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For all the legitimate, generally accepted, and educationally sound reasons explored in the rest of this issue, schools, districts, and state education agencies routinely collect and store significant amounts of information about students. These collections usually include highly confidential, personal, individual information—and not just on grades and attendance. Data may include individual students' demographic characteristics, medical issues, behavior concerns, family situations, Social Security numbers, and other sensitive, private information, all of which needs to be safeguarded and protected.

The Family Educational Rights and Privacy Act (FERPA), the comprehensive federal law protecting the privacy of student education records, applies to all schools that receive funds under an applicable program of the US Department of Education. The department publishes guidance on FERPA topics and provides technical assistance to states and districts.

But sometimes the competing interests of use and protection collide in the courts, with important results. *Morgan Hill Concerned Parents Association v. California Department of Education* is illustrative.

In *Morgan Hill*, parents of 17 children in seven California school districts alleged in a December 2011 lawsuit that the California Department of Education (CDE) failed to comply with its monitoring, investigation, and enforcement obligations under the Individuals with Disabilities Education Act (IDEA) and thus has not ensured a free, appropriate public education to students with disabilities. The US District Court for the Eastern District of California denied CDE's motion to dismiss or for a more definite statement in March 2013. Discovery matters were addressed

during 2014 and 2015, including the entry of a protective order and the development of an e-discovery protocol. The plaintiffs requested access to several CDE databases, including the state's longitudinal pupil achievement system, testing and assessment databases, and the special education management system.

Because *Morgan Hill* asserts statewide, systemic IDEA noncompliance and alleges a failure to locate, identify, and refer children with disabilities, the court declined to limit the requested discovery to small groups of districts or students. It instead ordered CDE to produce information regarding children across the entire state. The request implicates over 6 million children who are attending or have attended any California school at any time since January 1, 2008, and more than 1,000 school districts. FERPA permits disclosure of records with personally identifiable information when it is in compliance with a court order. Notice of the request for the databases and the types of information contained therein was provided by publication on websites of CDE and local educational entities.

As a result of objections submitted, the district court amended the e-discovery protocol to permit CDE to maintain custody of one database of the most sensitive information rather than providing a copy to the plaintiffs. Under the protective order, no student's identifying records will be disclosed to the public, and a limited number of people will have access to the data.

Despite these safeguards, some district personnel and parents have expressed concern about the sheer number of people, databases, students, and districts involved. It will be interesting to watch developments in this case and its impact on the future of educational data collection and use. ■