

Back and File 114
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The Commonwealth of Massachusetts

Department of Education

31 St. James Avenue, Boston, Massachusetts 02116

M E M O R A N D U M

March 20, 1978

TO: City and Town Clerks and Election Commissioners
Superintendents of Schools

FROM: Marcia Molay, Director of Elections *MM*
Deputy Secretary of the Commonwealth
Rub
Roger Brown
Associate Commissioner for Special Education

RE: Street Lists: Privacy Issues

It has come to our attention that a number of cities and towns have asked residents to fill out street list forms requesting information beyond that authorized by Chapter 367 of the Acts of 1977 (G.L. c.51, s.4 and related statutes). The relatively late passage of Chapter 367 (July 6, 1977), and the timing of the resulting regulations and advice may have led to the use of some procedures that did not adequately protect privacy interests. We regret that this situation occurred, and understand that it could not be remedied in most cases due to time constraints. The purpose of this memorandum is to explain the steps that need to be taken to protect certain information collected in 1978, and to clarify the procedures to be used in future years.

We are particularly concerned that in some cases the street list form asks residents to identify children who have special needs or are in Chapter 766 special education programs. Such an identification in the street list is not authorized by Chapter 367 nor by the Department of Education Regulations Pertaining to the Census of School Age Children, and it violates the confidentiality provisions of Chapter 766, the special education law. For this reason, the December 7, 1977 memorandum from the Office of the Secretary of the Commonwealth (Marcia Molay, Director of Elections) to all City and Town Clerks and Election Commissioners, noted that there is no legal authority to ask for or obtain in the street listing any information about, for example, children with special needs or non-English speaking children, and that such information on children not enrolled in school is to be collected by the school committee through a follow-up process, in accordance with the Regulations Pertaining to the Census of School Age Children promulgated by the Board of Education.

It is clearly the intent of Chapter 766 (see, e.g., G.L. c.71B, s.3 and Paragraph 301.0 of the Chapter 766 Regulations) to protect the confidentiality of information relating to children with special needs. Therefore, if any such information on children was obtained by means of the street list, the following steps must be taken:

1. Keep the individual street list forms themselves, or at least the information on the forms pertaining to Chapter 766 or special needs, confidential; except that the information on school age children and the "766 - special needs" designation, if any, may be provided to the school committee this year only for its use in compiling the census of school age children in accordance with the pertinent regulations.

2. Compile from the individual street list forms a "street list" that contains only the information authorized to be collected under Chapter 367 (i.e., no information on special needs). Such a street list would be a "public record" under G.L. c.51, and the Freedom of Information Act, as described in the December 7, 1977 memorandum. Any information identifying children as having special needs or receiving special education in a Chapter 766 program is not a public record, because of the privacy and confidentiality requirements of Chapter 766.

3. Make sure that the street list forms used by your city or town next year request only the information that is authorized to be obtained under Chapter ~~367~~ (G.L. c.51, s.4) (name, age or date of birth, occupation, nationality if not a U.S. citizen, and residence on January first in the preceding year and the current year), and under G.L. c.140, s.150 (dogs). No other information should be requested on the street list.

Thank you.



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