STATE OF NEW YORK

7353

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

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:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 2. This act shall take effect immediately.