

Regular Session, 2014

HOUSE BILL NO. 1076 (Substitute for House Bill No. 946 by Representative Schroder)

BY REPRESENTATIVE SCHRODER

STUDENTS: Provides for limitations and prohibitions on the collection and sharing of student information and provides penalties for violations

1 AN ACT

2 To enact R.S. 17:3913 and 3996(B)(34), relative to student information; to limit the type of
3 information to be collected on students; to prohibit the collection of certain
4 information; to prohibit the sharing of student information; to provide exceptions;
5 to provide for access by parents and specified others to certain student information
6 stored in public school computer systems; to provide for student identification
7 numbers; to provide definitions; to provide criminal penalties; and to provide for
8 related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 17:3913 and 3996(B)(34) are hereby enacted to read as follows:

11 §3913. Student information; privacy; legislative intent; definitions; prohibitions;
12 parental access; penalties

13 A. The legislature hereby declares that all personally identifiable information
14 is protected as a right to privacy under the Constitution of Louisiana and the
15 Constitution of the United States.

16 B.(1) For purposes of this Section, "personally identifiable information" is
17 defined as information about an individual including but not limited to the following:

1 (a) Any information that can be used to distinguish or trace an individual's
2 identity such as name, social security number, date and place of birth, mother's
3 maiden name, or biometric records.

4 (b) Any other information that is linked or linkable to an individual such as
5 medical, educational, financial, and employment information.

6 (c) Two or more pieces of information that separately or when linked
7 together can be used to reasonably ascertain the identity of the person.

8 (2) For purposes of this Section, "aggregate data" are statistics that relate to
9 broad classes, groups, or categories from which it is not possible to distinguish the
10 properties of individuals.

11 C.(1) Notwithstanding any provision of this Subpart or any other law to the
12 contrary, no official or employee of a city, parish, or other local public school system
13 shall require the collection of any of the following student information unless
14 voluntarily disclosed by the parent or legal guardian:

15 (a) Political affiliations or beliefs of the student or the student's parent.

16 (b) Mental or psychological problems of the student or the student's family.

17 (c) Sexual behavior or attitudes.

18 (d) Illegal, anti-social, self-incriminating, or demeaning behavior.

19 (e) Critical appraisals of other individuals with whom a student has a close
20 family relationship.

21 (f) Legally recognized privileged or analogous relationships, such as those
22 of lawyers, physicians, and ministers.

23 (g) Religious practices, affiliations, or beliefs of the student or the student's
24 parent.

25 (h) Family income.

26 (i) Biometric information.

27 (j) Social security number.

28 (k) Gun ownership.

29 (l) Home Internet Protocol Address.

1 (m) External digital identity.

2 (2) Beginning June 1, 2015, no official or employee of a city, parish, or other
3 local public school system shall provide student information to any member of the
4 school board or to any other person or public or private entity except such an official
5 or employee may:

6 (a) Provide a student's identification number as provided in Paragraph (3) of
7 this Subsection and aggregate data to the local school board, the state Department of
8 Education, or the State Board of Elementary and Secondary Education solely for the
9 purpose of satisfying state and federal reporting requirements.

10 (b) Provide to the state Department of Education, for the purpose of
11 satisfying state and federal assessment, auditing, funding, monitoring, and school and
12 district accountability requirements, information from which enough personally
13 identifiable information has been removed such that the remaining information does
14 not identify a student and there is no basis to believe that the information alone can
15 be used to identify a student. No official or employee of the state Department of
16 Education shall share such information with any person or public or private entity
17 located outside of Louisiana, other than for purposes of assessment.

18 (c) Provide personally identifiable information regarding a particular student
19 to any person or public or private entity if the sharing of the particular information
20 with the particular recipient of the information has been authorized in writing by the
21 parent or legal guardian of the student. Any recipient of such information shall
22 maintain the confidentiality of such information. Any person who fails to maintain
23 the confidentiality of such information shall be subject to the penalties provided in
24 Subsection G of this Section.

25 (d) Provide for the transfer of student information pursuant to the provisions
26 of R.S. 17:112.

27 (3) By not later than May 1, 2015, the state Department of Education shall
28 develop a system of unique student identification numbers. By not later than June

1 1, 2015, each local public school board shall assign such a number to every student
2 enrolled in a public elementary or secondary school. Student identification numbers
3 shall not include or be based on social security numbers, and a student shall retain
4 his student identification number for his tenure in Louisiana public elementary and
5 secondary schools.

6 D.(1) Except as provided in Paragraphs (2) and (3) of this Subsection, no
7 person or public or private entity shall access a public school computer system on
8 which student information is stored. No official or employee of a public school
9 system shall authorize access to such a computer system to any person or public or
10 private entity except as authorized by Paragraphs (2) and (3) of this Subsection.

11 (2) The following may access a public school computer system on which
12 student information for students at a particular school is stored:

13 (a) A student's parent or legal guardian. Such access shall be limited to
14 information about a student of whom he is the parent or legal guardian. A parent or
15 legal guardian may authorize, in writing, another person to access such information.

16 (b) A teacher of record. Such access shall be limited to information about
17 his current students.

18 (c) The school principal and school registrar.

19 (d) A school system employee employed at the school and designated by the
20 principal. Such access shall be limited to student information necessary to perform
21 his duties.

22 (e) A person authorized by the principal to maintain or repair the computer
23 system.

24 (3) The following may access a computer system of a city, parish, or other
25 local public school system on which student information for students from
26 throughout the system is stored:

27 (a) The superintendent of the school system.

28 (b) A school system employee designated by the superintendent. Such
29 access shall be limited to student information necessary to perform his duties.

1 (e) A person authorized by the superintendent to maintain or repair the
2 computer system.

3 (4) Any person who is authorized by this Subsection to access a public
4 school computer system, except a parent or legal guardian, shall maintain the
5 confidentiality of any student information to which he has access. Failure to
6 maintain the confidentiality of such information is punishable as provided in
7 Subsection G of this Section.

8 E. No person who has access to student information shall:

9 (1) Convert the student information as specified in Subparagraph (C)(2)(b)
10 of this Section such that the remaining information can be used to identify a student.

11 (2) Use the personal characteristics or behavior patterns of a student to make
12 generalizations about a student or to predict outcomes and behaviors of a student.

13 F.(1) A city, parish, or other local public school board may contract with a
14 private entity for student information services, and pursuant to such contract student
15 information, including personally identifiable information and cumulative records,
16 may be transferred to computers, owned, operated, and maintained by the private
17 entity for such purpose.

18 (2) No contractor pursuant to this Subsection shall allow access to, release,
19 or allow the release of student information to any person or entity except as specified
20 in the contract.

21 (3) A contract pursuant to this Subsection shall include requirements
22 regarding the protection of student information which at a minimum include
23 provision for all of the following:

24 (a) Guidelines for authorizing access to computer systems on which student
25 information is stored including guidelines for authentication of authorized access.

26 (b) Privacy compliance standards.

27 (c) Privacy and security audits performed under the direction of the
28 superintendent.

29 (d) Breach planning, notification, and remediation procedures.

1 (e) Information storage, retention, and disposition policies.

2 (f) Disposal of all information from the servers of the contractor upon
3 termination of the contract.

4 (4) Any person who violates the provisions of this Subsection shall be fined
5 not more than ten thousand dollars or imprisoned for not more than three years, or
6 both.

7 G. Except as provided in Paragraph (F)(5) of this Section, a person who
8 violates any provision of this Section shall be punished by imprisonment for not
9 more than six months or by a fine of not more than ten thousand dollars.

10 H. Nothing in this Section shall prohibit a school system employee employed
11 at the school and a person authorized by the superintendent of the school system
12 from having access to a student's records as may be necessary to perform his duties.

13 * * *

14 §3996. Charter schools; exemptions; requirements

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

23 * * *

24 (34) Student information, R.S. 17:3913.

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)]

Schroder

HB No. 1076

Abstract: Provides for limitations and prohibitions on the collection and sharing of student information and provides penalties for violations.

Proposed law prohibits the collection of certain student information by local public school systems and charter schools. Prohibits local school system and charter school officials and employees from sharing student information with local school board members and any other person or public or private entity except as otherwise specified in proposed law. Further prohibits access to public school computer systems where student information is stored except as otherwise specified in proposed law. Provides that any person given access to a public school computer system shall maintain the confidentiality of the student information accessed.

Permits local public school boards and charter schools to contract with a private entity for information services and prohibits a contractor from allowing access to, releasing, or allowing the release of such student information except as specified in the contract. Prohibits the contractor from transferring information to a third-party server. Provides penalties for violations including imprisonment and monetary fines.

Prohibits persons who have access to student information from converting any student information such that the information remaining after enough personally identifiable information has been removed can be used to identify a student and from using the personal characteristics or behavior patterns of a student to make generalizations about a student or to predict outcomes and behaviors of a student.

Requires the state Dept. of Education to develop a system of unique student identification numbers. Requires local public school boards to assign such numbers to every student and provides that such numbers shall not include or be based on social security numbers.

Provides penalties for violations of proposed law including imprisonment and monetary fines.

(Adds R.S. 17:3913 and 3996(B)(34))