

# 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 Assem-  
bly, do enact as follows:

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

### ARTICLE 2-A

#### STUDENT PRIVACY PROTECTION

##### Section 20. Short title.

##### 21. Definitions.

##### 22. Limits on disclosure of student information.

##### 23. Notice.

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

11 § 21. Definitions. For purposes of this article:

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

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

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

23 § 22. Limits on disclosure of student information. 1. A school may  
24 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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1 (a) after giving the parent of the student or the eligible student at  
2 the school notice and an opportunity to opt-out of the disclosure pursu-  
3 ant to section twenty-three of this article;

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

6 (c) if the disclosure is to a school newspaper, local newspaper,  
7 school club or organization, school yearbook, honor roll or other recog-  
8 niton list, graduation program, sports related publication which  
9 provides specific information about particular students for the purposes  
10 of a specific sports activity or function, or parent and teacher organ-  
11 ization.

12 2. A school may disclose personally identifiable student information  
13 with the affirmative consent of the parent of the student or the eligi-  
14 ble student in accordance with the procedure described in section twen-  
15 ty-three of this article if the disclosure is to a non-profit organiza-  
16 tion:

17 (a) that states in writing that it seeks the information for a speci-  
18 fied purpose determined by the school to be in the educational interest  
19 of the student;

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

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

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

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

37 (a) marketing products or services;

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

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

42 (d) compilation of a list of students; or

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

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

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

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

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

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

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

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

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