

The  
University of the  
Education  State of New York  
Department

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In the Matter of  
A Privacy Complaint  
Filed Against

Review and Determination by  
New York State Education Dept.  
Chief Privacy Officer

Cold Spring Harbor Central School District  
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In June 2023, a complaint was filed with the New York State Education Department's ("NYSED's") Chief Privacy Officer by a parent ("Complainant"), whose child ("Student") attends Cold Spring Harbor Central School District ("District"). Complainant states that, in response to a June 5, 2023 email she sent to the District's Board of Education, the Superintendent responded by email the next day, copying all members of the Board of Education and including information about the student that constituted an inappropriate sharing of personally identifiable information ("PII"). Complainant alleges this is a violation of the Family Educational Rights Privacy Act ("FERPA") and Education Law § 2-d.

In response to the complaint, NYSED's Chief Privacy Officer requested that the District Superintendent investigate and provide a written response, including a summary of the investigation and addressing specific questions and issues. The District Superintendent submitted her response on July 11, 2023.

### Applicable Law

FERPA<sup>1</sup> protects the privacy of student educational records and places restrictions on the release of student PII. New York has adopted additional privacy laws and regulations. Education Law § 2-d, for example,<sup>2</sup> protects PII from unauthorized disclosure and provides parents with rights regarding their child's PII, especially as it pertains to third party contractors.

In accordance with the requirements of Education Law § 2-d, NYSED has adopted a [§ 2-d Bill of Rights for Data Privacy and Security](#) that authorizes NYSED's

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<sup>1</sup> 20 USC § 1232g; 34 CFR Part 99.

<sup>2</sup> Education Law § 2-d.

Chief Privacy Officer to address parent complaints about possible breaches and unauthorized disclosure of PII. Section 121.1 (a) of the Regulations of the Commissioner of Education defines a breach as the “unauthorized acquisition, access, use, or disclosure of student data and/or teacher or principal data by or to a person not authorized to acquire, access, use, or receive the student data and/or teacher or principal data.” Section 121.1 (t) of the Commissioner’s Regulations defines an unauthorized disclosure or release as “any disclosure or release not permitted by federal or State statute or regulation, any lawful contract or written agreement, or [a disclosure] that does not respond to a lawful order of a court or tribunal or other lawful order.”

### District Response

The first paragraph of Complainant’s June 5, 2023 email to the Board of Education states that she has concerns with the district regarding “conflicts of interest, inappropriate teachers, and failure to provide parents with detailed academic information and insights of their child’s performance.” The email then stated that Complainant was writing about another issue. The response submitted to my office from the District Superintendent states that the Superintendent provided information about the Student to address the first paragraph of Complainant’s email by providing “clarification to the Board of Education and to Complainant that efforts were made to acknowledge and address prior and current concerns and the flexibility of the staff to adjust where appropriate for the Student.”

### Analysis:

Section 121.4 of the Regulations of the Commissioner of Education and NYSED’s [§ 2-d Bill of Rights for Data Privacy and Security](#) allow parents, eligible students, teachers, principals or other staff of an educational agency to file complaints about possible breaches and unauthorized releases of personally identifiable information. Complainant is the parent of a student who attends the District and NYSED’s privacy office may therefore address the complaint. The District did not dispute Complainant’s standing to bring this complaint.

The June 6, 2023 email from the Superintendent to Complainant is responsive, polite and sincere. The third paragraph of the email, however, contains educational information about the Student. The email was shared with other school officials (the Board of Education) as that term is defined in the District’s policy number 5500 entitled “Student Records.” FERPA authorizes the sharing of educational records with school officials who have a legitimate educational interest [34 CFR § 99.31 (a) (ii)]. The District’s policy 5500 states that a school official has a legitimate

educational interest if they need to review a student's record in order to fulfill their professional responsibilities.

I accept the District Superintendent's explanation that the Superintendent was attempting to show the Board of Education that the District has been responsive to Complainant and the Student in the past, particularly since Complainant asserted that a recent communication was not acknowledged by the District. Complainant indicates her displeasure that the members of the Board of Education, who are friends, neighbors and other parents in the community, now unnecessarily possess educational information about the Student. While that concern is legitimate, there is no evidence that the Superintendent shared student information with the Board of Education for improper or retaliatory reasons. Thus, while somewhat tenuous, I find that the Superintendent had a legitimate educational interest to share such information with the Board of Education.<sup>3</sup>

#### Determination

While the appeal must be dismissed, I remind the District that student information should only be shared with school officials who have a legitimate education interest in the information [34 CFR § 99.31 (a)].

August 4, 2023



Louise DeCandia  
Chief Privacy Officer  
New York State Education Department

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<sup>3</sup> Additionally, the sharing of this information with the Board of Education constitutes neither a breach nor an unauthorized disclosure as those terms are defined in Education Law 2-d and its implementing regulations (Part 121 of the regulations of the Commissioner of Education).