

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General

ATTORNEY GENERAL
KARL A. RACINE



2019 JUN 11 PM 3:29
OFFICE OF THE
SECRETARY

June 11, 2019

The Honorable Phil Mendelson
Chairman, Council of the District of Columbia
John A. Wilson Building
1350 Pennsylvania Avenue, N.W., Suite 504
Washington, DC 20004

Dear Chairman Mendelson:

I am writing to transmit the “FERPA Exception Amendment Act of 2019.” The bill seeks to provide a statutory exemption to the privacy protections afforded to student records under the Family Educational Rights and Privacy Act of 1974 (“FERPA”). The bill would authorize District of Columbia Public Schools and public charter schools to share student records with the Office of the Attorney General for the District of Columbia, the Superior Court of the District of Columbia, and the Department of Human Services in order to more effectively serve the student at issue.

Currently, FERPA only provides an exemption to its privacy mandate for certain local officials if such information is specifically allowed to be reported or disclosed pursuant to a local statute. The local statute permitting disclosure must provide that the reporting or disclosure relates to the juvenile justice system and the system’s ability to effectively serve, prior to adjudication, the student whose records are released. Moreover, the officials and authorities to whom such information is disclosed must certify in writing that the information will not be disclosed to any other party, except as provided under the law, without the prior written consent of the parent of the student.

If you have any questions, your staff may contact my Legislative Director, James A. Pittman, on (202) 724-6517.

Sincerely,

Karl A. Racine | by NOL

Karl A. Racine
Attorney General for the District of Columbia


Chairman Phil Mendelson
at the request of the Attorney General

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3
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5 A BILL

6 _____
7 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
8 _____

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10 Chairman Mendelson, at the request of the Attorney General, introduced the following bill,
11 which was referred to the Committee on _____
12

13 To amend the State Education Office Establishment Act to require public schools and public
14 charter schools to permit the Office of the Attorney General for the District of Columbia,
15 the Superior Court of the District of Columbia, and the Department of Human Services to
16 obtain educational records under an exception to the federal Family Educational Rights
17 and Privacy Act of 1974 for purposes of determining the ability of the juvenile justice
18 system to effectively serve the student
19

20 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that this
21 act may be cited as the "FERPA Exception Amendment Act of 2019".

22 Sec. 2. Section 3(b) of the State Education Office Establishment Act of 2000, effective
23 October 21, 2000 (D.C. Law 13-176; D.C. Official Code § 38-2602(b)), is amended as follows:

24 (a) Paragraph (29) is amended by striking the phrase "; and" and inserting a semicolon in its
25 place.

26 (b) Paragraph (30) is amended by striking the period and inserting the phrase "; and" in
27 its place.

28 (c) A new paragraph (31) is added to read as follows: "(31)(A) Require that, prior to
29 adjudication or as directed by a subpoena or court order, the District of Columbia public schools
30 and public charter schools shall disclose educational records to the Office of the Attorney
31 General, the Superior Court of the District for the Columbia, or the Department of Human

1 Services for purposes of determining the ability of the juvenile justice system to effectively serve
2 the student whose educational records are released. Any disclosure of educational records shall
3 be in accordance with the requirements of the Family Educational Rights and Privacy Act of
4 1974 approved August 21, 1974 (88 Stat. 572; 20 U.S.C. 1232g(b)(1)) (FERPA).

5 (B) Any educational records received by the Office of the Attorney General, the Superior
6 Court of the District for the Columbia, or the Department of Human Services pursuant to
7 paragraph (a) shall be confidential and shall not be open to inspection, except as permitted by
8 FERPA and D.C. Official Code §§ 16-2331 and 16-2332.”

9 Sec. 3. Fiscal impact statement.

10 The Council adopts the fiscal impact statement in the committee report as the fiscal
11 impact statement required by section 4a of the General Legislative Procedures Act of 1975,
12 approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

13 Sec. 4. Effective date.

14 This act shall take effect following approval by the Mayor (or in the event of veto by the
15 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
16 provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December
17 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of
18 Columbia Register.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL



ATTORNEY GENERAL
KARL A. RACINE

Legal Counsel Division

MEMORANDUM

TO: James Pittman
Deputy Attorney General for Legislative &
Intergovernmental Affairs


FROM: Janet M. Robins
Deputy Attorney General
Legal Counsel Division

DATE: November 9, 2018

SUBJECT: Legal Sufficiency Review of Legislation, the “FERPA Exception Amendment Act of 2018”

This is to Certify that this Office has reviewed the above-referenced legislation and that we have found it to be legally sufficient.

If you have any questions in this regard, please do not hesitate to call me at 724-5524.



Janet M. Robins