STATE OF NEW YORK

3413

2021-2022 Regular Sessions

IN ASSEMBLY

January 26, 2021

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

AN ACT to amend the education law, in relation to establishing the student privacy protection act

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The education law is amended by adding a new article 2-A to read as follows:

ARTICLE 2-A

STUDENT PRIVACY PROTECTION

Section 20. Short title.
21. Definitions.
22. Limits on disclosure of student information.
23. Notice.

§ 20. Short title. This article shall be known as and may be cited as the "student privacy protection act".

§ 21. Definitions. For purposes of this article:

1. "School" means any public school, any non-public school, and any school of higher education.

2. "Student", "directory information", "eligible student", and "personally identifiable information" shall have the same meanings as such terms are defined in 34 CFR 99.

3. "Disclosable directory information" means with respect to a student, the student's name; photograph; age; major field of study; grade level; enrollment status; dates of attendance; participation in officially recognized activities and sports; weight and height of members of athletic teams; degrees, honors, and awards received; and the most recent educational agency or institution attended.

§ 22. Limits on disclosure of student information. 1. A school may disclose directory information about a student only:

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

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(a) after giving the parent of the student or the eligible student at the school notice and an opportunity to opt-out of the disclosure pursuant to section twenty-three of this article;

(b) if the disclosure does not include any personally identifiable student information other than disclosable directory information; and

(c) if the disclosure is to a school newspaper, local newspaper, school club or organization, school yearbook, honor roll or other recognition list, graduation program, sports related publication which provides specific information about particular students for the purposes of a specific sports activity or function, or parent and teacher organization.

2. A school may disclose personally identifiable student information with the affirmative consent of the parent of the student or the eligible student in accordance with the procedure described in section twenty-three of this article if the disclosure is to a non-profit organization:

(a) that states in writing that it seeks the information for a specified purpose determined by the school to be in the educational interest of the student;

(b) that states in writing that it will use the information only for the specific identified purpose and will return or destroy the information when the purpose has been fulfilled, but not later than one year after receipt;

(c) that states in writing that it has not used or disclosed personally identifiable student information from any school in a manner inconsistent with the terms of disclosure within the past five years; and

(d) if the school has no reason to believe that the recipient used or disclosed personally identifiable student information from any school in a manner inconsistent with the terms of the disclosure within the past five years.

3. Unless otherwise expressly allowed by law, a school shall not disclose personally identifiable student information about a student, even with the affirmative consent of the parent of the student or the eligible student, for any commercial, for-profit activity, including, but not limited to use for:

(a) marketing products or services;

(b) selling or renting personally identifiable student information for use in marketing products or services;

(c) creating, correcting, or updating an individual or household profile;

(d) compilation of a list of students; or

(e) any other purpose considered by the school as likely to be a commercial, for-profit activity.

4. In making an allowable disclosure under subdivision one or two of this section, a school shall only disclose the minimum amount of information necessary to accomplish the purpose of such disclosure.

§ 23. Notice. 1. Within the first week of each school year, each school shall issue a public notice, included in a student or parent handbook and provided to each student in a form that the student can retain or give to a parent, containing information describing the school's disclosure procedures for personally identifiable student information.

2. The information required pursuant to subdivision one of this section shall include:

(a) a description of any personally identifiable student information that the school expects to disclose during the school year;

(b) the procedure that a parent of a student or an eligible student can follow to prohibit the school from disseminating disclosable directory information pursuant to section twenty-two of this article; and

(c) the procedure that a parent of a student or an eligible student can follow to authorize the school to disseminate personally identifiable student information pursuant to section twenty-two of this article.

3. If the school does not receive an objection from the parent of a student or the eligible student within thirty days of the dissemination of the information required to be provided under subdivision two of this section, the school may disseminate disclosable directory information relating to the student pursuant to section twenty-two of this article.

§ 2. This act shall take effect on the first of July next succeeding the date on which it shall have become a law.