

HIGHER EDUCATION INFORMATION MEMO

DECEMBER 8, 2025

New State Requirements for College and University Policy Disclosures Involving Student Drug and Alcohol Violations and Health Emergencies

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Colleges and universities throughout New York will now be required to publish their policies on the circumstances under which they will notify parents, guardians or other emergency contacts when a student under 21 has an alcohol or controlled substance violation, including hospitalizations and overdoses. Known as “Beau’s Law,” it is named after Beau Miller, a Lockport, NY native who died from an accidental fentanyl overdose in the spring of 2022, after he had previously overdosed while at college. The law, Senate Bill S3390A/ Assembly Bill A4872, adds a new Section 6438-D to New York’s Education Law and was signed by Governor Kathy Hochul on Dec. 5, 2025. Colleges and universities may need to update their Family Educational Rights and Privacy Act (FERPA) policies to address the new law’s requirements, along with ensuring FERPA training is being offered in compliance with the law’s new mandates.

Under FERPA, institutions are already authorized to disclose, without a student’s consent, information to parents and guardians about drug and alcohol disciplinary violations when the student is under the age of 21 at the time of the disclosure. 34 C.F.R. §99.31(a)(15). FERPA also separately permits disclosure, again without a student’s consent, in any type of health and safety emergency. 34 C.F.R. §99.31(a)(10). FERPA provides guidance on how to make a health and safety assessment, explaining that institutions “may take into account the totality of the circumstances” and may make disclosures when they determine “there is an articulable and significant threat to the health or safety of a student.” 34 C.F.R. §99.36(c). Where there is a “rational basis” for the determination based on the information available, the Department of Education will not substitute its own judgment over the institution’s. *Id.*

These disclosures under FERPA are, however, permissive—FERPA does not mandate them—and the new state law requires New York institutions to share their policies on whether such disclosures are made. The new law does not dictate what an institution’s notification policy must be but requires a policy to be publicly available to promote transparency for both parents and students. Institutions may already have internal practices or guidelines that they use to make such notification decisions that will need to be made public; other institutions may need to develop a rule or set of guidelines that address whether and how institutions decide to notify parents. Institutions may wish to consider whether such notifications are discretionary or mandatory in certain circumstances, who on campus makes that determination, and how both parents and students are informed about the disclosure.

The new law also requires New York colleges and universities to conduct “regular” training on FERPA “related to health and safety emergencies and the impact on an institution’s response to student alcohol or controlled substance-related hospitalizations or overdoses.” The law leaves timing, parameters and attendees of the training up to institutions.

The law takes effect July 1, 2026, and therefore will require compliance ahead of the 2026-27 academic year.

If you have questions about these new requirements, would like help updating your policies to comply or have other questions about FERPA and student health and conduct matters, please contact **Brit Schoepp-Wong** or another attorney in **Bond’s Higher Education Practice**. Bond attorneys can provide FERPA training to comply with the new law or provide materials for institutional training teams to use.

**Special thanks to associate trainee Timothy Bouffard for his assistance in the preparation of this memo. Tim is not yet admitted to practice law.*

