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Bill No.:

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A09822 Summary:

BILL NO A09822
 SAME AS No same as
 SPONSOR Galef (MS)
 COSPNSR Abinanti, Dinowitz, Lupardo, Reilly, McDonough, Montesano, Ra, Raia
 MLTSPNSR Arroyo, Glick, Sweeney
 Add S3012-d, Ed L

Relates to confidentiality of personnel records used for or based on performance evaluations of classroom teachers.

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A09822 Actions:

BILL NO A09822
 04/13/2012 referred to education

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A09822 Memo:

BILL NUMBER:A9822
 TITLE OF BILL: An act to amend the education law, in relation to personnel records of classroom teachers

PURPOSE OR GENERAL IDEA OF BILL: The purpose of this legislation is to establish the confidentiality of personnel records used for or based on performance evaluations of class-room teachers.

SUMMARY OF SPECIFIC PROVISIONS:

Section 1. Adds section 3012-d to the Education Law:

S 3012-d Personnel records of classroom teachers

1. All personnel records of classroom teachers used to evaluate or generated as the result of an evaluation of performance under the control of any school district or board of cooperative educational services, shall be considered confidential and not subject to inspection or review by a parent of a student or any other person without the express written content of such teacher except as may be mandated by lawful court order; provided that a school district or board of cooperative educational services may, without first obtaining consent or a court order, release data summarizing the aggregate results of such performance evaluations.

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2. Prior to issuing such court order the judge must review all such requests and give interested parties the opportunity to be heard. No such order shall issue without a clear showing of facts sufficient to warrant the judge to request records for review.

3. If, after such hearing the judge concludes there is a sufficient basis, he or she shall sign art order requiring that the personnel records in question be sealed and sent directly to him or her. He or she shall then review the file and make a determination as to whether the records are relevant and material in the action before him or her. Upon such a finding the court shall make those parts of the record found to be relevant and material available to the persons so requesting.

4. The provisions of this section shall not apply to any district attorney or his or her assistants, the attorney general or his or her deputies or assistants, a county attorney or his or her deputies or assistants, a county attorney or his or her deputies or assistants, a corporation counsel or his or her deputies or assistants, a town attorney or his or her deputies or assistants, a village attorney or his or her deputies or assistants, a grand jury, or any agency of government which requires the records described in subdivision one of this section, in the furtherance of their official functions.

Section 2. This act shall take effect immediately.

JUSTIFICATION: Recently, a new law was established relating to teacher evaluations. Recently, these teacher evaluation scores were released from certain school districts to the news media through the requirement in the law to this information available to the public.

This bill would require teacher evaluations and scores to be kept confidential as they would be considered personnel records, and would only be utilized as a tool to enhance each individual teacher's ability to teach effectively. The teacher evaluations would be used by school administrators, and would not be made public to the press or to parents. Under certain circumstances, the evaluations could be made public, and data summarizing the aggregate results of the performance evaluations of teachers with no specific score tied to an individual teacher could also be available for viewing.

PRIOR LEGISLATIVE HISTORY: This is new legislation.

FISCAL IMPLICATIONS:; There are no known fiscal implications at this point.

EFFECTIVE DATE: This act shall take effect immediately.

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A09822 Text:

S T A T E O F N E W Y O R K

9822

I N A S S E M B L Y

April 13, 2012

Introduced by M. of A. GALEF, ABINANTI, DINOWITZ, LUPARDO, REILLY, McDONOUGH, MONTESANO, RA, RAIA -- Multi-Sponsored by -- M. of A. ARROYO, SWEENEY -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to personnel records of classroom teachers

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 section 3012-d
2 to read as follows:

3 S 3012-D. PERSONNEL RECORDS OF CLASSROOM TEACHERS. 1. ALL PERSONNEL
4 RECORDS OF CLASSROOM TEACHERS USED TO EVALUATE OR GENERATED AS THE
5 RESULT OF AN EVALUATION OF PERFORMANCE PURSUANT TO SECTION THREE THOU-
6 SAND TWELVE-C OF THIS ARTICLE, UNDER THE CONTROL OF ANY SCHOOL DISTRICT
7 OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES, SHALL BE USED FOR EVALU-
8 ATION OF JOB PERFORMANCE ONLY AND SHALL BE CONSIDERED CONFIDENTIAL AND
9 NOT SUBJECT TO INSPECTION OR REVIEW BY A PARENT OF A STUDENT OR ANY
10 OTHER PERSON WITHOUT THE EXPRESS WRITTEN CONSENT OF SUCH TEACHER EXCEPT
11 AS MAY BE MANDATED BY LAWFUL COURT ORDER; PROVIDED THAT A SCHOOL
12 DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES MAY, WITHOUT FIRST
13 OBTAINING CONSENT OR A COURT ORDER, RELEASE DATA SUMMARIZING THE AGGRE-
14 GATE RESULTS OF SUCH PERFORMANCE EVALUATIONS.

15 2. PRIOR TO ISSUING SUCH COURT ORDER THE JUDGE MUST REVIEW ALL SUCH
16 REQUESTS AND GIVE INTERESTED PARTIES THE OPPORTUNITY TO BE HEARD. NO
17 SUCH ORDER SHALL ISSUE WITHOUT A CLEAR SHOWING OF FACTS SUFFICIENT TO
18 WARRANT THE JUDGE TO REQUEST RECORDS FOR REVIEW.

19 3. IF, AFTER SUCH HEARING THE JUDGE CONCLUDES THERE IS A SUFFICIENT
20 BASIS, HE OR SHE SHALL SIGN AN ORDER REQUIRING THAT THE PERSONNEL
21 RECORDS IN QUESTION BE SEALED AND SENT DIRECTLY TO HIM OR HER. HE OR SHE
22 SHALL THEN REVIEW THE FILE AND MAKE A DETERMINATION AS TO WHETHER THE
23 RECORDS ARE RELEVANT AND MATERIAL IN THE ACTION BEFORE HIM OR HER. UPON
24 SUCH A FINDING THE COURT SHALL MAKE THOSE PARTS OF THE RECORD FOUND TO
25 BE RELEVANT AND MATERIAL AVAILABLE TO THE PERSONS SO REQUESTING.

26 4. THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO ANY DISTRICT
27 ATTORNEY OR HIS OR HER ASSISTANTS, THE ATTORNEY GENERAL OR HIS OR HER

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

LBD15241-03-2

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1 DEPUTIES OR ASSISTANTS, A COUNTY ATTORNEY OR HIS OR HER DEPUTIES OR
2 ASSISTANTS, A CORPORATION COUNSEL OR HIS OR HER DEPUTIES OR ASSISTANTS,
3 A TOWN ATTORNEY OR HIS OR HER DEPUTIES OR ASSISTANTS, A VILLAGE ATTORNEY
4 OR HIS OR HER DEPUTIES OR ASSISTANTS, A GRAND JURY, OR ANY AGENCY OF
5 GOVERNMENT WHICH REQUIRES THE RECORDS DESCRIBED IN SUBDIVISION ONE OF
6 THIS SECTION, IN THE FURTHERANCE OF THEIR OFFICIAL FUNCTIONS.

7 S 2. This act shall take effect immediately.

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