

Ruling raises objections to release of personal student data (Update)

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In this May 15, 2012 file photo, Ritter Elementary School elementary students practice their math skills in Los Angeles. A recent federal court ruling ordering the release of personal data on more than 10 million California students highlights the growing amount of information schools now collect, and the loopholes that allow it to be released. The order involves a lawsuit filed in 2011 in which plaintiffs are requesting data kept by the California Department of Education to determine whether the state is fulfilling its federal obligations for disabled students. (AP Photo/Damian Dovarganes, File)

A recent federal court ruling ordering the release of personal data on more than 10 million California students highlights the growing amount of information schools now collect—and the loopholes that allow it to be released.

The order involves a lawsuit filed in 2011 in which plaintiffs are requesting data kept by the California Department of Education to determine whether the state is fulfilling its federal obligations for disabled students.

Judge Kimberly Mueller issued the order in late January directing state officials to release student information stored in Department of Education databases. The data includes everything from grades, test scores and specialized education plans for disabled students to more personal information such as names, Social Security numbers, addresses, and health records.

The data can only be viewed by the plaintiffs and must be destroyed or returned at the end of the lawsuit. Nonetheless, parents across the state are expressing concern and filing objections to stop their child's information from being released.

"Some of the things they are asking for are very personal and can be very detrimental in the wrong hands," said Justine Fischer, president of the California State Parent Teacher Association.



In this April 30, 2015 file photo, Leticia Fonseca, left, and her twin sister, Sylvia Fonseca, right, work in the computer lab at Cuyama Valley High School after taking the new Common Core-aligned standardized tests in New Cuyama, Calif. A recent federal court ruling ordering the release of personal data on more than 10 million California students highlights the growing amount of information schools now collect, and the loopholes that allow it to be released. The order involves a lawsuit filed in 2011 in which plaintiffs are requesting data kept by the California Department of Education to determine whether the state is fulfilling its federal obligations for disabled students. (AP Photo/Christine Armario, File)

The federal Family Educational Rights and Privacy Act was created in 1974 to protect the privacy of student records, but it was written at a time when test scores and addresses were kept on paper and locked in a filing cabinet. The law also includes specific exemptions allowing student data to be released, including when mandated by court order.

Schools now collect significantly more information on students—a result of recent pushes to track and improve individual student performance using data, new federal reporting requirements, and apps and devices in classrooms. More than 35 states have passed bills in the past three years to protect student privacy, but updates to federal law have lagged.

Most of the federal law's exemptions involve sharing information for educational purposes, such as when a student transfers schools or applies for financial aid. The law also allows schools, without a student's permission, to release data to organizations conducting studies and "directory" information like names and addresses.

"The ability to collect information and store information and analyze it has greatly improved," said Matt Johnson, an associate with the Cooley firm in Washington, D.C. "There's a lot of good that can be done with that. But it can get to a point where you get past that and people can get uncomfortable. "

As a result of the court order in California, three members of the state Assembly are drafting a bill that would prohibit school districts from gathering Social Security numbers and other sensitive information unless required by federal law. California already has one of the nation's more conservative student data privacy laws, which prohibits online services and apps from selling student information.

"As a mom, I've seen my kids' schools over the years request Social Security numbers, medical information and other private information they don't need or have a right to," Assemblywoman Lorena Gonzalez, D-San Diego, said in a statement.

Keric Ashley, a deputy superintendent with the California Department of Education, said 90 percent of the data the agency collects is to meet federal reporting requirements. Much of that data is required for

statewide data systems created by the U.S. Department of Education a decade ago to capture student performance.

Ashley said the number of people with access to student-level data is extremely limited. "I don't have access to it," he said.

Parents who don't want their children's information shared as part of the court order can file an objection by April 1, though it remains unclear if that means their information will automatically be withheld.

Both sides will appear before the judge again on Friday.

Christine English, vice president of the California Concerned Parents Association, which is supporting the Morgan Hill parent group that filed the lawsuit, said plaintiffs have tried to get student data in an anonymous form but the state Department of Education has refused. She said the groups are not interested in personal information such as Social Security numbers.

English said getting the datasets will help determine patterns such as whether African-American students are disproportionately placed in special education classes.

The Department of Education denies systemic non-compliance with the Individuals with Disabilities Act.

Jose Zambrano, 37, a father of two in Los Angeles, said he was surprised by the order and filed an objection in hope of preventing the court from releasing information on his daughter and son, ages 10 and 6.

"We have our rights," he said. "And our kids have a right to their own privacy."

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