Regular Session, 2014

ACT No. 837

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

BY REPRESENTATIVES SCHRODER, ADAMS, ANDERS, ARMES, ARNOLD,
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RITCHIE, SEABAUGH, ST. GERMAIN, TALBOT, THIERRY, THOMPSON,
WHITNEY, AND WILLMOTT AND SENATORS ALARIO, ALLAIN, AMEDEE,
APPEL, BROWN, CHABERT, CLAITOR, CORTEZ, CROWE, DONAHUE,
ERDEY, GUILLORY, JOHNS, KOSTELKA, LAFLEUR, LONG, MARTINY,
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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 that can be used on its own or with other

1   information to identify, contact, or locate a single individual, including but not

2   limited to the following:

3   (a) Any information that can be used to distinguish or trace an individual's

4   identity such as full name, social security number, date and place of birth, mother's

5   maiden name, or biometric records.

6   (b) Any other information that is linked or linkable to an individual such as

7   medical, educational, financial, and employment information.

8   (c) Two or more pieces of information that separately or when linked

9   together can be used to reasonably ascertain the identity of the person.

10   (2) For purposes of this Section, "aggregate data" are statistics and other

11   information that relate to broad classes, groups, or categories from which it is not

12   possible to distinguish the identities of individuals.

13   (3) For purposes of this Section, "parent or legal guardian" shall mean a

14   student's parent, legal guardian, or other person responsible for the student.

15   C.(1) Notwithstanding any provision of this Subpart or any other law to the

16   contrary, no official or employee of a city, parish, or other local public school system

17   shall require the collection of any of the following student information unless

18   voluntarily disclosed by the parent or legal guardian:

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

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

21   (c) Sexual behavior or attitudes.

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

23   (e) Critical appraisals of other individuals with whom a student has a close

24   family relationship.

25   (f) Legally recognized privileged or analogous relationships, such as those

26   of lawyers, physicians, and ministers.

27   (g) Religious practices, affiliations, or beliefs of the student or the student's

28   parent.

29   (h) Family income.

30   (i) Biometric information.

1   (j) Social security number.

2   (k) Gun ownership.

3   (l) Home Internet Protocol Address.

4   (m) External digital identity.

5   (2) Beginning June 1, 2015, no official or employee of a city, parish, or other

6   local public school system shall provide personally identifiable student information

7   to any member of the school board or to any other person or public or private entity,

8   except such an official or employee may, in accordance with State Board of

9   Elementary and Secondary Education regulation or applicable state and federal law:

10   (a) Provide a student's identification number as provided in Paragraph (3) of

11   this Subsection and aggregate data to the local school board, the state Department of

12   Education, or the State Board of Elementary and Secondary Education solely for the

13   purpose of satisfying state and federal reporting requirements.

14   (b)   Provide to the state Department of Education, for the purpose of

15   satisfying state and federal assessment, auditing, funding, monitoring, program

16   administration, and state accountability requirements, information from which

17   enough personally identifiable information has been removed such that the remaining

18   information does not identify a student and there is no basis to believe that the

19   information alone can be used to identify a student. No official or employee of the

20   state Department of Education shall share such information with any person or public

21   or private entity located outside of Louisiana, other than for purposes of academic

22   analysis of assessments.

23   (c) Provide personally identifiable information regarding a particular student

24   to any person or public or private entity if the sharing of the particular information

25   with the particular recipient of the information has been authorized in writing by the

26   parent or legal guardian of the student, or by a student who has reached the age of

27   legal majority, or if the information is provided to a person authorized by the state,

28   including the legislative auditor, to audit processes including student enrollment

29   counts. Any recipient of such information shall maintain the confidentiality of such

30   information.   Any person who knowingly and willingly fails to maintain the

1   confidentiality of such information shall be subject to the penalties provided in

2   Subsection G of this Section.

3   (d) Provide for the transfer of student information pursuant to the provisions

4   of R.S. 17:112.

5   (3) By not later than May 1, 2015, the state Department of Education shall

6   develop a system of unique student identification numbers. By not later than June

7   1, 2015, each local public school board shall assign such a number to every student

8   enrolled in a public elementary or secondary school. Student identification numbers

9   shall not include or be based on social security numbers, and a student shall retain

10   his student identification number for his tenure in Louisiana public elementary and

11   secondary schools.

12   D.(1) Except as provided in Paragraphs (2) and (3) of this Subsection, no

13   person or public or private entity shall access a public school computer system on

14   which student information is stored. No official or employee of a public school

15   system shall authorize access to such a computer system to any person or public or

16   private entity except as authorized by Paragraphs (2) and (3) of this Subsection.

17   (2) The following persons may access a public school computer system on

18   which student information for students at a particular school is stored:

19   (a) A student who has reached the age of eighteen or is judicially

20   emancipated or emancipated by marriage and the parent or legal guardian of a

21   student who is under the age of eighteen and not emancipated. For a student who has

22   reached the age of eighteen or is emancipated, such access is limited to information

23   about the student. For the parent or legal guardian of a student who has not reached

24   the age of eighteen and is not emancipated, such access shall be limited to

25   information about the student. A student who has reached the age of eighteen or is

26   emancipated and the parent or legal guardian of a student who has not reached the

27   age of eighteen and is not emancipated may authorize, in writing, another person to

28   access such information.

29   (b) A teacher of record. Such access shall be limited to information about

30   his current students.

1   (c) The school principal and school registrar.

2   (d) A school system employee employed at the school and designated by the

3   principal. Such access shall be limited to student information necessary to perform

4   his duties.

5   (e) A person authorized by the superintendent to maintain or repair the

6   computer system or to provide services that the school system would otherwise

7   provide.

8   (f) A person authorized by the state to audit student records.

9   (3) The following persons may access a computer system of a city, parish,

10   or other local public school system on which student information for students from

11   throughout the system is stored:

12   (a) The superintendent of the school system.

13   (b) A school system employee designated by the superintendent. Such

14   access shall be limited to student information necessary to perform his duties.

15   (c) A person authorized by the superintendent to maintain or repair the

16   computer system or to provide services that the school system would otherwise

17   provide.

18   (d) A person authorized by the state to audit student records.

19   (4) Any person who is authorized by this Subsection to access a public

20   school computer system, except a parent or legal guardian, shall maintain the

21   confidentiality of any student information to which he has access. Failure to

22   maintain the confidentiality of such information is punishable as provided in

23   Subsection G of this Section.

24   E.(1) No person who has access to student information shall convert the

25   student information as specified in Subparagraph (C)(2)(b) of this Section such that

26   the remaining information can be used to identify a student.

27   (2) The State Board of Elementary and Secondary Education and the state

28   Department of Education shall not require a city, parish, or other local public school

29   system to limit a student's learning opportunity or opportunities to explore any

30   occupation based upon predictive modeling.

1   F.(1) A city, parish, or other local public school board may contract with a

2   private entity for student and other education services, and pursuant to such contract,

3   student information, including personally identifiable information and cumulative

4   records, may be transferred to computers operated and maintained by the private

5   entity for such purpose.

6   (2) No contractor pursuant to this Subsection shall allow access to, release,

7   or allow the release of student information to any person or entity except as specified

8   in the contract.

9   (3) A contract pursuant to this Subsection shall include requirements

10   regarding the protection of student information which at a minimum include

11   provision for all of the following:

12   (a) Guidelines for authorizing access to computer systems on which student

13   information is stored including guidelines for authentication of authorized access.

14   (b) Privacy compliance standards.

15   (c) Privacy and security audits performed under the direction of the local

16   school superintendent.

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

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

19   (f) Disposal of all information from the servers of the contractor upon

20   termination of the contract, unless otherwise directed by an applicable legal

21   requirement or otherwise specified in the contract and subject to the privacy

22   protection provisions of this Part. Upon termination of the contract, all information

23   removed from the contractor's servers shall be returned to the city, parish, or other

24   local public school board.

25   (4) Any person who knowingly and willingly violates the provisions of this

26   Subsection shall be fined not more than ten thousand dollars or imprisoned for not

27   more than three years, or both.

28   G. Except as provided in Paragraph (F)(4) of this Section, a person who

29   violates any provision of this Section shall be punished by imprisonment for not

30   more than six months or by a fine of not more than ten thousand dollars.

1   H. Nothing is this Section shall prohibit a school system employee employed

2   at the school and a person authorized by the superintendent of the school system

3   from having access to a student's records as may be necessary to perform his duties.

4   I. The provisions of this Part shall apply to each charter school, its governing

5   authority, and any education management organization under contract to operate a

6   charter school.

7   J.(1) No city, parish, or other local public school system, local or state

8   governmental agency, public or private entity, or any person with access to

9   personally identifiable student information shall sell, transfer, share, or process any

10   student data for use in commercial advertising, or marketing, or any other

11   commercial purpose, unless otherwise stipulated in a contract for services as

12   provided in Subsection (F) of this Section.

13   (2) The provisions of Paragraph (1) of this Subsection shall not apply to a

14   student's parent or legal guardian, or a student who has reached the legal age of

15   majority.

16   K.(1) Notwithstanding any provision of this Part to the contrary, the

17   governing authority of each public school, with the permission of a student's parent

18   or legal guardian, shall collect the following personally identifiable information for

19   each student enrolled in grades eight through twelve:

20   (a) Full name.

21   (b) Date of birth.

22   (c) Social security number.

23   (d) Student transcript data.

24   (2) The governing authority of a public school shall disclose the information

25   collected pursuant to Paragraph (1) of this Subsection, upon request, only to a

26   Louisiana postsecondary educational institution, to be used solely for the purpose of

27   processing applications for admission, and to the Office of Student Financial

28   Assistance, to be used solely for the purpose of processing applications made to the

29   office for state and federal grant and for required grant program reporting.

1   (3)(a) Beginning in the eighth grade, the governing authority of each public

2   school shall annually, at the beginning of each school year, provide a form to be

3   signed by the parent or legal guardian of each student enrolled in the school,

4   whereby the student's parent or legal guardian may provide consent or deny consent

5   for the collection and disclosure of the student's information as provided in

6   Paragraphs (1) and (2) of this Subsection.

7   (b) No data shall be collected pursuant to this Subsection, unless a student's

8   parent or legal guardian provides written consent.

9   (c) The form will contain the following:

10   (i) A statement notifying the student's parent or legal guardian exactly what

11   items of student information will be collected and that disclosure of the student

12   information collected will be restricted to Louisiana postsecondary educational

13   institutions and the Office of Student Financial Assistance to be used solely for the

14   purpose of processing applications for admission and for state and federal financial

15   aid.

16   (ii) A statement whereby a student's parent or legal guardian acknowledges

17   that failure to provide written consent for the collection and disclosure of the

18   student's information as provided in this Subsection may result in delays or may

19   prevent successful application for admission to a postsecondary educational

20   institution and for state and federal student financial aid. This statement shall be

21   displayed prominently and shall be printed in bold type.

22   (4) The governing authority of each public school, each Louisiana

23   postsecondary educational institution, and the Office of Student Financial Assistance

24   shall destroy all data collected for purposes of this Subsection not later than five

25   years after the student graduates, unless otherwise required by state or federal law

26   or regulation.

27   *   *   *

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1 §3996. Charter schools; exemptions; requirements

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

_____
SPEAKER OF THE HOUSE OF REPRESENTATIVES

_____
PRESIDENT OF THE SENATE

_____
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____

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