

LEGAL SERVICES

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MEMORANDUM

November 25, 2013

SUBJECT: Student privacy rights (Work Order No. 28-LS1096\A)

TO: Representative Lora Reinbold
Attn: Christa Von Bergen

FROM: Jean M. Mischel
Legislative Counsel 

I have received your request for legislation pertaining to student privacy using model legislation prepared by the American Legislative Exchange Council (ALEC). The proposal anticipates the creation of a "data inventory", publication of policies and procedures "to comply with all relevant state and federal privacy laws", record transfer restrictions, "routine and ongoing compliance" with federal and other privacy laws and contracts that govern databases and the like, the establishment of a "chief policy officer" to "assume primary responsibility for privacy policy" hired by each local superintendent, among other things. Although I have drafted some aspects of your request, the legislature may not delegate executive branch policy making functions to specific employees outside of the Administrative Procedures Act (AS 44.62). Please review current state law and let me know how you would like to proceed to avoid redundancies by identifying policy and compliance problems with our current law.

AS 14.03.120(d)(8) already requires compliance with the federal family educational privacy rights law. A copy of the relevant federal statute is enclosed for your review. School districts also use a 10 digit student identifier under 4 AAC 07.060 to provide accountability reports required by the state legislature on school and student performance. If a district fails to comply with state and federal law, the district runs the risk of losing state and federal funding.

In addition, AS 14.03.115 provides that:

Upon request of a parent, foster parent, or guardian of a child under 18 years of age who is currently or was previously enrolled in a municipal school district or a school district that is a regional educational attendance area, the school district shall provide a copy of the child's record. This section does not apply to

- (1) a record of a child who is an emancipated minor; or
- (2) record information that consists of the child's address if the school district determines that the release of the child's

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address poses a threat to the health or safety of the child.

I encourage you to check with the department about the specific databases and any compliance issues so that your request can target gaps, if any, in current state law.

If I may be of further assistance, please advise.

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Enclosure