

7872

2013-2014 Regular Sessions

I N A S S E M B L Y

June 6, 2013

Introduced by M. of A. NOLAN -- read once and referred to the Committee
on Education

AN ACT to amend the education law, in relation to the release of
personally identifiable student information

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. The education law is amended by adding a new section 2-c to
2 read as follows:
3 S 2-C. RELEASE OF PERSONALLY IDENTIFIABLE STUDENT INFORMATION. 1.
4 DEFINITIONS. AS USED IN THIS SECTION THE FOLLOWING TERMS SHALL HAVE THE
5 FOLLOWING MEANINGS:
6 A. "PERSONALLY IDENTIFIABLE STUDENT INFORMATION" SHALL HAVE THE SAME
7 MEANING AS SUCH TERM IS DEFINED IN SECTION 99.3 OF TITLE 34 OF THE CODE
8 OF FEDERAL REGULATIONS IMPLEMENTING THE FAMILY EDUCATION RIGHTS AND
9 PRIVACY ACT, AS SUCH FEDERAL LAW AND REGULATIONS ARE FROM TIME TO TIME
10 AMENDED.
11 B. "BIOMETRIC RECORD" SHALL HAVE THE SAME MEANING AS SUCH TERM IS
12 DEFINED IN SECTION 99.3 OF TITLE 34 OF THE CODE OF FEDERAL REGULATIONS
13 IMPLEMENTING THE FAMILY EDUCATION RIGHTS AND PRIVACY ACT, AS SUCH FEDER-
14 AL LAW AND REGULATIONS ARE FROM TIME TO TIME AMENDED.
15 C. "SCHOOL" SHALL MEAN ANY PUBLIC ELEMENTARY OR SECONDARY SCHOOL,
16 BOARD OF COOPERATIVE EDUCATIONAL SERVICES, PUBLIC SCHOOL KINDERGARTEN
17 PROGRAMS, UNIVERSAL PRE-KINDERGARTEN PROGRAMS AUTHORIZED PURSUANT TO
18 SECTION THIRTY-SIX HUNDRED TWO-E OF THIS CHAPTER, AND OTHER PUBLICLY
19 FUNDED PRE-KINDERGARTEN PROGRAMS.
20 D. "STUDENT" SHALL MEAN ANY PERSON ATTENDING A SCHOOL IDENTIFIED IN
21 PARAGRAPH C OF THIS SUBDIVISION.
22 E. "THIRD PARTY" SHALL MEAN ANY PERSON OR ENTITY OTHER THAN A SCHOOL
23 DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES, INSTITUTION OF
24 HIGHER EDUCATION, SCHOOL AS DEFINED IN PARAGRAPH C OF THIS SUBDIVISION
25 OR THE DEPARTMENT.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 2. A PARENT OF A STUDENT, A PERSON IN PARENTAL RELATION TO A STUDENT,
2 OR A STUDENT EIGHTEEN YEARS OF AGE OR OLDER MAY REQUEST THAT SUCH
3 STUDENT'S PERSONALLY IDENTIFIABLE STUDENT INFORMATION AND/OR SUCH
4 STUDENT'S BIOMETRIC RECORD NOT BE DISCLOSED TO ANY THIRD PARTY. THE
5 DEPARTMENT AND/OR ANY SCHOOL THAT RECEIVES SUCH REQUEST SHALL BE PROHIB-
6 ITED FROM DISCLOSING SUCH INFORMATION TO ANY THIRD PARTY UNLESS SUCH
7 DISCLOSURE IS REQUIRED BY LAW, PURSUANT TO A COURT ORDER OR SUBPOENA,
8 FOR THE PURPOSE OF A STATE OR FEDERAL AUDIT OR EVALUATION BY ENTITIES
9 AUTHORIZED UNDER STATE OR FEDERAL LAW, OR IS NECESSARY DUE TO A HEALTH
10 OR SAFETY EMERGENCY.

11 3. THE DEPARTMENT SHALL DEVELOP A FORM THAT SHALL BE USED FOR REQUESTS
12 MADE PURSUANT TO SUBDIVISION TWO OF THIS SECTION. SUCH FORM SHALL BE
13 MADE PUBLICLY AVAILABLE AND SHALL ALLOW SUCH INDIVIDUALS THE OPTION TO
14 OPT-OUT OF DISCLOSURE OF PERSONALLY IDENTIFIABLE STUDENT INFORMATION AND
15 BIOMETRIC RECORDS TO ANY THIRD PARTY OR TO CERTAIN TYPES OF THIRD
16 PARTIES. THE DEPARTMENT IS AUTHORIZED TO IDENTIFY A LIST OF TYPES OF
17 THIRD PARTIES THAT INDIVIDUALS MAY OPT-OUT OF DISCLOSURE OF SUCH INFOR-
18 MATION AND RECORDS AND SUCH INDIVIDUALS MAY OPT-OUT OF DISCLOSURE OF
19 SUCH INFORMATION AND RECORDS TO ANY TYPE AND/OR ALL OF THE LISTED THIRD
20 PARTIES. SUCH LIST DEVELOPED BY THE DEPARTMENT SHALL NOT REQUIRE THE
21 NAMES OF SUCH THIRD PARTIES TO BE LISTED. SUCH LIST MAY IDENTIFY THE
22 TYPES OF SERVICES SUCH THIRD PARTIES PROVIDE.

23 4. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO THE SHARING OF
24 PERSONALLY IDENTIFIABLE STUDENT INFORMATION AND BIOMETRIC RECORDS BY
25 CHARTER SCHOOLS TO A NOT-FOR-PROFIT CORPORATION OR A FOR-PROFIT BUSINESS
26 OR CORPORATE ENTITY THAT THE CHARTER SCHOOL WAS FORMED IN CONJUNCTION
27 WITH.

28 S 2. This act shall take effect on the ninetieth day after it shall
29 have become a law.