

ONGOING DEFLECTION BY THE CALIFORNIA DEPARTMENT OF EDUCATION IN A CIVIL RIGHTS LAWSUIT

In response to the news release on March 4, 2016 and ongoing misrepresentations by the California Department of Education (CDE), the California Concerned Parents (CCPA) offers the following clarifications and information:

CCPA has seen a surge in membership requests, which continues to add to the number of school districts that are representative in this litigation. This further affirms our belief that when parents are given informed information and the facts of this case, they make the appropriate decision they believe is best for their child.

The March 1, 2016 decision from the Court, has determined that the physical location of one of CDE's databases that has most of the sensitive data, CALPADS, will continue to be maintained at the existing location operated by CDE. The Court instructed the Parties to work with the Special Master to ensure that plaintiffs get the data, "taking into account plaintiff's work product and attorney-client privileges and other relevant considerations." Please refer to Court, rather than Judge Mueller.

Further, the Court noted that the influx of objection forms appeared uninformed and "alarmist." CCPA believes this is because of the media campaign started by Mr. Torlakson and representatives of CDE to spread panic and fear. The Court took note of the objection forms, and is requiring them to be collected noticed by the court and archived at the court location.

The Plaintiffs are seeking these data to run statistical analyses to prove that the state's failure to provide proper educational services is repetitive and systemic in nature. They are not random or unpreventable.

We perceive that parents have been led to believe that their child's information is always secure with both the CDE and their local school district, which is not the case. Prior to this case there has always been a collection of student directory information that is reported at the state and district level. (Cal Ed Code 49073)

It is important to know that Directory information is held by each school district, and it is the responsibility of the school district each year to notify each parent that their child's directory information can be released if the parent doesn't opt-out.

The California Education Code states: *“The school district shall determine which individuals, officials, or organizations may receive directory information. However, no information may be released to a private profit making entity other than employers, prospective employers, and representatives of the news media, including, but not limited to, newspapers, magazines, and radio and television stations.”*

After reviewing several school districts’ policies on directory information we found the following types of information are released:

- *Student name
- *Student birth date
- *Student birthplace
- *Student address
- *Student grade
- *Student telephone number
- *Student major course of study
- *Student participation in activities and sports
- *Students dates of attendance
- *Student degrees and awards
- *Student previous public or private schools most recently attended
- *Student weight and height of members of athletic teams
- *Student photographs
- *Parent/Student email address

When it is not fully disclosed to parents that there is some overlap between the information collected in CALPADS and student directory information, the current accusations by CDE seem disingenuous. Further, as we discussed in our previous press release, Social Security Numbers are not mandated by the school district for a student to be enrolled.

This litigation will be tried in a court room, not in the media. Mr. Torlakson and representatives of CDE continue to delay, distract and deny providing children with disabilities an appropriate education while erroneously focusing on privacy issues, as there is a judicial protective order in place from the court for all students.

Further, Mr. Torlakson and the representatives of CDE comment on the outcome of a singular court appearance, which in no way blocked, stopped or changed the Plaintiffs access to discovery.

Instead, Mr. Torlakson and the representatives of CDE should be hearing the outcry of parents of one of our most vulnerable populations, and fixing an education system that is clearly broken.

More about the case can be found at Morgan Hill Concerned Parents Association and the Concerned Parent Association v. California Department of Education; (See case # 2:11-cv-03471-KJM-AC.)

Visit CCPA at www.californiaconcernedparents.org

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