

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 815
Education/Higher Education Committee Substitute Adopted 6/4/14

Short Title: Ensuring Privacy of Student Records.

(Public)

Sponsors:

Referred to:

May 21, 2014

1 THE BILL TO BE ENTITLED
2 AN ACT TO ENSURE THE PRIVACY AND SECURITY OF STUDENT EDUCATIONAL
3 RECORDS.

4 The General Assembly of North Carolina enacts:

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6 **PART I: ENSURE SECURITY OF STUDENT RECORDS**

7 **SECTION 1.** Article 29 of Chapter 115C of the General Statutes is amended by
8 adding a new section to read:

9 **"§ 115C-402.5. Student data system security.**

10 (a) Definitions. – The following definitions apply in this section:

- 11 (1) Aggregate student data. – Data collected or reported at the group, cohort, or
12 institutional level.
13 (2) De-identified student data. – A student dataset in which parent and student
14 personal or indirect identifiers, including the unique student identifier, have
15 been removed.
16 (3) FERPA. – The federal Family Educational Rights and Privacy Act, 20
17 U.S.C. § 1232g.
18 (4) Personally identifiable student data. – Includes, but is not limited to, the
19 following:
20 a. Student name.
21 b. Name of the student's parent or other family members.
22 c. Address of the student or student's family.
23 d. Personal identifier, such as the student's Social Security number or
24 unique student identifier.
25 e. Other indirect identifiers, such as the student's date of birth, place of
26 birth, and mother's maiden name.
27 f. Other information that, alone or in combination, is linked or linkable
28 to a specific student that would allow a reasonable person in the
29 school community, who does not have personal knowledge of the
30 relevant circumstances, to identify the student with reasonable
31 certainty.
32 g. Information requested by a person who the Department of Public
33 Instruction or local school administrative unit reasonably believes
34 knows the identity of the student to whom the education record
35 relates.



- 1 (5) Student data system. – The student information management system used by
2 the State Board of Education and Department of Public Instruction as part of
3 the Uniform Education Reporting Systems for collection and reporting of
4 student data from local boards of education.
- 5 (b) Security of Student Data System. – To ensure student data accessibility,
6 transparency, and accountability relating to the student data system, the State Board of
7 Education shall do all of the following:
- 8 (1) Create and make publicly available a data inventory and index of data
9 elements with definitions of individual student data fields in the student data
10 system, including, but not limited to:
- 11 a. Any personally identifiable student data required to be reported by
12 State and federal education mandates.
- 13 b. Any other individual student data which has been proposed for
14 inclusion in the student data system, with a statement regarding the
15 purpose or reason for the proposed collection.
- 16 (2) Develop rules to comply with all relevant State and federal privacy laws and
17 policies that apply to personally identifiable student data in the student data
18 system, including, but not limited to, FERPA and other relevant privacy laws
19 and policies. At a minimum, the rules shall include the following:
- 20 a. Restrictions on access to personally identifiable student data in the
21 student data system to the following individuals:
- 22 1. Authorized staff of the State Board of Education and
23 Department of Public Instruction and the contractors working
24 on behalf of the Department who require such access to
25 perform their assigned duties.
- 26 2. Authorized North Carolina public school administrators,
27 teachers, and other school personnel and contractors working
28 on behalf of the board of the North Carolina public school
29 who require such access to perform their assigned duties.
- 30 3. Students and their parents or legal guardians.
- 31 4. Authorized staff of other State agencies and contractors
32 working on behalf of those State agencies as required by law
33 and governed by interagency data-sharing agreements.
- 34 b. Criteria for approval of research and data requests for personally
35 identifiable student data in the student data system made to the State
36 Board of Education from State or local agencies, researchers working
37 on behalf of the Department, and the public.
- 38 (3) Prohibit the transfer of personally identifiable student data in the student
39 data system to individuals other than those identified in subdivision (2) of
40 this subsection, unless otherwise permitted by law and authorized by rules
41 adopted under this section. Such rules shall authorize the release of
42 personally identifiable data out of State to schools or educational agencies
43 when a student enrolls in a school out of State or a local school
44 administrative unit seeks help with locating a student formerly enrolled in
45 this State who is now enrolled out of state.
- 46 (4) Develop a detailed data security plan for the student data system that
47 includes all of the following:
- 48 a. Guidelines for authorizing access to the student data system and to
49 individual student data, including guidelines for authentication of
50 authorized access.
- 51 b. Privacy compliance standards.

- 1 c. Privacy and security audits.
2 d. Breach planning, notification, and procedures.
3 e. Data retention and disposition policies.
4 f. Data security policies, including electronic, physical, and
5 administrative safeguards such as data encryption and training of
6 employees.
7 (5) Ensure routine and ongoing compliance by the Department of Public
8 Instruction with FERPA, other relevant privacy laws and policies, and the
9 privacy and security rules, policies, and procedures developed under the
10 authority of this section related to personally identifiable student data in the
11 student data system, including the performance of compliance audits within
12 the Department.
13 (6) Ensure that any contracts for the student data system that include
14 de-identified student data or personally identifiable student data and are
15 outsourced to private contractors include express provisions that safeguard
16 privacy and security and include penalties for noncompliance.
17 (7) Notify the Governor and the General Assembly annually by October 1 of the
18 following:
19 a. New student data, whether aggregate data, de-identified data, or
20 personally identifiable student data, included or proposed for
21 inclusion in the student data system for the current school year.
22 b. Changes to existing data collections for the student data system
23 required for any reason, including changes to federal reporting
24 requirements made by the United States Department of Education.
25 (c) Restricting on Student Data Collection. – The following information about a student
26 or a student's family shall not be collected in nor reported as part of the student data system:
27 (1) Biometric information.
28 (2) Political affiliation.
29 (3) Religion.
30 (4) Voting history."

32 **PART II: INCREASE TRANSPARENCY ON STUDENT PRIVACY ISSUES**

33 **SECTION 2.** Article 29 of Chapter 115C of the General Statutes is amended by
34 adding a new section to read:

35 **"§ 115C-402.15. Parental notification regarding rights to student records and opt-out** 36 **opportunities.**

37 (a) Annual Parental Notification. – Local boards of education shall annually provide
38 parents, by a method reasonably designed to provide actual notice, information on parental
39 rights under State and federal law with regards to student records and opt-out opportunities for
40 disclosure of directory information as provided under the Family Educational Rights and
41 Privacy Act, 20 U.S.C. § 1232g, and notice and opt-out opportunities for surveys covered by
42 the Protection of Pupil Rights Amendment, 20 U.S.C. § 1232h.

43 (b) Notice Content. – The notice shall include information on parental rights under
44 State and federal law to:

- 45 (1) Inspect and review education records.
46 (2) Seek to amend inaccurate education records.
47 (3) Provide written consent prior to disclosure of personally identifiable
48 information from education records, except as otherwise provided by law.
49 Information shall be included on disclosure of directory information and
50 parental rights to opt out of disclosure of directory information.

- 1 (4) File a complaint with the U.S. Department of Education concerning alleged
2 failures to comply with the Family Educational Rights and Privacy Act.
3 (5) Receive notice and the opportunity to opt out prior to the participation of the
4 student in a protected information survey under 20 U.S.C. § 1232h."
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6 **PART III: EFFECTIVE DATE**

7 **SECTION 3.** This act is effective when it becomes law. Annual notice
8 requirements to parents required by Section 2 apply beginning with the 2014-2015 school year.