany, NY 12234.
6. The right to have complaints about possible breaches and unauthorized disclosures of PII addressed. Complaints can be addressed to the Director of Quality Assurance/Privacy Officer at Green Chimneys at dluft@greenchimneys.org or 845-279-2995, Alternately, complaints may be submitted to NYSED at www.nysed.gov/data-privacy-security ; by mail to: Chief Privacy Officer, New York State Education Department, 89 Washington Avenue, Albany, NY 12234; by email to privacy@nysed.gov ; or by telephone at 518-474- 0937.
7. To be notified in accordance with applicable laws and regulations if a breach or unauthorized release of PII occurs.
8. Educational agency workers that handle PII will receive training on applicable state and federal laws, policies, and safeguards associated with industry standards and best practices that protect PII.
9. Educational agency contracts with vendors that receive PII will address statutory and regulatory data privacy and security requirements.

More information about Green Chimneys FERPA and Grievance Policy can be found in the student handbook: <https://www.greenchimneys.org/student-handbooks/>

For purposes of further ensuring confidentiality and security of student data, as an appendix to the Parents' Bill of Rights each contract an educational agency enters into with a third party contractor shall include the following supplemental information:

- The exclusive purposes for which data will be used;
- How the third party contractor will ensure that the subcontractors, persons or entities that the third party contractor will share data with, if any, will abide by data protection and security requirements;
- When the agreement expires and what happens to data upon expiration of the agreement;
- If and how a parent, student, eligible student, or Green Chimneys Staff may challenge the accuracy of the student data or teacher or principal data that is collected; and
- Where the data will be stored and the security protections taken to ensure such data will be protected, including whether such data will be encrypted.

You can access additional information and a question and answer document issued by S.E.D. as a preliminary Parents' Bill of Rights for Data Privacy and Security at <http://www.nysed.gov/data-privacy-security/frequently-asked-questions-about-data-privacy-and-security>

Specifics of Data Privacy at Green Chimneys for school district contracts:

Pursuant to Section 2-d of the Education Law, agreements entered between the District and a third-party the "853 School" which require the disclosure of student data and/or teacher or principal data that contains personally identifiable information ("PII") to the "853 School", must include a data security and privacy plan and must ensure that all contracts with third-party the "853 School" s incorporate the District's Parents' Bill of Rights for Data Security and Privacy.

PII will be protected using encryption while in motion and at rest by a cloud based system of PowerSchool. Green Chimneys or PowerSchool can provide.

PII will be stored in a manner as to protect its security and to mitigate any potential security risks. Specifically, all data will be stored within the PowerSchool and Encounterworks Electronic Records. Information stored in each record differs depending on the status of the student, whether Residential or Day. The security of this data and physical access to data is controlled by the following:

- Green Chimneys is phasing out physical paper records; any existing paper records are in a locked room, in a locked area/or cabinet. Any key requests require Director's approval.
- Records are accessed by password and from agency computers; the system automatically logs off after activity has ceased and requires a password to reopen.
- All agency computers are also password protected and have auto log-off features.
- Passwords are assigned and monitored by M.I.S. and with Director's approval; Department Directors determine levels of access. Minimal access to perform job duties is assigned.

Green Chimneys ensures that no PII is disclosed to employees or other persons or entities unless they have a legitimate educational interest and only for purposes necessary to provide services.

Green Chimneys ensures that all employees or other persons or entities who have access to PII will abide by all applicable data protection and security requirements, including, but not limited to those outlined in applicable laws and regulations (e.g., FERPA, Education Law Section 2-d).

Green Chimneys allows for the disclosure of records, without consent, to the following parties or under the following conditions:

- School officials with legitimate educational interest; including the placing district
- Other schools to which a student is transferring;
- Specified officials for audit or evaluation purposes;
- Appropriate parties in connection with financial aid to a student;
- Organizations conducting certain studies for or on behalf of the school;
- Accrediting and regulatory organizations;
- To comply with a judicial order or lawfully issued subpoena;
- Appropriate officials in cases of health and safety emergencies; and
- State and local authorities

Green Chimneys has determined that those staff who have a legitimate educational interest are administrators, the student's teachers, support staff, and any related services staff who work with the student whether at the agency or at the placing district.

Green Chimney will not disclose PII to any other party other than those set forth above without prior written parental consent or unless required by law or court order.

If disclosure of PII is required by law or court order, Green Chimneys shall notify the New York State Education Department and the District no later than the time the PII is disclosed unless such notice is expressly prohibited by law or the court order.

Green Chimneys Record Retention Policy:

Procedures for maintenance of records of students who have been discharged are developed to permit accessibility of records post-discharge to assist in educational planning for the student. Any documents, which do not need to be maintained for the closed chart, must be destroyed deleting in the electronic record. At the end of the required retention period, the record is to be disposed of following approved disposal processes.

Retention Rules:

Special Education Records: Student's special education records are maintained for 6 years after student graduates/would normally have graduated from high school or 6 years after student attains age 21, whichever is shorter; Records must be retained, regardless of whether student is declassified from special ed. (Authority: New York ED-1 Guidelines for Special Education.)

All Education Records: Student's cumulative health records: A summary record or individual record, if not posted to summary record, is maintained until the student is age 27. (New York ED-1, Records Retention and Disposition Schedule.) Green Chimneys will maintain Education Records for all students until they reach the age of 27. Guardians are notified of this in the Annual FERPA notice.

Legal actions or investigation: Records pertaining to legal matters are to be maintained for the period of one year after the close of litigation or investigation. A written notice is required to inform the other party of our policy with an opportunity for the other party to request a longer retention period.

A written notice is required to request the destruction records before the expiration of the retention period. Parents/Guardians/Eligible Students are informed of this through the Annual FERPA notice.

The parent, student, eligible student, or eligible staff member may challenge the accuracy of the student data or teacher or principal data collected in accordance with the procedures set forth in the FERPA regulations at 99 C.F.R. Part 34, Subpart C, §§99.20-99.22.

Green Chimneys shall take the following steps to identify breaches or unauthorized releases of PII and to notify the Placing District upon learning of an unauthorized release of PII.

All required notifications in the event of a breach will be made by the Privacy Officer. Green Chimneys will notify the Placing District no later than seven (7) calendar days from date of discovery of a breach or unauthorized release of PII. Green Chimneys will cooperate with the District and law enforcement to protect the integrity of the investigation of any breach or unauthorized release of PII.

Specific Access to Record Protocols:

Supervisory personnel will ensure that staff members have access to individually identifiable information (PII) only if their specific responsibilities require it. In addition, all staff members must successfully complete training on the use and disclosure of confidential information and attend refresher training at least annually or as needed.

Databases and Workstations

- Staff members are to access web-based record systems only from approved devices, using only their assigned username and password.
- Staff members are expected to exit any confidential database upon leaving their workstations so that PII is not left on a computer screen where it may be viewed by unauthorized individuals. Workstations must be set to lock automatically when left unattended. Staff should log out of the electronic records when his/her work is completed.
- Classrooms and Dorms should designate youth only computers (I Pads or laptops) and staff should never access records on these devices.
- Any portal devices with access to Personal Identifiable Information must be secured when not in use.

- Staff members are prohibited from the disclosure or release to other persons, any item, or process that is used to verify their authority to access or amend PII including but not limited to any passwords, personal identification number, token or access card, or electronic signature.
- Each staff member will be liable for all activity occurring under his or her account, password, and/or electronic signature.

Emailing and Faxing Information

Agency staff should not transmit PII over the internet (including email) and other unsecured networks unless using a secure transmission procedure. Transmission of PHI is permitted by fax only if the person sending the information ensures that the intended recipient is available to receive the fax as it arrives or confirms that there is a dedicated fax machine that is monitored for transmission of sensitive information. Staff should use fax cover sheets that include standard confidentiality notices and should request that the recipient call to confirm receipt of the fax. Staff must additionally remove documents from the device promptly. Emails with PII should be encrypted by adding the phrase [SECURE] in the subject line.

Internal Assessment

In order to ensure an accurate and thorough assessment of potential risks and vulnerabilities to PII, Green Chimneys will regularly conduct:

- Periodic program assessments including a security review of facility access controls, protection of network server closets, workstations, portable devices, and document destruction capabilities
- Assessments of new or existing I.T. applications that contain, or are used to protect, PII
- Assessments of modifications to existing facilities or development of new facilities that maintain or house PII
- Assessments of new programs, departments, or changes in the mode or manner of service delivery involving PII

Staff members who violate this policy will be subject to disciplinary action up to and including termination. Anyone who knows or has reason to believe that another person has violated this policy should report the matter promptly to his or her supervisor or Director.

All reported matters will be investigated, and, where appropriate, steps will be taken to remedy the situation. When possible, we will make every effort to handle the reported matter confidentially. Any attempt to retaliate against a person for reporting a violation of this policy will itself be considered a violation of this policy that may result in disciplinary action up to and including termination.

All staff members with access to PII are responsible for adhering to all rules and regulations governing the use and disclosure of PHI or PII and complying with provisions in place to protect PII.

Where a breach or unauthorized release is attributed to Green Chimneys, Green Chimney shall pay for or promptly reimburse the District for the full cost of such notification.