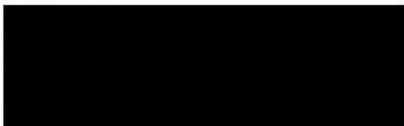




UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF PLANNING, EVALUATION AND POLICY DEVELOPMENT

October 20, 2022



Complaint Nos. [REDACTED]

Protection of Pupil Rights
Amendment

Dear [REDACTED]

This is in response to your complaints filed with the Student Privacy Policy Office (Office) in which you allege that the Cedar Grove Public School District (District) violated your rights under the Protection of Pupil Rights Amendment (PPRA). Specifically, you allege that the District violated your rights under PPRA when it did not provide you with reasonable notice to review a survey that was administered to your children and an opportunity to exercise your right to opt your children out of participation. We apologize for the delay in addressing your concerns.

This Office has written Mr. Anthony Grosso, superintendent of the District, to inform him of your allegations. Enclosed for your reference is a copy of that letter. Once this Office has had an opportunity to review the response from the District regarding your PPRA allegations, we will again be in contact with you.

Sincerely,

Frank E. Miller Jr.
Deputy Director
Student Privacy Policy Office

Enclosure

400 MARYLAND AVE. S.W., WASHINGTON, DC 20202-4500

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UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF PLANNING, EVALUATION AND POLICY DEVELOPMENT

October 20, 2022

Mr. Anthony Grosso
Superintendent
Cedar Grove Public School District
43 Greendale Road
Cedar Grove, New Jersey 07009

Complaint Nos. (See Enclosed)
Protection of Pupil Rights
Amendment

Dear Mr. Grosso:

We are writing to inform you that, beginning on July 2, 2021, several parents (see enclosed list of names below) (Parents) filed complaints with the Student Privacy Policy Office (Office) alleging that the Cedar Grove Public School District (District) violated rights afforded parents under the Protection of Pupil Rights Amendment (PPRA) regarding their children (Students). 20 U.S.C. § 1232h; 34 CFR Part 98. This Office, under authority of 34 CFR § 98.5, investigates complaints in accordance with procedures outlined in § 98.8. The section states in summary:

- The Office will notify the complainant and the educational agency or institution against which the violation has been alleged, in writing, if it initiates an investigation of a complaint.
- The notification to the agency or institution under this section shall include the substance of the alleged violation and shall ask the agency or institution to submit a written response to the complaint.

This letter serves to notify you of the allegation and to provide you the opportunity to submit a written response. We apologize for the delay in informing the District of the allegation and regret any inconvenience this may have caused you.

This Office received complaints from the Parents alleging that the District violated their rights under 20 U.S.C. § 1232h(c)(2)(B) and (C)(ii) of the PPRA statute when the District did not notify them of a "Community Needs Assessment" survey (Survey) that was administered on June 9-10, 2021, to all of the District's middle school and high school students via their email addresses. The Parents allege that they were not provided reasonable notice to review the Survey that was to be administered to their children and an opportunity to exercise their right to

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opt their children out of participation. The Parents alleged that there were questions on the Survey that fall under some of the protected items in PPRA, listed below.

Background on PPRA:

There are a number of requirements under PPRA. These requirements include, but are not limited to, that local educational agencies (LEAs) must provide parents and students effective notice of their rights under PPRA. 20 U.S.C. § 1232h(d). An LEA is required to obtain prior written consent (active consent) from parents before students are required to submit to a survey, evaluation, or analysis that reveals information concerning one or more of the eight protected areas listed below if the survey is funded, in whole or in part, by U.S. Department of Education (Department) funds. For surveys that contain questions from one or more of the eight protected areas that are not funded in whole or in part with Department funds, LEAs must develop and adopt policies, in consultation with parents, regarding “arrangements to protect student privacy that are provided by the agency in the event of the administration or distribution” of such a survey to a student, including the right of a parent of a student to inspect, upon the request of the parent, any such survey and must notify a parent at least annually, at the beginning of the school year, of the specific or approximate date(s) of the survey and provide the parent with an opportunity to opt his or her child out of participating (passive consent). 20 U.S.C. §§ 1232h(c)(1)(B) and (c)(2). In addition, PPRA requires that LEAs develop and adopt policies, in consultation with parents, regarding the right of a parent of a student to inspect, upon the request of the parent, a survey created by a third party before the survey is administered or distributed by a school to a student; and any applicable procedures for granting a request by a parent for reasonable access to such survey within a reasonable period of time after the request is received. 20 U.S.C. § 1232h(c)(1)(A).

The rights under PPRA transfer from the parents to a student who is 18 years old or an emancipated minor under State law. 20 U.S.C. § 1232h(c)(5)(B). Please note that the PPRA regulations have not been updated since Congress made several amendments to the law. You may refer to the Federal statute codified at 20 U.S.C. § 1232h, as well as the “Notice to Superintendents,” which is available at: <https://studentprivacy.ed.gov/node/501> for additional information.

Relevant Statutory Provisions:

20 U.S.C. § 1232h(c)(2)(B) and (C)(ii) of the PPRA statute states the following:

(B) Notification of specific events

The local educational agency shall directly notify the parent of a student, at least annually at the beginning of the school year, of the specific or approximate dates during the school year when activities described in subparagraph (C) are scheduled, or expected to be scheduled.

(C) Activities requiring notification

The following activities require notification under this paragraph:

...

- (ii) The administration of any survey containing one or more items described in clauses (i) through (viii) of paragraph (1)(B).

...

Paragraph (c)(1)(B)(i)-(viii) lists the following protected items that, if included in a survey, are subject to the above notification requirement:

- (i) Political affiliations or beliefs of the student or the students' parent.
- (ii) Mental or psychological problems of the student or the student's family.
- (iii) Sex behavior or attitudes.
- (iv) Illegal, anti-social, self-incriminating, or demeaning behavior.
- (v) Critical appraisals of other individuals with whom respondents have close family relationships.
- (vi) Legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers.
- (vii) Religious practices, affiliations, or beliefs of the student or the student's parent.
- (viii) Income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program).

Paragraph (c)(2)(A)(ii) requires that an LEA have a policy that offers an opportunity for a parent to opt their child out of participation in an activity described in (C), which in this instance is the opportunity to opt their child out of participation in the administration of a survey containing one or more items described in clauses (i) through (viii) of paragraph (1)(B).

Request for Information:

To complete the procedures outlined in § 98.8 of the PPRA regulations, please investigate this matter and provide this Office a written response within four weeks after the date of this letter. If your investigation reveals that the alleged violations of PPRA likely occurred, the written response should include a summary of any corrective actions taken, and your assurance that school officials have been provided training on the requirements of PPRA, as they relate to the issue. Further, to assist us in our investigation, please provide, at minimum, the following information in your response:

1. A copy of the District's general notice used by the District to notify parents of their rights under PPRA during the 2020-2021 and 2021-2022 school years;
2. A copy of the Surveys that were administered to students (one survey to middle school students and one survey to high school students), along with a dated copy of the specific details which informed parents of the administration of each Survey;
3. A copy of the District's policies, if any, developed in consultation with parents pursuant to 20 U.S.C. § 1232h(c) related to the administration or distribution to students of surveys

that are created by third parties. The time frame for this request is from August 2020 to August 2021. Please make clear during what time period any responsive policy was in effect.

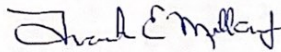
4. Please indicate whether the District used, in whole or in part, any U.S. Department of Education funds in the development of the Survey.

In an effort to expedite the processing of this complaint, please email your response to PPRA.Complaints@ed.gov including the complaint numbers referenced in the enclosed listing. In lieu of sending your response electronically, you may send your written response to the following address:

Student Privacy Policy Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202 – 8520

If you have any questions specific to this complaint, please contact this Office, referencing your complaint number, at 202-260-3887 and select Option #3. For general information concerning PPRA and the Office's complaint procedures, please visit our website at: <https://studentprivacy.ed.gov/>.

Sincerely,



Frank E. Miller Jr.
Deputy Director
Student Privacy Policy Office

cc: Parents

Enclosure