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In the Matter of a Privacy Complaint Filed Against

Elmira City School District

Review and Determination of the Chief Privacy Office

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On January 9, 2024, a complaint was filed with the New York State Education Department's ("NYSED") Privacy Office asserting that on two occasions the Elmira City School District (the "District"), improperly disclosed students' Personally Identifiable Information ("PII"). Regarding the first incident, Complainant states that in November 2022 she

parent complaints about possible breaches of PII, and/or 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' educational records to complainant when it provided her with a copy of the test scores and reports of students, other than her child, on November 4, 2022. The District states that it has contacted the affected parents for the students whose information was accidentally disclosed to complainant. The District also asserts that it has addressed with staff the November 4th unauthorized disclosure of education records and has undertaken a review of internal administrative procedures to reduce the risk of any future unauthorized disclosure of students' PII.

Regarding the second incident that occurred on February 17, 2023, the District stated that "Given what she [complainant] provided, all the individuals work/worked with the students. As service providers, and primary providers of instruction, all are aware of and have access to the same data that she is accusing us of sharing." Thus, the District contends that no breach or unauthorized release occurred because the educational records of complainant's children were shared only with the appropriate school officials who possess a legitimate educational interest in the students' records in accordance with FERPA [34 CFR § 99.31(a)(1)(i)(A)].

Analysis

The District concedes that an unauthorized disclosure of student PII was made on November 4, 2022. This action violates FERPA and Educa

possession of additional information, my office cannot determine that the February 17th email was a violation of FERPA and Education Law §2-d.

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]. As an alternative, in this instance it is recommended that the District consider sending an email to necessary staff that a parent requested certain information and such information was provided, rather than copying numerous staff on the email containing the student's PII.

Finally, I remind the District that Education Law §2-d and § 121.4(b) of the Regulations of the Commissioner of Education require educational agencies, which include the District, to promptly acknowledge receipt of privacy complaints, commence an investigation, and take