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In the Matter of  
A Privacy Complaint  
Filed Against

Bradford Central  
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In February 1977, the  
Department's ("N")  
child ("student")  
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("FERPA") and E

In response to  
the District's  
investigation and  
its response on Ap

Applicable Law

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with rights rega  
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<sup>1</sup> 20 USC § 1232g; 34

<sup>2</sup> Education Law § 2-1

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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." 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)].

Here, it is undisputed that the employee accessed the student's educational record for an improper purpose.<sup>3</sup> As the district found, this violated FERPA. It also constitutes a breach as defined in § 121.1 (a) of the Commissioner's regulations. As such, the District was required to report the breach to my office no later than 10 calendar days after becoming aware of the incident [§ 121.10 (d)]. Therefore, I will direct the District to file a data incident report to my office within five days of this determination.

However, I do not find that any broader or systemic relief is warranted. The evidence suggests that the breach discussed herein was routine employee misconduct that cannot be attributed to specific deficiencies in the District's policies or training. As indicated above, the District regularly delivers privacy training to its employees- and, indeed, delivered one such session a month prior to the breach at issue.

Finally, in light of this incident, I strongly encourage the District to review which employees it considers school officials and whether access to PII is provided to school officials because of a legitimate educational interest.

All responses to this determination are to be sent to [privacy@nysed.gov](mailto:privacy@nysed.gov).

May 17, 2023



Louise DeCandia  
Chief Privacy Officer  
New York State Education Department

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<sup>3</sup> "3@2@.!'("1@ 7,(3(1@ 3,@(.231.'3@..2((12@ 3,@(.0.9(@ "@',...@ .)!'."@