

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:

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

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

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

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

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

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

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

14 (c) Sexual behavior or attitudes.

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

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

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

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

22 (h) Family income.

23 (i) Biometric information.

24 (j) Social security number.

25 (k) Gun ownership.

26 (l) Home Internet Protocol Address.

27 (m) External digital identity.

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

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

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

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

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

26 (3) By not later than May 1, 2015, the state Department of Education shall
27 develop a system of unique student identification numbers. By not later than June
28 1, 2015, each local public school board shall assign such a number to every student
29 enrolled in a public elementary or secondary school. Student identification numbers

1 shall not include or be based on social security numbers, and a student shall retain
2 his student identification number for his tenure in Louisiana public elementary and
3 secondary schools.

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

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

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

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

16 (c) The school principal and school registrar.

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

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

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

25 (a) The superintendent of the school system.

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

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

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

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

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

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

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

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

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

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

24 (b) Privacy compliance standards.

25 (c) Privacy and security audits performed under the direction of the
26 superintendent.

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

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

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))