

LEGISLATIVE memo

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NEW YORK STATE SCHOOL BOARDS ASSOCIATION • Better School Boards Lead to Better Student Performance

OPPOSE

S.2357-C (Oppenheimer)/A.8474-A (Rosenthal)

Relates to notification of parents when student directory information is released to third parties

6/11/12 *Advanced to Third Reading*

The provisions of this bill pertain to directory information which is comprehensively covered by the federal Family Educational Rights and Privacy Act (FERPA) and its regulations.

The New York State School Board Association (NYSSBA), representing over 650 school districts throughout the state of New York, has provided training and guidance on compliance with FERPA including the most recent promulgated regulations (January 2012). New York State has not experienced system-wide problems when FERPA requirements are followed. This bill would hinder school districts' ability to provide necessary services to their students.

The provisions of this bill are not in alignment with FERPA and would provide an additional and unnecessary mandate on school districts. At a time when every effort is being made to keep administrative costs to a minimum and to direct efforts and funding, wherever possible, to maintaining and enhancing classroom instruction, this bill is particularly problematic.

CURRENT PRIVACY PROTECTIONS UNDER LAW

Privacy protections afforded to parents and students regarding their educational records are well-established under FERPA. School boards may choose, from a FERPA-allowable list, information to be designated directory information. For example, directory information can include a student's name, address, telephone listing, grade level, dates of attendance and honors/awards received.

Under FERPA, districts can, but do not have to, release this information when requested. Importantly, directory information can *only* be released if districts have provided proper notice to parents under FERPA of their right to "opt-out" of disclosure.

To protect students further, a recent amendment to FERPA regulations authorizes districts to adopt limited directory information policies. **School boards, through policy, can limit disclosure of directory information to specific parties, purposes or both.** For example, a policy can be established to permit the

release of students' names, dates of attendance and honors or awards for commencement purposes, but limit disclosure to non-district requestors for certain educational purposes based on the needs of the district.

NEGATIVE IMPACT OF BILL

Districts vary in their need to disclose directory information for educational purposes. While some districts do not make non-district disclosures, others release directory information only for limited educational purposes such as to a service provider that notifies parents through a secure website of emergencies in the district.

This bill requires districts to attain affirmative parental consent (deviating from FERPA's notice of parents' right to opt-out) prior to disclosure to a non-profit organization. Further, this bill prohibits the release of such information to any for-profit entity even if the parent affirmatively consents. The latter provision would absolutely prohibit districts from entering into needed services that require disclosure of directory information.

Districts take every precaution to release directory information only in situations in which the district would derive a needed educational benefit. Agreements with entities where such information will be disclosed must include strict prohibitions against information release to a third party.

NYSSBA *strongly opposes* this bill that will impose a burdensome administrative mandate on school districts and limit districts' ability to enter into agreements for necessary services.