
In the Matter of
A Privacy Complaint
Filed Against

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

Batavia City School District

In May 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 Batavia City School District ("District"). Complainant states that an employee of the District inappropriately disclosed personally identifiable information ("PII") regarding the student to an emergency contact who was not a legal parent/guardian and was not authorized to receive such 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 investigate and provide a written response, including a summary of its investigation and addressing specific questions and issues. The District submitted its response on June 28, 2023.

Applicable Law

² protects PII from

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 District indicates that it questioned the employee, who admitted speaking to the emergency contact in response to an incident at school and after being unable to reach the Complainant . The District asserts that no PII was shared with the emergency contact and that there was no violation of either FERPA or Education Law § 2-d.

The District further states that it delivered

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.” That section also defines protected student data as “personally identifiable information from the student records of an educational agency.” Additionally, while FERPA authorizes the disclosure of PII to school officials, educational agencies must use reasonable methods to ensure that school officials only obtain access to the education records in which they have a legitimate educational interest [34 CFR § 99.31 (a)].

On the information provided, I cannot determine that the employee inappropriately disclosed PII regarding the student to the emergency contact. Although both parties agree that the call was made, Complainant has not reported details regarding what PII was allegedly shared, and the District employee asserts that they merely “informed the contact that he was calling regarding [the student] and needed [Complainant] to contact [the District].”

I note however, that the District’s responses regarding employee data privacy and awareness training was scant. Section 121.7 of the Commissioner’s regulations require that educational agencies, which includes the District, provide annual data privacy and awareness training. The District is responsible for not only offering data privacy and awareness training annually but for ensuring that all employees with access to PII take the training and understand their obligations under FERPA, Education Law §