

Regular Session, 2012

HOUSE BILL NO. 756

BY REPRESENTATIVE ABRAMSON

PUBLIC RECORDS: Exempts certain materials created pursuant to academic research and higher education from disclosure under the Public Records Law

1 AN ACT

2 To enact R.S. 44:4(16)(e) through (j), relative to public records; to provide relative to  
3 records of boards or institutions of higher learning; to exempt certain records from  
4 the Public Records Law; to provide for effectiveness; and to provide for related  
5 matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 44:4(16)(e) through (j) are hereby enacted to read as follows:

8 §4. Applicability

9 This Chapter shall not apply:

10 \* \* \*

11 (16) To the following records of a board or institution of higher learning, in  
12 accordance with rules and regulations promulgated by the Board of Trustees for State  
13 Colleges and Universities, the Board of Supervisors of Louisiana State University  
14 and Agricultural and Mechanical College, and the Board of Supervisors of Southern  
15 University and Agricultural and Mechanical College, or their successors, in  
16 conjunction with the Board of Regents, for programs and institutions under their  
17 supervision and management, unless access to the records is specifically required by  
18 state or federal statute or is ordered by a court under rules of discovery:

19 \* \* \*



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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)]

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Abramson

HB No. 756

**Abstract:** Exempts certain materials created pursuant to academic research and higher education from disclosure under Public Records Law.

Present law (Public Records Law, R.S. 44:1, et seq.) provides that all books, records, writings, accounts, letters and letter books, maps, drawings, photographs, cards, tapes, recordings, memoranda, and papers, and all copies, duplicates, photographs, including microfilm, or other reproductions thereof, or any other documentary materials, regardless of physical form or characteristics, including information contained in electronic data processing equipment, having been used, being in use, or prepared, possessed, or retained for use in the conduct, transaction, or performance of any business, transaction, work, duty, or function which was conducted, transacted, or performed by or under the authority of the constitution or laws of the state, or by or under the authority of any ordinance, regulation, mandate, or order of any public body or concerning the receipt or payment of any money received or paid by or under the authority of the constitution or the laws of the state, are "public records". Present law establishes the framework for the ready availability of public records to requesting persons, and specifically provides that it is the duty of the custodian of the public records for a public entity or agency to provide copies to persons so requesting. Present law provides for certain exceptions, exemptions, and limitations.

Present law provides that the Public Records Law does not apply to certain records of a board or institution of higher learning, in accordance with rules and regulations promulgated by the higher education management boards in conjunction with the Board of Regents, for programs and institutions under their supervision and management, unless access to the records is specifically required by state or federal statute or is ordered by a court under rules of discovery. Includes the following:

- (1) Trade secrets and commercial or financial information obtained from a person, firm, or corporation, pertaining to research or to the commercialization of technology, including any such information designated as confidential by such person, firm, or corporation, but not including any such information relating to the identity of principals, officers, or individuals and entities directly or indirectly owning or controlling an entity other than a publicly held entity, or the identity of principals, officers, or individuals and entities directly owning or controlling five percent or more of a publicly held entity.
- (2) Data, records, or information produced or collected by or for faculty or staff of state institutions of higher learning in the conduct of or as a result of, study or research on commercial, scientific, or technical subjects of a patentable or licensable nature, whether sponsored by the institution alone or in conjunction with a governmental body or private concern, until such data, records, or information have been publicly released, published, or patented.
- (3) Those portions of research proposals, supporting documentation and information, submitted by an institution of higher learning to the Board of Regents' La. Education Quality Support Fund Program, which have been certified by the institution as containing data, information, ideas, or plans of a potentially patentable or licensable nature, including any discussions or written comments concerning such information

- by reviewers of the proposals, but not including reviewer ratings, until such data, records, or information have been publicly released, published, or patented.
- (4) Those portions of private document collections donated to state institutions of higher learning for historical research or preservation purposes, which are designated by the donor to have restricted access for a specific period of time.

Proposed law retains present law and adds the following to the exemption:

- (1) Materials or records developed, discovered, disclosed to, or received by or on behalf of faculty, staff, or employees of an institution that have previously been the subject of a denied discovery request.
- (2) Test questions, scoring keys, and other examination data pertaining to the administration of an academic examination.
- (3) Information contained on individual admission applications to the extent disclosure would reveal the identity of the applicant.
- (4) Materials and records from disciplinary proceedings against a student to the extent disclosure would reveal the identity of the student.
- (5) Teaching materials used by faculty that are not provided to students, including unpublished lecture notes, outlines, PowerPoint slides, syllabi, or recordings.
- (6) Data, records, or information that are produced or collected by or for faculty, staff, or researchers of a state institution of higher learning in the conduct or as a result of study or research on an educational, commercial, scientific, artistic, technical, or scholarly issue, and that has not been publicly released, published, or patented, regardless of whether the study or research was sponsored by the institution alone or in conjunction with a governmental body or private concern. Such data, records, or information include, but are not limited to, unpublished notes, data, and information related to research, unpublished manuscripts, creative works in process, scholarly correspondence, email, and confidential information contained in research proposals.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Adds R.S. 44:4(16)(e)-(j))