

Z.Q., ET AL. V. N.Y. CITY DEP'T OF EDUC., ET AL., 20 Civ. 09866 (ALC) (RFT)

NOTICE OF POTENTIAL DISCLOSURE OF STUDENT RECORDS

Please read this notice carefully. This is a message about possible disclosure in a lawsuit of documents that might have information about your child.

Translations in Arabic, Bengali, Chinese, English, French, Haitian Creole, Korean, Russian, Spanish, and Urdu will also be able here: <https://www.schools.nyc.gov/learning/special-education/help/zqferpa>

NATURE OF THE LAWSUIT

In this proposed class action lawsuit, *Z.Q. v. NYC DOE*, the plaintiffs claim that the NYC Department of Education violated their rights under the Individuals with Disabilities Education Act (and other related laws) because of the NYC Department of Education failed to provide students with disabilities with (1) the level of education that the students are legally entitled to during the time of remote learning due to Covid-19, (2) the compensatory services needed to make up for those lost educational services and therapies during the remote learning period, and (3) a process by which to obtain the compensatory services needed to make up for those lost educational services and therapies during the remote learning period. The NYC Department of Education denies these allegations.

Plaintiffs are represented by Advocates for Children of New York, <https://www.advocatesforchildren.org/>, 212-225-9339 (cal@advocatesforchildren.org), and Patterson Belknap Webb & Tyler LLP, <https://www.pbwt.com/>.

REQUEST FOR DOCUMENTS

As part of this lawsuit, Plaintiffs are asking the NYC Department of Education to produce certain documents that might have protected personal information about students, including your child. Some examples of requested documents include (1) any requests by parents and/or guardians for programs, services or devices during remote learning, (2) any requests by parents for programs and services to make up for education and therapies their child lost during remote learning, and (3) any offers to provide students with disabilities make-up services for the education and therapies students lost during remote learning. If you are a current or former student, or the parent or guardian of a student, who **received or asked for programs, services or devices between March 2020 to July 2021, or received or asked for programs and services to make up for education and therapies your child lost during remote learning, your records or your child's records may be produced.**

If the NYC Department of Education produces your or your child's records, the records will be kept private and only the **parties' attorneys and their staff, their experts and other third parties potentially testifying or assisting in the case, the Court and its staff, and other persons with consent of the parties' attorneys will be able to see them.** The parties have entered into a

court-ordered Confidentiality Agreement, which means that **no student's records will be** disclosed to the public or to any other student or parent.

Any production of your student's records will not harm your student's education, and cannot be used against you or your student. If produced, your student's records will be used only in this proposed class action lawsuit, and cannot be used for any other purpose.

STUDENTS' ENTITLEMENT TO CONFIDENTIALITY

You have an opportunity to object to the production of any documents concerning you or your child in this case. 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 allow 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 objects, **the documents may still be produced**, but Protected Personal Information will be removed so that the information is not seen by the Plaintiffs' attorneys. Protected Personal Information includes 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.

HOW TO OBJECT

This Notice does not affect any of your rights or your child's rights in any other matter you may have against the NYC Department of Education.

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

If you do not object to the disclosure of the information described above, you do not need to do anything.

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. 20-CV-09866" form attached to this Notice or found at <https://www.schools.nyc.gov/learning/special-education/help/zqferpa>, and either (1) email it to ZQObjections@schools.nyc.gov, or (2) mail it to the following address:

Jeffrey S. Dantowitz
NYC Law Department
100 Church Street, Room 2-178
New York, NY 10007

ALL OBJECTIONS MUST BE RECEIVED BY DECEMBER 27, 2024.

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://www.schools.nyc.gov/learning/special-education/help/zaferpa>. If you have any questions about the lawsuit, you may contact Advocates for Children's Helpline at 212-225-9339 or <https://advocatesforchildren.org/contact-us/>.

If you do not submit an objection form by December 27, 2024, you are considered to have waived your right to object to the disclosure of the student's information and records containing Protected Personal Information.

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 information¹¹ contained in documents in the possession of the New York City Department of Education in connection with the lawsuit entitled, *Z.Q., et al. v. N.Y. City Dep't of Educ., et al.*, Southern District of New York, Case No. 20-CV-09866 (ALC) (RFT):

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 by either (1) email to ZQObjections@schools.nyc.gov, or (2) mail to the following address:

Jeffrey S. Dantowitz
NYC Law Department
100 Church Street, Room 2-178
New York, NY 10007

This objection form must be received by December 27, 2024.

¹¹ "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.