



In the Matter of a Privacy Complaint

Filed Against

Scarsdale Union Free School District

Review and Determination of
the
Chief Privacy Officer

On October 22, 2025, the New York State Education Department's ("NYSED") Privacy Office received a complaint by a parent ("Complainant") against the Scarsdale Union Free School District (the "district"). Complainant alleges that she did not consent to the district's disclosure of the student's personally identifiable information ("PII") to other school districts. According to Complainant, the district's distribution of this information constituted an improper release of PII in violation of the Family Educational Rights & Privacy Act ("FERPA") and Education Law § 2-d.

In response to the complaint, the Privacy Office requested that the district investigate the allegations, provide a written response summarizing its investigation, and address specific questions and issues. The district submitted its response on November 7, 2025.

District Response

The district explained that its committee on special education ("CSE") held an annual review on July 2, 2024 to develop the student's individualized education program ("IEP") for the 2024-2025 school year. The CSE determined that it could not provide the student with a free and appropriate public education ("FAPE") within the district. To find a placement, the CSE distributed intake packets with information about the student to neighboring school districts and Boards of Cooperative Educational Services ("BOCES") to ascertain whether the student's needs could be met in another school (Education Law § 4401[2][b]).

The district indicates that, although not required to do so, it "partially redacted" personally identifiable information of the student within the packets. The

district also indicates that its annual FERPA notification apprises parents that the district may disclose education records to officials of another school district for purposes of the student's enrollment or transfer. The district maintains that the disclosure complied with applicable state and federal law as well as district policy.

Applicable Law

In accordance with the requirements of Education Law § 2-d, NYSED adopted a Bill of Rights for Data Privacy and Security that authorizes NYSED's Chief Privacy Officer to address parent complaints about possible breaches and unauthorized disclosure or release of student data. The Commissioner's regulations define student data as "personally identifiable information from the student records of an educational agency." Section 121.1(a) of the Commissioner's regulations 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) further 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."

Under FERPA, a school may not generally disclose PII from a student's education records to a third party without parental consent. One exception to the consent requirement permits a school to disclose information from a student's education records to another school where the student seeks or intends to enroll (34 CFR 99.31[a][2]). The sending school may disclose PII if it includes a statement in its annual notification of rights that it discloses education records for this purpose or if it makes a reasonable attempt to notify the parent in advance of the disclosure. This exception to the general consent requirement "permit[s the] nonconsensual disclosure of information from education records in connection with educational placements under the Individuals with Disabilities Education Act (Part B)" (*Letter to Anonymous*, 113 LRP 35724 [FPCO, June 19, 2013]).

Analysis

The district's disclosure of student PII to potential out-of-district placements did not violate FERPA or Education Law § 2-d. The intake packets were sent in connection with the CSE's efforts to identify an appropriate placement for the student. Further, the district's annual FERPA notification to parents and eligible students notified parents that education records may be sent to another institution for enrollment purposes without consent. Under these circumstances, parental

consent was not required—and no unauthorized disclosure of student PII occurred (*Letter to Anonymous*, 113 LRP 35724 [FPCO, June 19, 2013]).¹

Date: December 15, 2025

A handwritten signature in cursive script that reads "Whitney Braunlin".

Whitney Braunlin, Esq.
Chief Privacy Officer
New York State Education Department
89 Washington Avenue
Albany, NY 12234

¹ While Complainant has the discretion to revoke consent in writing for the continued provision of special education and related services, there is no indication that she submitted such a request (34 CFR 300.300[b][4]).