

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 815
Education/Higher Education Committee Substitute Adopted 6/4/14
Judiciary I Committee Substitute Adopted 6/11/14

Short Title: Ensuring Privacy of Student Records.

(Public)

Sponsors:

Referred to:

May 21, 2014

1 A 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. – Student data that:
- 19 a. Includes, but is not limited to, the following:
- 20 1. Student name.
- 21 2. Name of the student's parent or other family members.
- 22 3. Address of the student or student's family.
- 23 4. Personal identifier, such as the student's Social Security
24 number or unique student identifier.
- 25 5. Other indirect identifiers, such as the student's date of birth,
26 place of birth, and mother's maiden name.
- 27 6. Other information that, alone or in combination, is linked or
28 linkable to a specific student that would allow a reasonable
29 person in the school community, who does not have personal
30 knowledge of the relevant circumstances, to identify the
31 student with reasonable certainty.
- 32 7. Information requested by a person who the Department of
33 Public Instruction or local school administrative unit
34 reasonably believes knows the identity of the student to
35 whom the education record relates.



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- 1 b. Does not include directory information that a local board of
2 education has provided parents with notice of and an opportunity to
3 opt out of disclosure of that information, as provided under the
4 Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g,
5 unless a parent has elected to opt out of disclosure of the directory
6 information.
- 7 (5) Student data system. – The student information management system used by
8 the State Board of Education and Department of Public Instruction as part of
9 the Uniform Education Reporting Systems for collection and reporting of
10 student data from local boards of education.
- 11 (b) Security of Student Data System. – To ensure student data accessibility,
12 transparency, and accountability relating to the student data system, the State Board of
13 Education shall do all of the following:
- 14 (1) Create and make publicly available a data inventory and index of data
15 elements with definitions of individual student data fields in the student data
16 system, including, but not limited to:
- 17 a. Any personally identifiable student data required to be reported by
18 State and federal education mandates.
- 19 b. Any other individual student data which has been proposed for
20 inclusion in the student data system, with a statement regarding the
21 purpose or reason for the proposed collection.
- 22 (2) Develop rules to comply with all relevant State and federal privacy laws and
23 policies that apply to personally identifiable student data in the student data
24 system, including, but not limited to, FERPA and other relevant privacy laws
25 and policies. At a minimum, the rules shall include the following:
- 26 a. Restrictions on access to personally identifiable student data in the
27 student data system to the following individuals:
- 28 1. Authorized staff of the State Board of Education and
29 Department of Public Instruction and the contractors working
30 on behalf of the Department who require such access to
31 perform their assigned duties.
- 32 2. Authorized North Carolina public school administrators,
33 teachers, and other school personnel and contractors working
34 on behalf of the board of the North Carolina public school
35 who require such access to perform their assigned duties.
- 36 3. Students and their parents or legal guardians, or any
37 individual that a parent or legal guardian has authorized to
38 receive personally identifiable student data.
- 39 4. Authorized staff of other State agencies and contractors
40 working on behalf of those State agencies as required by law
41 and governed by interagency data-sharing agreements.
- 42 b. Criteria for approval of research and data requests for personally
43 identifiable student data in the student data system made to the State
44 Board of Education from State or local agencies, researchers working
45 on behalf of the Department, and the public.
- 46 (3) Prohibit the transfer of personally identifiable student data in the student
47 data system to individuals other than those identified in subdivision (2) of
48 this subsection, unless otherwise permitted by law and authorized by rules
49 adopted under this section. Such rules shall authorize the release of
50 personally identifiable data out of State to schools or educational agencies
51 when a student enrolls in a school out of State or a local school

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

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

43 "§ 115C-402.15. Parental notification regarding rights to student records and opt-out 44 opportunities.

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

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

- 3 (1) Inspect and review education records.
- 4 (2) Seek to amend inaccurate education records.
- 5 (3) Provide written consent prior to disclosure of personally identifiable
6 information from education records, except as otherwise provided by law.
7 Information shall be included on disclosure of directory information and
8 parental rights to opt out of disclosure of directory information.
- 9 (4) File a complaint with the U.S. Department of Education concerning alleged
10 failures to comply with the Family Educational Rights and Privacy Act.
- 11 (5) Receive notice and the opportunity to opt out prior to the participation of the
12 student in a protected information survey under 20 U.S.C. § 1232h."

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14 **PART III. EFFECTIVE DATE**

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