

STATE OF NEW YORK

7353--A

Cal. No. 826

2023-2024 Regular Sessions

IN SENATE

May 19, 2023

Introduced by Sen. BRISPORT -- (at request of the State Education Department) -- read twice and ordered printed, and when printed to be committed to the Committee on Education -- recommitted to the Committee on Education in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the education law, in relation to the release of student education records to juvenile detention facilities

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-e to
2 read as follows:

3 § 2-e. Release of student education records to juvenile detention
4 facilities. 1. Definitions. As used in this section the following terms
5 shall have the following meanings:

6 a. "Education records" shall have the same meaning as defined in
7 section 99.3 of title thirty-four of the code of federal regulations
8 implementing the family educational rights and privacy act, section
9 twelve hundred thirty-two-g of the United States Code.

10 b. "Educational agency" shall mean any public school district, board
11 of cooperative educational services, special act school district, public
12 school kindergarten program, approved private school for the education
13 of students with disabilities and a state supported or state operated
14 school subject to the provisions of article eighty-five, eighty-seven or
15 eighty-eight of this chapter.

16 c. "Student" shall mean any person attending an educational agency
17 identified in paragraph b of this subdivision.

18 d. "Parent" means a parent, legal guardian, or person in parental
19 relation to a student.

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

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1 e. "Educational program" shall mean educational programs supervised or
2 administered by a juvenile detention facility pursuant to section one
3 hundred twelve of this chapter.

4 f. "Juvenile detention facility" shall mean secure, specialized
5 secure, limited secure, and non-secure juvenile detention facilities
6 described in title two of article nineteen-G of the executive law.

7 g. "Eligible student" means a student eighteen years or older.

8 2. As authorized under the family educational rights and privacy act,
9 20 U.S.C. section 1232g(b)(1)(E), where a student has been directed to
10 be held in a juvenile detention facility pursuant to a court order, the
11 educational agency where such student attends school at the time of such
12 direction shall, upon request of the juvenile detention facility where
13 such student is held, disclose such educational records to educational
14 program personnel at such facility without consent of the parent or
15 eligible student, provided that:

16 a. such student has not yet been (i) adjudicated delinquent pursuant
17 to article three of the family court act; (ii) convicted of a crime as
18 an adolescent offender or juvenile offender; or (iii) adjudicated a
19 youthful offender;

20 b. such disclosure is for the sole purpose of providing the student
21 with pre-adjudication services including, but not limited to, educa-
22 tional services; and

23 c. any individual who receives the student education records certifies
24 in writing that he or she agrees not to disclose such information to a
25 third party outside the juvenile detention facility without consent of
26 the parent or eligible student, except as authorized pursuant to subdi-
27 vision three of this section.

28 3. Student education records disclosed pursuant to this section, shall
29 not be re-disclosed by the juvenile detention facility to any individual
30 or entity without consent of the parent or eligible student, unless:

31 a. the individual or entity is authorized by such juvenile detention
32 facility to receive such disclosure;

33 b. the individual or entity is or anticipates providing services to
34 address a student's educational needs; and

35 c. such disclosure is consistent with the requirements of all applica-
36 ble state and federal laws including, but not limited to, section two-d
37 of this article.

38 § 2. This act shall take effect immediately.