

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

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PRINCIPAL CLERK

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SENATE DRS45138-TCz-24A (02/12)

Short Title: Ensuring Privacy of Student Records. (Public)

Sponsors: Senators Barefoot, Brock, and Soucek (Primary Sponsors).

Referred to:

1 THE BILL TO BE ENTITLED  
2 AN ACT TO ENSURE THE PRIVACY AND SECURITY OF STUDENT EDUCATIONAL  
3 RECORDS, AS RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT  
4 COMMITTEE ON INFORMATION TECHNOLOGY.

5 The General Assembly of North Carolina enacts:

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

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

10 "**§ 115C-402.5. Student Data System Security.**

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

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



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

- 1                   d.     Breach planning, notification, and procedures.  
2                   e.     Data retention and disposition policies.  
3                   f.     Data security policies, including electronic, physical, and  
4                         administrative safeguards such as data encryption and training of  
5                         employees.  
6           (5)    Ensure routine and ongoing compliance by the Department of Public  
7                   Instruction with FERPA, other relevant privacy laws and policies, and the  
8                   privacy and security rules, policies, and procedures developed under the  
9                   authority of this section related to personally identifiable student data in the  
10                  student data system, including the performance of compliance audits within  
11                  the Department.  
12           (6)    Ensure that any contracts for the student data system that govern databases,  
13                   assessments, or instructional supports that include aggregate student data,  
14                   de-identified student data, or personally identifiable student data and are  
15                   outsourced to private vendors 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 included or proposed for inclusion in the student  
20                         data system for the current school year.  
21                  b.     Changes to existing data collections for the student data system  
22                         required for any reason, including changes to federal reporting  
23                         requirements made by the United States Department of Education.  
24           (c)    Restricting on student data collection. – The following information shall not be  
25                   collected in nor reported as part of the student data system:  
26                  (1)    Student biometric information.  
27                  (2)    Student political affiliation.  
28                  (3)    Student religion."  
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## 30 **PART II: INCREASE TRANSPARENCY ON STUDENT PRIVACY ISSUES**

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

### 33 **"§ 115C-402.15. Parental Notification Regarding Rights to Student Records and Opt-Out** 34 **Opportunities.**

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

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

- 43                  (1)    Inspect and review education records.  
44                  (2)    Seek to amend inaccurate education records.  
45                  (3)    Provide written consent prior to disclosure of personally identifiable  
46 information from education records, except as otherwise provided by law.  
47 Information shall be included on disclosure of directory information and  
48 parental rights to opt out of disclosure of directory information.  
49                  (4)    File a complaint with the U.S. Department of Education concerning alleged  
50 failures to comply with the Family Educational Rights and Privacy Act.

1           (5)   Receive notice and the opportunity to opt out prior to the participation of the  
2                    student in a protected information survey under 20 U.S.C. § 1232h.  
3       (c)   Model Notice. – Local boards of education shall consider use of model notices  
4   developed by the United State Department of Education to provide annual information as  
5   required by this section."

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7   **PART III: EFFECTIVE DATE**

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