



State of Arizona
Department of Education

June 20, 2014

Julie Tolleson
Tucson Unified District
1010 E. 10th St.
Tucson, AZ 85719
Julie.Tolleson@tusd1.org
VIA FIRST CLASS MAIL AND EMAIL

Dear Educator:

The Arizona Department of Education (“Department”) takes seriously its obligation under state and federal law to maintain the confidentiality of student records and expects that districts entrusted with these student records do the same. The Family Educational Rights and Privacy Act (“FERPA”) makes educational records of students confidential and not subject to public records requests. 20 USC 1232g. Arizona law incorporates federal law and specifically exempts student records from public records. A.R.S. §§ 15—1042(I), -1043, -1045. FERPA assigns ownership of a student’s educational record to a parent (or a student at age 18). 34 CFR 99.4 through 99.10. An educational agency may only disclose a student’s educational record under very limited circumstances without prior written consent. 34 CFR 99.30 through 99.31. The Department has statutory authority under A.R.S. § 15-142(C) to investigate complaints that a school district is knowingly in violation of FERPA. The United States Department of Education’s Family Policy Compliance Office has absolute authority to investigate any alleged violations of FERPA.

Publication of aggregate data may present particular challenges in order to avoid inadvertent disclosures of personally identifiable information of students. The Department has revised the way in which it publishes aggregate data in accordance with the best practices set forth by the United States Department of Education’s Privacy Technical Assistance Center as well as the Institute for Education Statistics. The Department has a practice not to disclose data cells with a number count of less than 10 in order to minimize the risk of disclosure of personally identifiable information of a student. The Department suggests that Arizona’s school districts and charter schools adopt similar practices to protect student privacy. Practices must protect the student data so there is no chance that a student could be identified by the information disclosed.

It has come to the attention of the Department that the Tucson Unified District has provided student level information to the *Arizona Daily Star* for a news story about students who may be for failing to meet statewide reading standards. http://azstarnet.com/news/local/education/tucson-students-risk-failing-rd-grade-over-new-reading-rules/article_77a024ec-b4ae-523a-b650-8051496e82aa.html. The article provides a data table that provides aggregated data on retentions down to one student.

The Department is concerned that the disclosure of aggregate student data to the newspaper and to other districts may be a disclosure of personally identifiable information under FERPA. The Department would



1535 West Jefferson Street, Phoenix, Arizona 85007 • (602) 542-4361 • www.azed.gov



State of Arizona
Department of Education

like to address this issue to understand what was done by the district in order to help mitigate future disclosures of potentially personally identifiable information.

I would like to discuss this matter with you to clarify what has been disseminated by the district in order to determine how the Department can assist the district to ensure that its aggregated data is de-identified in a way that conforms to the requirements of FERPA. My assistant, Aleks Kadijevic, will be in contact with you next week to set up a conference call on this matter.

Thank you,

Carrie O'Brien

Carrie O'Brien, Esq.
Chief Privacy Officer
Arizona Department of Education

