



State of Rhode Island and Providence Plantations
DEPARTMENT OF EDUCATION
Shepard Building
255 Westminster Street
Providence, Rhode Island 02903-3400

Peter McWalters
Commissioner

MEMORANDUM

To: RIDE staff
From: David V. Abbott, General Counsel
Re: Student Confidentiality Responsibilities
Date: February 1, 2008

As many of you may be aware, there have been recent legislative measures to increase the protections of personal information from unauthorized disclosure and misuse. These laws apply to state agencies as well as other entities and restrict the unauthorized access and/or disclosure of personal information that agencies maintain in computerized form. The "Rhode Island Identity Theft Protection Act of 2005" requires prompt notification to any person whose "personal information" (name, coupled with social security number, driver's license number, etc.) is acquired by an unauthorized person, unless a law enforcement agency determines that the disclosure will not likely result in a significant risk of identity theft. Another state law, effective January 1, 2008, restricts an agency's disclosure and use of a person's social security number. Among other provisions, the law specifically prohibits printing a person's social security number on any materials that are mailed to a person, unless state or federal law requires that the number be on the document.¹

The responsibility to protect personal information from unauthorized access and disclosure are not new to RIDE. As a state educational agency, RIDE has for many years complied with the requirements of the federal "Family Educational Rights and Privacy Act" (FERPA) and protected from unauthorized disclosure personally identifiable information contained in educational records (both of our own making and data received from local school districts). State law applicable to RIDE also confirms our obligation to safeguard the privacy of information related to students. The "Educational Records Bill of Rights Act" was amended in 2004 to add a specific requirement that educational records be kept confidential and not released to any other individual, agency or organization without prior written consent, with some limited exceptions.

These federal and state confidentiality laws have, in a sense, obviated the need for a Board of Regents' policy on confidentiality or a RIDE protocol on this subject. However, the day-to-day obligation of our agency and its staff to protect and safeguard confidential student information warrants a reminder.

¹ Those in our MIS office should also have previously been made aware of R.I.G.L. 16-38-5.1. This state law, passed in 2001, became effective on July 1, 2007 and prohibits the department of elementary and secondary education (and other public educational agencies) from assigning a student an identification number which is identical to or incorporates his or her social security number.

As our data collection, technology and research functions grow, as our efforts to assist districts and provide support and intervention expand, and as we strive to perform our traditional supervisory and oversight functions more efficiently, we should all be cognizant of our obligation to protect personal information and personally identifiable information contained in our records and maintained in our data base.

Please take the utmost care in dealing with physical documentation and data stored electronically which relates to students. Please review protocols and security measures for access to and transfer of electronically stored data. Do not discuss personally identifiable information contained in the records of students with individuals who are not authorized or who have not been determined to have a legitimate educational interest. If a question exists as to whether the disclosure of information is permitted, do not hesitate to contact staff at the legal office. It is very important to ensure compliance with the law and to avoid the penalties to which our department would be exposed if we violate these provisions. We should also be aware that once privacy rights are breached, confidentiality cannot be restored.

If you should have any question, please feel free to consult with me or one of the attorneys in the legal office. Thank you for your anticipated cooperation.