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ATTORNEYS AT LAW

F. ELIZABETH BURGIN WALLER
(540) 983-7625
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December 8, 2023

Via E-mail (Idtheft@oag.state.md.us)

Office of the Attorney General
200 St. Paul Place
Baltimore, MD 21202

To Whom It May Concern:

In accordance with Md. Code Ann. § 14-3504(h)(1), I am writing on behalf of my client, Fairfax County Public Schools ("FCPS"), to notify you regarding the nature and circumstances of a recent data security incident. FCPS's mailing address is 8115 Gatehouse Road, Falls Church, VA 22042.

This matter occurred on or about October 19, 2023, when a FCPS parent conducted an in-person review of her student's educational records pursuant to a Family Educational Rights and Privacy Act ("FERPA") request. In addition to the records of the reviewer's own students, FCPS inadvertently and unknowingly made accessible to the parent unredacted information pertaining to other students and individuals. The parent created copies of this information and later published some of the documents in a redacted form on her blog and shared this information with the media and others. Since learning of the parent's publication on November 1, 2023, FCPS has worked to contain and secure deletion of the information involved in this matter.

This firm has reviewed the impacted information in this matter on behalf of FCPS and identified individuals to whom notifications are required under various data breach notification laws including but not limited to Md. Code Ann. § 14-3504(h)(1) as well as under FERPA. Copies of the relevant notifications issued in this incident are included as enclosures. While the parent has stated to FCPS and this firm through her outside counsel that she will not use any information obtained in this matter for a malicious purpose such as identify theft, FCPS has opted to proactively provide notice to students who had personal information implicated.

As described in detail in the attached notification letters, the parent appears to have accessed health information as may be defined under Md. Code Ann. § 14-3501(e)(1)(i)(4). FCPS took a broad view of "health information" under that statute, including for example the mere listing of a student having an individualized education plan ("IEP") on a spreadsheet as constituting medical information. Thus, 64 Maryland residents are receiving notice. We have coordinated with a mailing vendor to ensure that all letters will be mailed in waves spanning December 7, 2023, through December 11, 2023.

As is reflected in the attached letters, FCPS has acted quickly in response to this incident. FCPS has enacted new procedures for handling of FERPA records requests going forward, including additional training, and new policies for in-person FERPA records reviews and has launched an independent investigation into this matter. As required by law, FCPS has also notified the Virginia State Police's Fusion Intelligence Center of this incident.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "F. Elizabeth Burgin Waller". The signature is written in a cursive, flowing style.

F. Elizabeth Burgin Waller

Principal

Woods Rogers Vandeventer Black PLC

Enclosures



C/O Return Mail Processing
PO Box 589
Claysburg, PA 16625-0589

December 7, 2023

K4451-L01-0000001 T00001 P001 *****SCH 5-DIGIT 12345

PARENT OR GUARDIAN OF
SAMPLE A SAMPLE - L01 INDIVIDUAL



APT ABC
123 ANY STREET
ANYTOWN, FC 1A2 B3C
COUNTRY



Dear Parents/Guardians of Sample A. Sample,

Fairfax County Public Schools (“FCPS”) was recently made aware of a Family Educational Rights and Privacy Act (“FERPA”) request that resulted in information about your child inadvertently being made available to another FCPS parent.

As described below, information involved in this matter was health-related information and other information FCPS uses to provide educational services to your student (such as your student’s general mental or physical diagnosis or a student’s IEP plan listed on a spreadsheet), but not, for example, your student’s Social Security number.

FCPS takes the privacy and security of your student’s personal information very seriously and we sincerely regret any concern this incident may cause you or your student. As discussed below, FCPS has enacted new measures designed to prevent an incident like this from occurring in the future.

What Happened and What Information Was Involved

This matter occurred on or about October 19, 2023. During an in-person review of information related to the reviewer’s own child, information relating to other students was inadvertently and unknowingly made accessible to a parent who retained an electronic copy of that information. Thereafter, the parent redacted the information related to other students and published the redacted information. Since learning of its publication on November 1, 2023, FCPS has worked to contain and secure the deletion of the information involved in this matter.

We have determined that the information involved may have included one or more of the following types of health-related information: your student’s name and/or birth date coupled with certain medical, mental, or physical health history, condition, treatment, or diagnosis information that FCPS teachers use to provide educational services to your student. Examples of this type of information include spreadsheets listing a student’s disability or mental health condition (if applicable) and whether a student may have an IEP. Other types of information unrelated to health could include: student names, dates of birth, student identification numbers, the names of student family members, demographic information, family addresses, and/or other information that could be used to traceably identify an individual student. Examples of these materials include academic advising spreadsheets and/or student courseload information.

0000001



What We Are Doing to Protect Against This Happening in the Future

We have engaged outside counsel to conduct an independent investigation of this matter. We have also put in place new procedures for handling of FERPA records requests going forward, including additional training, and new policies for in-person FERPA records reviews. We will also be working to put in place additional recommendations that flow from the independent investigation.

As required by law, we have notified the Virginia State Police's Fusion Intelligence Center of this incident. We take our obligation to safeguard personal information very seriously and we are continuing to evaluate additional actions to strengthen our privacy protections.

For More Information

If you have any further questions regarding this matter, please call **800-452-8068** Monday through Friday from 9:00 am to 9:00 pm Eastern (excluding U.S. holidays). Please be prepared to provide engagement number **B110420**.

We deeply regret that this incident occurred and are committed to supporting you. We will be sharing more with our FCPS community regarding our steps to protect student information after the independent investigation is completed.

Sincerely,



Dr. Michelle Reid
Superintendent
Fairfax County Public Schools



C/O Return Mail Processing
PO Box 589
Claysburg, PA 16625-0589

December 11, 2023

K4788-L09-0000002 T00001 P001 *****SCH 5-DIGIT 12345

SAMPLE A SAMPLE - L09

APT ABC

123 ANY STREET

ANYTOWN, FC 1A2 B3C

COUNTRY



Dear Sample A. Sample,

Fairfax County Public Schools (“FCPS”) was recently made aware of a Family Educational Rights and Privacy Act (“FERPA”) request that resulted in information about you being inadvertently made available to a FCPS parent.

As described below, information involved in this matter was health-related information and other information FCPS uses to provide educational services (such as a student’s general mental or physical diagnosis or a student’s IEP plan listed on a spreadsheet), but not, for example, your Social Security number.

FCPS takes the privacy and security of your personal information very seriously and we sincerely regret any concern this incident may cause you student. As discussed below, FCPS has put in place new measures designed to prevent an incident like this from occurring in the future.

What Happened and What Information Was Involved

This matter occurred on or about October 19, 2023. During an in-person review of information related to the reviewer’s own child, information relating to other current and former FCPS students was inadvertently and unknowingly made accessible to a parent who retained an electronic copy of that information. Thereafter, the parent redacted the information related to other students and published the redacted information. Since learning of its publication on November 1, 2023, FCPS has worked to contain and secure the deletion of the information involved in this matter.

We have determined that the information involved may have included one or more of the following types of health-related information: your name and/or birth date coupled with certain medical, mental, or physical health history, condition, treatment, or diagnosis information that FCPS teachers use to provide educational services. Examples of this type of information include spreadsheets listing a student’s disability or mental health condition (if applicable) and whether a student may have an IEP. Other types of information unrelated to health could include: student names, dates of birth, student identification numbers, the names of student family members, demographic information, family addresses, and/or other information that could be used to traceably identify an individual student. Examples of these materials include academic advising spreadsheets, student courseload information, and/or data collected in conjunction with the Preliminary SAT/National Merit Scholarship Qualifying Test (PSAT/NMSQT), including student scores.

0000002



What We Are Doing to Protect Against This Happening in the Future

We have engaged outside counsel to conduct an independent investigation into this matter. We have also already put in place new procedures for handling of FERPA records requests going forward, including additional training, and new policies for in-person FERPA records reviews. We will also be working to put in place additional recommendations that flow from the independent investigation.

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Sincerely,



Dr. Michelle Reid
Superintendent
Fairfax County Public Schools



C/O Return Mail Processing
PO Box 589
Claysburg, PA 16625-0589

December 11, 2023

K4788-L12-0000001 T00001 P001 *****SCH 5-DIGIT 12345

SAMPLE A SAMPLE - L12

APT ABC

123 ANY STREET

ANYTOWN, FC 1A2 B3C

COUNTRY



Dear Sample A. Sample,

Fairfax County Public Schools (“FCPS”) was recently made aware of a Family Educational Rights and Privacy Act (“FERPA”) request that resulted in information about you being inadvertently made available to a FCPS parent.

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Dr. Michelle Reid
Superintendent
Fairfax County Public Schools