

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 of the
Chief Privacy Officer

Fonda-Fultonville Central School District
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On February 11, 2025, four complaints were filed with the New York State Education Department’s (“NYSED”) Privacy Office by parents (“Complainants”) whose children attend Fonda-Fultonville Central School District (the “district”). Complainants received an audio message from the middle school interim principal on ParentSquare, a communication platform, regarding their student’s excessive absences. The Complainants assert that, rather than being sent individually, the audio message was distributed to approximately 34 recipients, including parents and students, whose personally identifiable information (“PII”) including full name, email address and student absentee concerns were available to everyone in the group message. Complainants allege that this is a violation of the Family Educational Rights Privacy Act (“FERPA”) and Education Law § 2-d.

In response to the complaint, I 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 March 4, 2025.

Applicable Law

FERPA¹ is a federal law that protects the privacy of student educational records, and places restrictions upon educational agencies regarding the release of student PII. New York has adopted additional privacy laws and regulations² that further protect a student’s PII from unauthorized disclosure, especially as it pertains to third-party contractors.

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 of PII, and/or

¹ 20 USC § 1232g; 34 CFR Pt. 99

² Education Law § 2-d & 8 NYCRR Pt.121

unauthorized disclosures or release. Protected student data is defined in the Commissioner's Regulations 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) 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

After its investigation the district determined that it was responsible for the unauthorized disclosure of students' PII when an audio recording was shared to a group through ParentSquare, rather than sending individual messages. The district stated that it "created a timetable to amend the situation by engaging with affected families through personal phone calls, face-to-face meetings and that it assessed internal processes to ensure this does not occur again."

The District further stated that it provides annual security and privacy awareness training to all staff at the beginning of the school year and that training is provided to new staff throughout the school year. However, the interim principal had recently started at the district and had not yet received security and privacy training at the time of the incident. In response to the incident, the interim principal immediately received one-on-one training and has completed the district's security and privacy awareness training.

Analysis

The district does not dispute the facts alleged by Complainants and has explained that the message was intended to be sent individually but was mistakenly sent as a group message. In accordance with Education Law § 2-d and Part 121 of the Commissioner's Regulations, the district has taken steps to address the breach including notice to the affected families, training and instructions to district staff, and filing a data incident report with my office.

Nonetheless, the district is reminded that FERPA requires student PII be shared as minimally as possible, and only to school officials who have a legitimate educational interest in the student's education record [34 CFR § 99.31].

Date: March 24, 2025

A handwritten signature in cursive script, appearing to read "Louise DeCandia".

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