

5930

2013-2014 Regular Sessions

I N S E N A T E

September 4, 2013

Introduced by Sen. MARTINS -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

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

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, 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 INFORMATION. 1. DEFINI-
4 TIONS. AS USED IN THIS SECTION THE FOLLOWING TERMS SHALL HAVE THE
5 FOLLOWING MEANINGS:

6 A. "PERSONALLY IDENTIFIABLE INFORMATION" SHALL HAVE THE SAME MEANING
7 AS SUCH TERM IS DEFINED IN SECTION 99.3 OF TITLE 34 OF THE CODE OF
8 FEDERAL REGULATIONS IMPLEMENTING THE FAMILY EDUCATION RIGHTS AND PRIVACY
9 ACT, AS SUCH FEDERAL LAW AND REGULATIONS ARE FROM TIME TO TIME AMENDED.

10 B. "BIOMETRIC RECORD" SHALL HAVE THE SAME MEANING AS SUCH TERM IS
11 DEFINED IN SECTION 99.3 OF TITLE 34 OF THE CODE OF FEDERAL REGULATIONS
12 IMPLEMENTING THE FAMILY EDUCATION RIGHTS AND PRIVACY ACT, AS SUCH FEDER-
13 AL LAW AND REGULATIONS ARE FROM TIME TO TIME AMENDED.

14 C. "SCHOOL" SHALL MEAN ANY PUBLIC ELEMENTARY OR SECONDARY SCHOOL,
15 BOARD OF COOPERATIVE EDUCATIONAL SERVICES, PUBLIC SCHOOL KINDERGARTEN
16 PROGRAMS, UNIVERSAL PRE-KINDERGARTEN PROGRAMS AUTHORIZED PURSUANT TO
17 SECTION THIRTY-SIX HUNDRED TWO-E OF THIS CHAPTER, AND OTHER PUBLICLY
18 FUNDED PRE-KINDERGARTEN PROGRAMS.

19 D. "STUDENT" SHALL MEAN ANY PERSON ATTENDING A SCHOOL IDENTIFIED IN
20 PARAGRAPH C OF THIS SUBDIVISION.

21 E. "THIRD PARTY" SHALL MEAN ANY PERSON OR ENTITY OTHER THAN A SCHOOL
22 DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES, INSTITUTION OF
23 HIGHER EDUCATION, SCHOOL AS DEFINED IN PARAGRAPH C OF THIS SUBDIVISION
24 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 INFORMATION AND/OR SUCH STUDENT'S
4 BIOMETRIC RECORD NOT BE DISCLOSED TO ANY THIRD PARTY. THE DEPARTMENT
5 AND/OR ANY SCHOOL THAT RECEIVES SUCH REQUEST SHALL BE PROHIBITED FROM
6 DISCLOSING SUCH INFORMATION TO ANY THIRD PARTY UNLESS SUCH DISCLOSURE IS
7 REQUIRED BY LAW, PURSUANT TO A COURT ORDER OR SUBPOENA, FOR THE PURPOSE
8 OF A STATE OR FEDERAL AUDIT OR EVALUATION TO AUTHORIZED REPRESENTATIVES
9 OF ENTITIES IDENTIFIED IN SECTION 99.31 (A)(3) OF TITLE 34 OF THE CODE
10 OF FEDERAL REGULATIONS IMPLEMENTING THE FAMILY EDUCATION RIGHTS AND
11 PRIVACY ACT, OR IS NECESSARY DUE TO A HEALTH OR SAFETY EMERGENCY.

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

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

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