


Subject: **Fwd: No Response to Teacher Inquires - Updated**
Date: 4/23/2020 10:30:41 AM Eastern Standard Time
From: btfny@aol.com
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Sent: 4/20/2020 4:59:27 PM Eastern Standard Time
Subject: No Response to Teacher Inquires - Updated

cid:015522113@17032020-2880

April 20, 2020

MEMO TO: Dr. Kriner Cash, Superintendent, BPS

FROM: Philip Rumore, President, BTF

RE: No Response to Teacher Inquires

Although we have requested of you written responses to very important issues and concerns raised by teachers, for most, if not all, there has been no written response.

Privacy Concerns

Teachers are extremely concerned about using platforms, procedures, teaching materials, etc. that are not HIPPA and FERPA compliant. Please see March 30, 2020; April 6, 2020; and April 7, 2020 correspondence to you.

Neither all teachers, nor the BTF have, as requested, received a written official delineation from the District (not a verbal or written opinion from one administrator) listing the only platforms, teaching materials, procedures (e.g. for contacting and communicating with parents and students) that are HIPPA and FERPA compliant.

For example, at a speech therapist teleconference with their supervisor they were instructed that the District recommends using the Google Voice app for interactions with parents/students.

We have been informed that the regular Google Voice app is not FERPA/HIPPA compliant; however, one that is compliant will cost for usage, i.e. it is not free.

School 99 teachers have been advised to use "Parent –Teacher Correspondence" tab.

Dangerous and FERPA Non-Compliant Taping and Sharing of Pictures of Students

While it may seem like an excellent way of motivating and sharing, the taping of and taking pictures of students and others in their homes opens the District and teachers to serious legal consequences.

A video or picture placed on the internet can be edited, reposted and circulated in the internet by anyone, causing great harm to the student or students. You can, I am sure, contemplate what some evil people can do with said videos or pictures posted on the internet.

Indeed, it may also be considered personally identifiable information (PII).

Under FERPA; "The term "PII" refers to a student's name or identification number, as well as other information that can be used to distinguish or trace an individual's identity either directly through linkages with other information. 34 C.F.R. § 99.3, "Personally identifiable information."

At a minimum written parental consent should be obtained for each such "event".

Parental Consent

There has been no clear written guidance to teachers and the BTF delineating when parental consent is required, when it is not, the document that must be used to secure parental consent,

copies of signed parental consent documents for the teachers working with said students and the written procedures for teachers working with and evaluating special education students (March 30, 2020).

The law and regulations (FERPA) are clear. Prior written consent of a parent is required before information (PII) can be released (see privacy above).

For special education conferences, it is also clear that if the meeting can not take place in person, there must be agreement between the District and parent.

“Recommended Guidelines” Hours for Students Instruction (April 7, 2020 Correspondence to Superintendent)

Teachers across the District continue to inquire about the hours of instruction that the principal at City Honors delineated in a correspondence to teachers, The document has been distributed to teachers across the District.

It states, 10th -12th grade students, 5-7 hours/day. Kindergarten-2nd grade students, 1.5-2 hours/day.

The District still has not clarified for teachers or the BTF whether this is correct or incorrect. Is this District policy or District guidelines (April 7, 2020)?

Teaching Materials/Equipment

Some teachers have home “computers” that are obsolete, e.g. have no camera, old technology.

How do they obtain the equipment they need? Please advise all teachers of the process to request supplies/equipment (March 30, 2020, April 7, 2020).

Parent Questionnaire

Neither the teachers at school 45 nor the BTF has, as requested, received written approval from the District, not an administrator, the questionnaire, procedures and script asking for a parents’ personal information via telephone, that teachers are be asked to follow, has been approved and is compliant with FERPA/HIPPA regulations.

While the questionnaire is important, as it will also be used at other schools, all concerned need to ensure that we have written authorization to proceed.

Teacher Suggestions

Teachers have suggestions to improve instruction. Please advise teachers of whom they can submit suggestions to to improve instruction.

As we progress through these uncharted and difficult times, we look forward to working with you.

We bring these important issues/concerns to you to help guide us on a path that is safe, despite possible obstacles and one that continues to move us toward our goal – the best education possible for our students.

Finally, I wanted to commend you and the District on your tremendous efforts to work with all concerned to ensure that our students, parents, staff and community receive critical support.

If we can help, just ask.



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President, PHILIP RUMORE

March 30, 2020

MEMO TO: Dr. Kriner Cash, Superintendent, BPS
FROM: Philip Rumore, President, BTF
RE: Coronavirus Issues

- Parental consent – We have been advised that under FERPA, video recordings/live streams may be considered educational records and should have parental consent for each student prior to being utilized. Please advise of us of how and where teachers can obtain copies of said consent forms for each of their students. Obviously, working with issues/programs involving students with disabilities requires parental consent in most cases. We want to prevent any litigation and damages resulting from the lack of written parental consent.

- People with access to videos can apparently, through the use of screen-capturing software or downloading tools, not only repost, but also edit said video through other platforms. What has the district done to ensure that students and staff are protected from this unauthorized and illegal activity?

- Use of personal equipment and/or internet access – Obviously, the district must supply teachers with all the technology required to perform their duties, e.g. computers, secure internet access, materials, curriculum, etc. Staff, for many reasons, should not be required to use their personal technology, computers, internet carrier, etc. Such usage obviously presents dangerous hacking issues, etc.

- Student counseling – Prior to having online one-on-one sessions with students, teachers must have a parent's written permission to do same – especially with IEP students. There should be clarification that no such sessions shall be recorded. There have been publicized reports of hackers gaining access to such conferences – NY Times, “Zoombombing”, March 20, 2020.

Please provide a written response to the above concerns. Be assured we will continue to work with you as we navigate through these unprecedented times.



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President, PHILIP RUMORE

April 6, 2020

MEMO TO: Dr. Kriner Cash, Superintendent, BPS
Members, Buffalo Board of Education
All District Administrators – Please Forward

FROM: Philip Rumore, President, BTF

These are and have been some of the most difficult, painful, dangerous, heart-wrenching and challenging times.

Many of us know of someone who, and whose family, have been victims of this devastating pandemic.

We have also seen the heroic efforts and sacrifices of first responders, police, firefighters, grocery store workers, sanitation workers and many more too numerous to mention.

We must also commend all those in the District and community organizations who have worked to supply thousands of families with desperately needed food and meals.

Parents have called me to say how much they appreciate the teachers, who have continued to work with their children, while relating the extreme pressure of having multiple children at different grade levels.

One parent was in tears when she heard there might be no spring recess. The stress of working with a baby and an elementary school student was almost too much to bare. I have had numerous such calls.

Teachers, some of whom have children of their own at home, are also under unmanageable stress, e.g. learning new technology, trying to keep in contact with their 30-150 students, when many students have no equipment, internet service or a working phone, insufficient educational materials for their students, nasty responses from a few parents, (one parent sent a naked picture of herself to a teacher's cell phone) – to name a few.

We have also had a few administrators, who are not enduring what the teachers are, heaping even more pressure on teachers, e.g. I want your lesson plans, I want you to check in with me or else, I want you at this teleconference, I want to know how many students you have contacted, I am having parents report you if you haven't reached them, you must create a video, I want you to contact parents via a platform that isn't FERPA and HIPPA compliant, you must use Schoology even though you have not been trained and it breaks down constantly, I don't care if you have to use your personal cellphone and are concerned you have to use it, what about marks, student equipment or materials, will there be a spring break since it is up to the District to make the decision, I have tried and tried and can't reach the parent or student... to name a few.

Yet, because they care about their students, they and their families endure the stress.

Yes, we are all under tremendous stress; however, based on the actions of some school and City Hall administrators, I don't think anyone has a clue about the additional stress your teachers are enduring to connect with, care for and educate their students.

All I ask is that when you make decisions, that you put yourself in the body of a teacher, who has from 30-150 students for whom they are responsible and that you also consider the stress on parents.

Hopefully that is not too much to ask. We are not looking for sympathy – just understanding and compassion.

We, as always, remain committed to work with you as we educate our students and overcome these dangerous times.

PR:su



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President, PHILIP RUMORE

April 7, 2020

MEMO TO: Dr. Kriner Cash, Superintendent, BPS
FROM: Philip Rumore, President, BTF
RE: Teacher Concerns/Suggestions

As we all work together during these difficult and unprecedented times, most administrators are treating their staff with gratitude and respect.

However, some don't understand or apparently care about the tremendous stress and difficulties teachers are working through to serve their students.

In addition to the lack of students' and teachers' equipment and materials, many teachers have their own children at home. Indeed, parents are also under great stress as they try to help their children.

A few examples:

The principal at City Honors has told parents who indicated they may not heard from a teacher "to contact one of our CHS administrators." Why not have them attempt to contact the teacher?

This Big Brother tactic has angered and insulted teachers (pg. 2 of 4).

In addition, as stated in this City Honors correspondence to teachers, where are the "recommended guidelines" (pg. 2 of 4)?

They have apparently been circulated in the District by reference to this document.

Please provide us with a copy of these!! e.g. 10th – 12th grade students, "5-7 hours per day" !?

Kindergarten – 2nd grade students, "1.5-2 hours per day" !?

If these are not District guidelines, as this document has been widely circulated and teachers have inquired about it, the District must advise parents, teachers and administrators that this is incorrect.

If this is correct, please advise and provide a copy of said District directive/document.

Also, teachers at City Honors are being asked by the Assistant Principal to report how often they have been in contact with students' families and how many families they have not reached ([Click Here](#) for enclosed memo from Carla McDow). If the link is not clickable, copy and paste the following link into your web browser.

http://www.btfny.org/email/2020/hilltop_notes.pdf

As stated below, parents are complaining about being deluged with 6-7 emails per day from teachers, plus those from the District.

Some schools are still demanding lesson plans from teachers during this difficult time. That seems particularly inappropriate during this time, when learning methods are so different. Please clarify that lessons plans should not be required to be submitted to administrators and if teachers choose, only need to be as detailed as “the teacher needs them to be” – (Approved Lesson Plan Document).

Security Concerns

As per our recent, March 30, 2020 correspondence, teachers remain very concerned with using non-FERPA and HIPPA compliant programs and procedures that are not in compliance with NYSED regulations.

A school district on Long Island has forbidden the use of Zoom and advised teachers to use a Microsoft program.

One social worker informed me that she uses a program called Doxy.me which apparently is HIPPA compliant.

Please advise us and teachers in writing of all the programs/procedures that are FERPA and HIPPA complaint.

For those that are not, teachers should obviously be advised in writing to not use them.

As per NYSED Special Education guidance from Christopher Suriano, Assistant Commissioner, dated March 27, 2020, parents must agree to and have signed off on virtual conferences (attached). If the link is not clickable, copy and paste the following link into your web browser.

http://www.btfny.org/email/2020/consent_form_NYSED.pdf.

Such signed agreement may be digital signatures.

Please inform us and teachers in writing of the procedures, forms, etc. that have been distributed to affected teachers. **Also, please provide copies of all parent executed agreement to the teachers involved.**

We are confident that the District shares our concerns relating to privacy and parental rights. There are always those who are eager to bring legal charges against the District and teachers.

Other Important Issues

As per our March 19, 2020 correspondence:

- Many students still do not have access to computers.
Many parents and students are upset because they were unable to pick up their laptop or work.
Please advise parents and teachers of when and how they can arrange to pick up necessary materials/electronics.
Just as food is being distributed, there must be a way to pick up materials/supplies for schools/distribution sites.

- Teachers are being told to add building administrators to their Schoology and Class Dojo. Some teachers don't use Schoology and haven't been trained in it. Some teachers feel they are being spied on and micro managed (School 80).
- Teachers have personal computers, laptops with no camera/microphones.
The District needs to survey teachers to determine the equipment and educational materials they need.
- Parents are complaining to teachers that they are overwhelmed with the emails from teachers and the District. e.g. if your child is in 7-12, you could be receiving 6-8 emails per day just from teachers.
The District must stop requiring teachers to communicate with parents daily – only when necessary.

We have forwarded concerns for the District but as yet had no response on almost all issues.

So much for working together. Hopefully, there will be some response to your teachers who are providing for their students and their own families under oppressive conditions.

STUDENT PRIVACY POLICY OFFICE
FERPA & Coronavirus Disease 2019 (COVID-19)
Frequently Asked Questions (FAQs)
March 2020

Introduction

The United States (U.S.) Department of Education (Department) is issuing these Frequently Asked Questions (FAQs) regarding the Family Educational Rights and Privacy Act (FERPA) and the coronavirus disease 2019, abbreviated as “COVID-19” and more commonly referred to as “coronavirus.”¹ We are working with our Federal partners including the Centers for Disease Control and Prevention (CDC), which is leading the Federal effort to address coronavirus or COVID-19. The U.S. Department of Health and Human Services (HHS) issued on January 31, 2020, a declaration of a Public Health Emergency regarding coronavirus or COVID-19.²

The Department’s Student Privacy Policy Office (SPPO) prepared this document to assist school officials working with public health officials in managing public health issues related to COVID-19, while protecting the privacy of students’ education records. Understanding FERPA helps enable school officials to act quickly and with certainty when confronting challenges that affect the health or safety of students or other individuals.

Educational agencies and institutions, such as school districts, schools, colleges and universities, can play an important role in slowing the spread of COVID-19 in U.S. communities. Through information sharing and coordination with public health departments, educational agencies and institutions can help protect their schools and communities.

The purpose of this document is to assist school officials in protecting student privacy in the context of COVID-19 as they consider the disclosure of personally identifiable information (PII) from student education records to individuals and entities who may not already have access to that information. School officials should work with their State and local public health officials to determine the information needed to address this public health concern. Understanding how, what, and when information can be shared is a critical part of preparedness.

Background

FERPA is a Federal law that protects the privacy of student education records. (20 U.S.C. § 1232g; 34 C.F.R. Part 99) The law applies to all educational agencies and institutions that receive funds under any program administered by the Secretary of Education. The term “educational agencies and institutions” under FERPA generally includes school districts and public schools at the elementary and secondary levels, as well as private and public institutions of postsecondary

¹ Please note that this FERPA & Coronavirus Disease 2019 (COVID-19) FAQ document updates the Department’s 2009 FERPA & H1N1 document. Other than statutory and regulatory requirements included in the document, the contents of the guidance do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies. This document will be posted at <https://studentprivacy.ed.gov> and <https://www.ed.gov/coronavirus>.

² HHS declaration posted at <https://www.hhs.gov/about/news/2020/01/31/secretary-azar-declares-public-health-emergency-us-2019-novel-coronavirus.html>.

education. Private schools at the elementary and secondary levels generally do not receive funds from the Department and are, therefore, not subject to FERPA.

FERPA gives parents certain rights with respect to their children's education records at educational agencies and institutions to which FERPA applies. These rights transfer to the student when he or she reaches the age of 18 or attends an institution of postsecondary education at any age (thereby becoming an "eligible student"). 20 U.S.C. § 1232g(d); 34 C.F.R. § 99.5(a)(1). Under FERPA, a parent or eligible student must provide a signed and dated written consent before an educational agency or institution discloses PII from education records, unless an exception to this general consent requirement applies. 34 C.F.R. § 99.30(a). Exceptions to the general consent requirement are set forth in 20 U.S.C. §§ 1232g(b)(1), (b)(2), (b)(3), (b)(5), (b)(6), (h), (i), and (j) and 34 C.F.R. § 99.31. The term "education records" is defined, with certain exceptions, as those records that are: (1) directly related to a student; and (2) maintained by an educational agency or institution, or by a party acting for the agency or institution. 20 U.S.C. § 1232g(a)(4); 34 C.F.R. § 99.3, "Education records." Accordingly, immunization and other health records, as well as records on services provided to students under the Individuals with Disabilities Education Act (IDEA), which are directly related to a student and maintained by an educational agency or institution are "education records" under FERPA.³ The term "PII" refers to a student's name or identification number, as well as other information that can be used to distinguish or trace an individual's identity either directly or indirectly through linkages with other information. 34 C.F.R. § 99.3, "Personally identifiable information."

FERPA prohibits educational agencies (e.g., school districts) and institutions (i.e., schools) from disclosing PII from students' education record without the prior written consent of a parent or "eligible student," unless an exception to FERPA's general consent rule applies. 20 U.S.C. §§ 1232g(b)(1) and (b)(2); 34 C.F.R. §§ 99.30 and 99.31. For instance, pursuant to one such exception, the "health or safety emergency" exception, educational agencies and institutions may disclose to a public health agency PII from student education records, without prior written consent in connection with an emergency if the public health agency's knowledge of the information is necessary to protect the health or safety of students or other individuals. 20 U.S.C. § 1232g(b)(1)(I); 34 C.F.R. §§ 99.31(a)(10) and 99.36.

For all other situations where an exception to FERPA's general consent requirement does not apply, educational agencies and institutions must obtain prior written consent of a parent or eligible student to disclose PII from student education records. 20 U.S.C. §§ 1232g(b)(1) and (b)(2); 34 C.F.R. §§ 99.30 and 99.31. We have attached a model consent form at the end of this document. We have also listed the email and contact information for SPPO, the Department office responsible for implementing and enforcing FERPA, if school officials have questions that are not covered in this document.

³ Parts B and C of the IDEA contain separate privacy regulations that incorporate FERPA provisions and exceptions, including the health or safety emergency exception that is the primary subject of these FAQs. Where a student is placed in a private school for the provision of Individualized Education Program (IEP) services on behalf of a school or school district subject to FERPA, the education records of the privately placed student that are maintained by the private school are subject both to FERPA and to the confidentiality requirements under Part B of the IDEA.