M.G. ET AL. V. N.Y. CITY DEP'T OF EDUC., ET AL., 13 CV 4639 (SHS) (RWL)

Notice of Potential Disclosure of Student Records

Please read this notice carefully. This is a message from the United States District Court in the case identified above. Attorneys, representing children with disabilities and their parents in a class action lawsuit concerning certain special education services and policies in New York City, are seeking access to student records. These records are covered by a Confidentiality Agreement between the parties and will not be disclosed to anyone other than the parties' attorneys, their experts, and the Court. No student's records will be disclosed to the public or to any other student or parent without express consent of the student's parent/guardian or by a student now over eighteen years of age.

This notice may apply to you if you are a current or former student, or the parent or guardian of a student who had an Individualized Education Program ("IEP") prepared by the New York City Department of Education, and between August 1, 2016 and February 22, 2019, you or your child either:

1. Transitioned from a Committee on Pre-School Education, or "CPSE," to a Committee on Special Education, or "CSE"; And/Or

2. Began attending a State-approved non-public school; And/Or

3. Was deferred to the Central Based Support Team ("CBST") for the first time; And/Or

4. Was, for the first time, classified as autistic on an IEP by the New York City Department of Education or diagnosed with an Autism Spectrum Disorder.

If your child was over twenty-one years of age on July 3, 2013, she or he is not a member of this Class and this Notice does not apply to you.

Nature of the Lawsuit

In the lawsuit, "*M.G. v. NYC DOE*", the plaintiffs are children with disabilities and their parents. The plaintiffs represent two different classes of New York City students: the Autism Services Class and the NPS Policy class. The Autism Services class is comprised of students who are classified or diagnosed with an Autism Spectrum Disorder. The NPS Policy class is comprised of children who were recommended for and/or who attend New York State-approved non-public schools. The plaintiffs allege that the New York City Department of Education and the New York State Education Department have violated the Individuals with Disabilities Education Act, among other related laws, by adopting policies that prevent class members from each class from receiving certain special education services. The NYC Department of Education and the State Education Department deny these allegations. Plaintiffs seek, among other relief, orders that they believe would ensure that class members receive appropriate educational services.

Plaintiffs are represented by the Law Office of Elisa Hyman, P.C., www.specialedlawyer.com (212-293-8686) and Robbins Geller Rudman and Dowd, https://www.rgrdlaw.com/. If you would like more information about the lawsuit, a copy of the class certification decision is available at https://www.specialedlawyer.com/

Request for Documents

As part of this lawsuit, Plaintiffs seek certain documents from the City and State Departments of Education which contain protected personal information of student class members. "Protected Personal Information" includes but is not limited to: student names; parent and guardian names (including maiden names of mother); names of family members; social security numbers; home addresses; and home phone numbers; and date and place of birth.

Examples of requested documents include: IEPs; impartial hearing records and transcripts; special education assessments and evaluations; report cards and progress reports; and documents provided by a parent for the student's file.

To ensure that the documents are kept strictly confidential and will only be viewed by the parties' attorneys, their experts, and the Court, the parties have entered into a court-ordered Confidentiality Agreement.

Students' Entitlement to Confidentiality

The Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g(b) and 34 C.F.R. § 99.31(a)(9)(ii), and the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. §§ 1400, *et seq.* are federal laws that protect the privacy of student records. These laws permit the disclosure of these records pursuant to a court order, so long as the school district makes a reasonable effort to notify students and parents before disclosing the records and provides them with an opportunity to object to the production of Protected Personal Information contained in these records.

If, after notice, a parent and/or student object, the documents may be produced, but Protected Personal Information will be removed.

Consent and Opportunity to Object

This Notice does not affect any of your rights or your child's rights in relation to the *MG* Litigation or any other matter you may have pending with the NYC Department of Education.

You are free to object to the disclosure of your child's records. If you have an attorney or advocate assisting you, you may wish to speak with him or her about this Notice.

If You Do Not Object

If you do not object to the disclosure of the information described above, no action is required.

## If You Do Object

If you do object to the disclosure of the information described above, you must: Complete the "Objection to Disclosure of Student Information and Records Case No. 13-CV-4639" form attached to this Notice or found at https://infohub.nyced.org/resources/translated-documents/notice-of-potential-disclosure-of-student-records-and-opt-out-form and mail it to the Court at the following address:

The Honorable Robert W. Lehrburger
c/o Clerk of the Court
Southern District of New York
500 Pearl Street, Courtroom 18D
New York, NY 10007
Attn: DOCUMENT FILED UNDER SEAL

## Process

- All Objections Must Be Received By The Court By May 10, 2019.
- Do Not Call The Court. The Court Will Not Accept Phone Calls About This Matter.

You should be aware you may be contacted by counsel for the Plaintiffs' class.

If you would like more information about how to object to the disclosure of your child's records (or your records if you are over eighteen), or if you need a translation of this Notice, please visit https://infohub.nyced.org/resources/translated-documents/notice-of-potential-disclosure-of-student-records-and-opt-out-form.

If you do not submit an objection form by May 10, 2019, you are considered to have waived your right to object to the disclosure of the student's information and records containing Protected Personal Information. All objections will be maintained by the Court under seal.

Translations in Spanish, Arabic, Bengali, Chinese, French, Haitian Creole, Korean, Russian, and Urdu are available at https://infohub.nyced.org/resources/translated-documents/notice-of-potential-disclosure-of-student-records-and-opt-out-form.

Department of Education
Chancellor Richard A. Carranza

**FILED UNDER SEAL**

**Objection to Disclosure of Student Information and Records**

I am a parent, guardian, or adult student who is eighteen (18) years of age or older.

I have read and understand the Notice of Potential Disclosure of Student Records.

I OBJECT to the disclosure of educational records and protected personal information[1] contained in documents in the possession of the New York City Department of Education or the New York State Department of Education in connection with the lawsuit entitled, *M.G., et al. v. N.Y. City Dep't of Educ., et al.*, Southern District of New York, Case No. 13-CV-4639 (SHS) (RWL):

**Please write clearly.**

Name of Parent/Guardian:

Name of Student(s):

Student's Date of Birth:

Student ID:

School last attended:

Address:

Date

Signature of Parent/Guardian or Adult Student/Former Student

This form must be sent via postal mail to:
The Honorable Robert W. Lehrburger
c/o Clerk of the Court
Southern District of New York
500 Pearl Street, Courtroom 18D
New York, NY 10007
Attn: DOCUMENT FILED UNDER SEAL

This objection form must be received by the Court by May 10, 2019.

---

[1] "Protected Personal Information" includes but is not limited to: student names; parent and guardian names (including maiden names of mother); names of family members; social security numbers; home addresses; home phone numbers; and date and place of birth.