

Regular Session, 2009

HOUSE BILL NO. 570

BY REPRESENTATIVES HOFFMANN, HENRY BURNS, CHAMPAGNE, CORTEZ, DOVE, FOIL, LITTLE, PERRY, PUGH, ROBIDEAUX, SIMON, SMILEY, JANE SMITH, AND THIBAUT AND SENATORS APPEL, CROWE, DUPLESSIS, KOSTELKA, MICHOT, SMITH, AND WALSWORTH

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

SCHOOLS/EMPLOYEES: Provides relative to policies, procedures, and practices at public elementary and secondary schools concerning electronic communications by an employee at a school to a student at that school

1 AN ACT

2 To enact R.S. 17:81(Q) and 3996(B)(21), to require the governing authority of a public
3 elementary or secondary school to formulate, develop, adopt, and implement
4 policies, procedures, and practices applicable to school employees relative to
5 electronic communications by an employee at a school to a student at that school; to
6 provide policy guidelines and requirements; to provide limitations and exceptions;
7 to provide that the occurrence of certain electronic communications be reported by
8 the school employee; to provide for immunity from civil liability; to provide an
9 effective date; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 17:81(Q) and 3996(B)(21) are hereby enacted to read as follows:

12 §81. General powers of city and parish school boards

13 * * *

14 Q.(1) Each city, parish, or other local public school board shall formulate,
15 develop, adopt, and implement, by not later than November 15, 2009, policies,
16 procedures, and practices applicable to school system employees relative to an
17 electronic communication by an employee at a school to a student at that school.

1 (2) The policies, procedures, and practices required by Paragraph (1) of this
2 Subsection, at a minimum, shall:

3 (a) Define electronic communication. The definition shall recognize the
4 multiple means available for making such a communication, both those that facilitate
5 direct communication, including but not limited to voice or text-based
6 telecommunication devices, or both, and computers, and those that facilitate indirect
7 communication using an intermediate method, including but not limited to
8 Internet-based social networks.

9 (b) Require that all electronic communication by an employee at a school to
10 a student at that school relative to the educational services provided to the student
11 shall use a means provided by or otherwise made available by the school system for
12 this purpose and prohibit the use of all such system means to electronically
13 communicate with a student for a purpose not related to such educational services
14 except communication with an immediate family member if such communication is
15 specifically authorized by school board policy.

16 (c) Specify that the occurrence of any electronic communication made by an
17 employee at a school to a student at that school or that is received by an employee
18 at a school from a student at that school using a means other than one provided by
19 or made available by the school system shall be reported by the employee in a
20 manner deemed appropriate by the school board.

21 (d) Specify that it is a duty of a school system employee to comply with the
22 policies, procedures, and practices and provide that a failure to comply may
23 constitute willful neglect of duty.

24 (e) Establish and provide for the imposition of consequences for a violation
25 of the policies, procedures, and practices, including but not limited to termination of
26 employment in accordance with applicable provisions of state law.

27 (f) Provide a means for the timely reporting and investigation at the school
28 system level of an alleged failure by a school employee to comply with the policies,

1 procedures, or practices and for concluding such an investigation and resolving the
2 allegation.

3 (g) Provide a means whereby any alleged failure by a school employee to
4 comply with the policies, procedures, or practices that also may be a violation of
5 state or federal law is reported to the proper authorities.

6 (h) Provide a means to assure that all school system employees are informed
7 fully of the policies, procedures, and practices and the possible consequences at the
8 school and school system level for a failure to comply.

9 (i) Provide a means to assure that a parent or other person responsible for a
10 child's school attendance is fully informed of the policies, procedures, and practices.

11 (j) Provide a means for a parent or other person responsible for a child's
12 school attendance to request that the child not be contacted through electronic
13 communication by any school employee unless the purpose of such communication
14 is directly related to the child's educational services and is sent to and received by
15 more than one student at the school.

16 (3) Any city, parish, or other local public school board having existing
17 policies, procedures, and practices relative to electronic communication by an
18 employee at a school to a student at that school shall conduct by not later than
19 November 15, 2009, a formal evaluation of all such policies, procedures, and
20 practices to determine their compliance with the provisions of Paragraph (2) of this
21 Subsection and shall take all action necessary to conform the existing policies,
22 procedures, and practices to such requirements.

23 (4) No city, parish, or other local public school board or member of such a
24 board shall be civilly liable for any electronic communication by an employee to a
25 student that is prohibited as provided in this Subsection.

26 (5) For the purposes of this Subsection, the term "city, parish, or other local
27 public school board" shall mean the governing authority of any public elementary
28 or secondary school.

29 * * *

1 §3996. Charter schools; exemptions

2 * * *

3 B. Notwithstanding any state law, rule, or regulation to the contrary and
4 except as may be otherwise specifically provided for in an approved charter, a
5 charter school established and operated in accordance with the provisions of this
6 Chapter and its approved charter and the school's officers and employees shall be
7 exempt from all statutory mandates or other statutory requirements that are
8 applicable to public schools and to public school officers and employees except for
9 the following laws otherwise applicable to public schools with the same grades:

10 * * *

11 (21) Electronic communication by an employee at a school to a student at
12 that school, R.S. 17:81(Q).

13 * * *

14 Section 2. This Act shall become effective on July 1, 2009; if vetoed by the governor
15 and subsequently approved by the legislature, this Act shall become effective on July 1,
16 2009, or on the day following such approval by the legislature, whichever is later.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Hoffmann

HB No. 570

Abstract: Requires the governing authority of a public elementary or secondary school, including a charter school, to formulate, develop, adopt, and implement by not later than Nov. 15, 2009, policies, procedures, and practices applicable to school employees relative to electronic communication by an employee at a school to a student at that school. Specifies, at a minimum, that such policies, procedures, and practices include certain provisions.

Proposed law requires each local public school board to formulate, develop, adopt, and implement by not later than Nov. 15, 2009, policies, procedures, and practices applicable to school system employees relative to an electronic communication by an employee at a school to a student at that school.

Specifies that the policies, procedures, and practices, at a minimum, shall:

- (1) Define electronic communication and shall recognize the multiple means available for making such a communication, including specified forms of both direct communication and indirect communication.

- (2) Require that all electronic communication by an employee to a student relative to the educational services provided shall use a means provided by or otherwise made available by the school system and prohibit the use of all such system means to electronically communicate with a student for a purpose not related to such educational services except communication with an immediate family member if such communication is specifically authorized by school board policy.
- (3) Specify that the occurrence of any electronic communication made by an employee to a student or that is received by an employee from a student using a means other than one provided by or made available by the school system shall be reported by the employee.
- (4) Specify that it is a duty of a school system employee to comply with the policies, procedures, and practices and provide that a failure to comply may constitute willful neglect of duty.
- (5) Establish and provide for the imposition of consequences for a violation of the policies, procedures, and practices, including but not limited to termination of employment.
- (6) Provide a means for the timely reporting and investigation of an alleged failure to comply with the policies, procedures, or practices and for concluding such an investigation and resolving the allegation.
- (7) Provide a means whereby any alleged failure to comply with the policies, procedures, or practices that also may be a violation of state or federal law is reported to the proper authorities.
- (8) Provide a means to assure that all school system employees are informed fully of the policies, procedures, and practices and the possible consequences at the school and school system level for a failure to comply.
- (9) Provide a means to assure that a parent or other person responsible for a child's school attendance is fully informed of the policies, procedures, and practices.
- (10) Provide a means for a parent or other person responsible for a child's school attendance to request that the child not be contacted through electronic communication by any school employee unless the purpose of such communication is directly related to the child's educational services and is sent to and received by more than one student at the school.

Proposed law provides that any local school board having existing policies, procedures, and practices relative to electronic communication by an employee to a student shall conduct (by not later than Nov. 15, 2009) a formal evaluation of all such policies, procedures, and practices to determine their compliance with the provisions of proposed law and shall take all action necessary to conform the existing policies, procedures, and practices to such requirements.

Provides that no school board or member of such a board shall be civilly liable for any electronic communication that is prohibited by proposed law.

Specifies that for proposed law purposes, the term "city, parish, or other local public school board" shall mean the governing authority of any public elementary or secondary school, including a charter school.

Effective July 1, 2009.

(Adds R.S. 17:81(Q) and 3996(B)(21))

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Education to the original bill.

1. Relative to the proposed law prohibition of certain electronic communications by school employees with students, adds an exception to such prohibition for a communication with an immediate family member if such communication is authorized by school board policy.
2. Provides that failure by a school employee to comply with school board policies, procedures, and practices relative to electronic communications may constitute willful neglect of duty instead of shall constitute willful neglect of duty.
3. Adds that the school board policies, procedures, and practices as required by proposed law also shall include a means for a parent or other person responsible for a child's school attendance to request that the child not be contacted through electronic communication by any school employee unless the purpose of such communication is directly related to the child's educational services and is sent to and received by more than one student at the school.
4. Adds that no school board or member of such a board shall be civilly liable for any electronic communication that is prohibited by proposed law.