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Short Title: No Disclosure of Student Info to 3rd Parties.

(Public)

Sponsors:

Referred to:

April 5, 2001

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT PERSONS CONTRACTING WITH THE PUBLIC
SCHOOLS FROM DISCLOSING PERSONALLY IDENTIFIABLE
INFORMATION ABOUT STUDENTS, TO AUTHORIZE SUSPENSIONS OF UP
TO 365 DAYS FOR STUDENTS WHO MAKE CERTAIN FALSE THREATS,
PERPETRATE CERTAIN HOAXES, OR THREATEN AN ACT OF
TERRORISM, AND TO MAKE EMERGENCY RESPONSE PLANS
CONFIDENTIAL.

The General Assembly of North Carolina enacts:

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

"§ 115C-401.1. Prohibition on the disclosure of information about students.

(a) It is unlawful for a person who enters into a contract with a local board of education or its designee to sell any personally identifiable information that is obtained from a student as a result of the person's performance under the contract and that is linked to that student's individual purchasing behavior or preferences. This prohibition does not apply if the person obtains the prior written authorization of the student's parent or guardian. This authorization shall include the parent's or guardian's original signature. The person shall not solicit this authorization and signature through the school's personnel or equipment or on school grounds.

(b) The following definitions apply in this section:

(1) 'Contract' means a contract for the provision of goods or services.

(2) 'Personally identifiable information' means any information directly related to a student that is protected from disclosure by State or federal law, including the student's name, birthdate, address, social security number, parents' names, telephone number, or any other information or

1 identification number that would provide information about a specific
2 student. For the purpose of subsection (c1) of this section, 'personally
3 identifiable information' includes the student's family's political
4 affiliations; mental and psychological problems potentially
5 embarrassing to the student or the student's family; sex behavior and
6 attitudes; illegal, antisocial, self-incriminating, and demeaning
7 behavior; critical appraisals of other individuals with whom the student
8 has close family relationships; legally recognized privileged or
9 analogous relationships, such as those of lawyers, physicians, and
10 ministers; or income, other than that required by law to determine
11 eligibility for participation in a program or for receiving financial
12 assistance under that program.

13 (3) 'Sell' means sell or otherwise use for a business or marketing purpose.

14 (c) A violation of subsection (a) of this section shall be punished as a Class 2
15 misdemeanor, and when the defendant is an organization as defined in G.S. 15A-773(c)
16 the fine shall be five thousand dollars (\$5,000) for the first violation, ten thousand
17 dollars (\$10,000) for a second violation, and twenty-five thousand dollars (\$25,000) for
18 a third or subsequent violation.

19 (c1) No student shall be required to submit to a survey, analysis, or evaluation that
20 discloses personally identifiable information, except as authorized by federal law,
21 without the prior written consent of the student's parent or legal guardian if the student
22 is an unemancipated minor or of the student if the student is an adult or an emancipated
23 minor. All instructional materials, including teachers' manuals, films, tapes, or other
24 supplementary materials, that will be used in connection with any survey, analysis, or
25 evaluation as part of any program shall be available for inspection by the student's
26 parents or guardians. All surveys, analyses, and evaluations that are subject to this
27 subsection shall be marked 'Anonymous and Confidential' and the local board of
28 education and its employees shall maintain the anonymity and the confidentiality of
29 students' responses. A student's responses to a survey, analysis, or evaluation shall not
30 be retained in that student's school record. No student shall be disciplined or penalized
31 in any way because of the student's responses to a survey, analysis, or evaluation. Local
32 school administrative units shall give parents, legal guardians, and students effective
33 notice of their rights under this subsection. The State Board of Education shall adopt
34 rules and policies to implement this subsection. The State Board of Education shall
35 establish a review panel within the Department of Public Instruction to investigate,
36 process, and review alleged violations of this subsection. If the review panel determines
37 that there has been a failure to comply with this subsection, and that compliance cannot
38 be secured by voluntary means, the review panel shall report the matter to the State
39 Board of Education. The State Board shall take any action it determines appropriate to
40 enforce this subsection. This subsection does not apply if federal funds are used to
41 develop or administer a survey, analysis, or evaluation, and the federal law, rules, and

1 policies governing those funds provide equal or greater protection to students and their
2 families.

3 (d) Nothing in this section shall preclude the enforcement of civil remedies as
4 otherwise provided by law.

5 (e) Nothing in this section prohibits the identification and disclosure of directory
6 information in compliance with federal law and local board of education policy or
7 procedure."

8 **SECTION 2.** G.S. 143-318.11 is amended by adding a new subdivision to
9 read:

10 "(8) To formulate plans by a local board of education relating to emergency
11 response to incidents of school violence."

12 **SECTION 3.** G.S. 115C-47 is amended by adding a new subdivision to read:

13 "(40) To adopt emergency response plans. – Local boards of education may
14 adopt emergency response plans relating to incidents of school
15 violence. These plans are not a public record as the term 'public record'
16 is defined under G.S. 132-1 and shall not be subject to inspection and
17 examination under G.S. 132-6."

18 **SECTION 3.1.** Chapter 132 of the General Statutes is amended by adding
19 the following new section to read:

20 "**§ 132-1.6. Emergency response plans.**

21 Emergency response plans adopted by a constituent institution of The University of
22 North Carolina or a community college and the records related to the planning and
23 development of these emergency response plans are not public records as defined by
24 G.S. 132-1 and shall not be subject to inspection and examination under G.S. 132-6."

25 **SECTION 4.** G.S. 115C-391 is amended by adding the following new
26 subsection to read:

27 "(d4) A local board of education or superintendent may suspend for up to 365 days
28 any student who:

29 (1) By any means of communication to any person or group of persons,
30 makes a report, knowing or having reason to know the report is false,
31 that there is located on educational property or at a school-sponsored
32 curricular or extracurricular activity off educational property any
33 device, substance, or material designed to cause harmful or life-
34 threatening illness or injury to another person;

35 (2) With intent to perpetrate a hoax, conceals, places, disseminates, or
36 displays on educational property or at a school-sponsored curricular or
37 extracurricular activity off educational property any device, machine,
38 instrument, artifact, letter, package, material, or substance, so as to
39 cause any person reasonably to believe the same to be a substance or
40 material capable of causing harmful or life-threatening illness or injury
41 to another person;

- 1 (3) Threatens to commit on educational property or at a school-sponsored
2 curricular or extracurricular activity off educational property an act of
3 terror that is likely to cause serious injury or death, when that threat is
4 intended to cause a significant disruption to the instructional day or a
5 school-sponsored activity or causes that disruption;
6 (4) Makes a report, knowing or having reason to know the report is false,
7 that there is about to occur or is occurring on educational property or at
8 a school-sponsored curricular or extracurricular activity off
9 educational property an act of terror that is likely to cause serious
10 injury or death, when that report is intended to cause a significant
11 disruption to the instructional day or a school-sponsored activity or
12 causes that disruption; or
13 (5) Conspires to commit any of the acts described in this subsection."

14 **SECTION 5.** G.S. 115C-391(e) reads as rewritten:

15 "(e) A decision of a superintendent under subsection (c), (d1), (d2), ~~or (d3)~~ (d3),
16 ~~or (d4)~~ of this section may be appealed to the local board of education. A decision of the
17 local board upon this appeal or of the local board under subsection (d) or (d1) of this
18 section is final and, except as provided in this subsection, is subject to judicial review in
19 accordance with Article 4 of Chapter 150B of the General Statutes. A person seeking
20 judicial review shall file a petition in the superior court of the county where the local
21 board made its decision."

22 **SECTION 6.** G.S. 115C-45(c), as amended by S.L. 2001-260, reads as
23 rewritten:

24 "(c) Appeals to Board of Education and to Superior Court. – An appeal shall lie to
25 the local board of education from any final administrative decision in the following
26 matters:

- 27 (1) The discipline of a student under G.S. 115C-391(c), (d), (d1), (d2), ~~or~~
28 ~~(d3)~~; (d3), or (d4);
29 (2) An alleged violation of a specified federal law, State law, State Board
30 of Education policy, State rule, or local board policy, including
31 policies regarding grade retention of students;
32 (3) The terms or conditions of employment or employment status of a
33 school employee; and
34 (4) Any other decision that by statute specifically provides for a right of
35 appeal to the local board of education and for which there is no other
36 statutory appeal procedure.

37 As used in this subsection, the term "final administrative decision" means a decision
38 of a school employee from which no further appeal to a school administrator is
39 available.

40 Any person aggrieved by a decision not covered under subdivisions (1) through (4)
41 of this subsection shall have the right to appeal to the superintendent and thereafter shall
42 have the right to petition the local board of education for a hearing, and the local board

1 may grant a hearing regarding any final decision of school personnel within the local
2 school administrative unit. The local board of education shall notify the person making
3 the petition of its decision whether to grant a hearing.

4 In all appeals to the board it is the duty of the board of education to see that a proper
5 notice is given to all parties concerned and that a record of the hearing is properly
6 entered in the records of the board conducting the hearing.

7 The board of education may designate hearing panels composed of not less than two
8 members of the board to hear and act upon such appeals in the name and on behalf of
9 the board of education.

10 An appeal of right brought before a local board of education under subdivision (1),
11 (2), (3), or (4) of this subsection may be further appealed to the superior court of the
12 State on the grounds that the local board's decision is in violation of constitutional
13 provisions, is in excess of the statutory authority or jurisdiction of the board, is made
14 upon unlawful procedure, is affected by other error of law, is unsupported by substantial
15 evidence in view of the entire record as submitted, or is arbitrary or capricious.
16 However, the right of a noncertified employee to appeal decisions of a local board under
17 subdivision (3) of this subsection shall only apply to decisions concerning the dismissal,
18 demotion, or suspension without pay of the noncertified employee. A noncertified
19 employee may request and shall be entitled to receive written notice as to the reasons
20 for the employee's dismissal, demotion, or suspension without pay. The notice shall be
21 provided to the employee prior to any local board of education hearing on the issue.
22 This subsection shall not alter the employment status of a noncertified employee."

23 **SECTION 6.1.** G.S. 115C-391(d4) as enacted by S.L. 2001-244 is
24 recodified as G.S. 115C-391(d5).

25 **SECTION 7.** Section 1 of this act is effective when it becomes law and
26 applies to contracts entered into, renewed, or modified after that date. Sections 4-6 of
27 this act become effective February 1, 2002. The remainder of this act is effective when
28 it becomes law.