

1 SB424
2 151509-1
3 By Senator Brewbaker
4 RFD: Education
5 First Read: 11-APR-13

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8 SYNOPSIS: Under existing law, student record data is
9 shared between high schools and colleges and
10 universities.

11 This bill would explicitly prohibit the
12 Department of Education, the State Board of
13 Education, local boards of education, public and
14 private schools, and public and private two-year
15 and four-year institutions of higher learning from
16 disclosing personally identifiable student
17 information to any third party without consent,
18 except in limited circumstances.

19 This bill would prohibit the use of any
20 personally identifiable student information for the
21 development of commercial products or services.

22 This bill would authorize the Attorney
23 General to enforce the provisions of this act.

24 This bill would also require the State
25 Auditor to periodically perform audits to ensure
26 compliance with the provisions of this act.

1 A BILL
2 TO BE ENTITLED
3 AN ACT
4

5 Relating to education; to prohibit the Department of
6 Education, the State Board of Education, local boards of
7 education, and schools, colleges, and universities from
8 disclosing personally identifiable student information to any
9 third party without consent, except in limited circumstances;
10 to prohibit the use of any personally identifiable student
11 information for the development of commercial products or
12 services; to authorize the Attorney General to enforce the
13 provisions of this act; and to require the State Auditor to
14 periodically perform audits to ensure compliance with the
15 provisions of this act.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. As used in this act, the following terms
18 have the following meanings:

19 (1) BIOMETRIC RECORD. A record of one or more
20 measurable biological or behavioral characteristics that can
21 be used for automated recognition of an individual, including
22 fingerprints, retina and iris patterns, voiceprints, DNA
23 sequence, facial characteristics, or handwriting.

24 (2) PERSONALLY IDENTIFIABLE STUDENT INFORMATION.
25 Includes, but is not limited to, any of the following
26 information about a student:

27 a. Name.

1 b. Name of the student's parent or another family
2 member.

3 c. Address of the student or student's family.

4 d. Personal identifier, such as the student's Social
5 Security number, student number, or biometric records.

6 e. Other indirect identifiers, such as the student's
7 date of birth, place of birth, or mother's maiden name.

8 f. Other information that, alone or in combination,
9 is linked or linkable to a specific student that would allow a
10 reasonable person in the school community, who does not have
11 personal knowledge of the relevant circumstances, to identify
12 the student with reasonable certainty.

13 g. Information requested by a person who the
14 Department of Education, the State Board of Education, a
15 county or city board of education, or a school reasonably
16 believes knows the identity of the student to whom the
17 education record relates.

18 (3) SCHOOL. Any public or private elementary or
19 secondary school or two-year or four-year institution of
20 higher learning.

21 (4) STUDENT. Any person with respect to whom the
22 Department of Education, the State Board of Education, a
23 county or city board of education, or a school maintains
24 education records or personally identifiable information, but
25 does not include a person who has not been in attendance at
26 such agency or school.

1 Section 2. (a) The Department of Education, the
2 State Board of Education, a county or city board of education,
3 or a school may not disclose any personally identifiable
4 student information to any third party without parental
5 consent, or in the case of students 18 years of age or older,
6 the consent of the student, except where:

7 (1) Disclosure is required by law.

8 (2) Disclosure is pursuant to a court order or
9 subpoena.

10 (3) Disclosure is to a third party pursuant to a
11 contract whereby the entity is performing administrative,
12 technical, or transactional functions that would either be
13 performed by employees of the Department of Education, State
14 Board of Education, county or city board of education, or
15 school, provided that the contractor:

16 a. Agrees not to disclose or use the personally
17 identifiable student information for any other purpose.

18 b. Maintains reasonable administrative, technical,
19 and physical safeguards to protect the security,
20 confidentiality, and integrity of the personally identifiable
21 student information.

22 c. Indemnifies the Department of Education, State
23 Board of Education, county or city board of education, or
24 school for any damages due to a violation of this section.

25 (4) Disclosure is to a third party for the purpose
26 of a research study carried out by or on the behalf of the

1 Department of Education, State Board of Education, county or
2 city board of education, or school.

3 (5) Disclosure is for the purpose of a state or
4 federal audit or evaluation by entities authorized under state
5 or federal law.

6 (6) Disclosure is necessary due to a health or
7 safety emergency.

8 (b) Detailed records of all non-consensual
9 disclosures pursuant to subsection (a) shall be included in
10 the corresponding student's educational records.

11 (c) Where the Department of Education, State Board
12 of Education, county or city board of education, or school
13 makes a disclosure pursuant to subdivision (4) of subsection
14 (a) or pursuant to subdivision (5) of subsection (a) where
15 practicable, it shall post on its website, send home via mail,
16 and make otherwise publicly available all of the following:

17 (1) The particular type or types of personally
18 identifiable student information that is to be disclosed.

19 (2) The entity to which the disclosure is to be
20 made.

21 (3) The purpose of the study, audit, or evaluation
22 and why the disclosure is necessary for its completion.

23 (4) The specific time frame during which the
24 personally identifiable student information will be utilized
25 and then securely destroyed.

26 (5) The entity's assurance of compliance with
27 administrative, technical, and physical safeguards, including

1 all the federal and state data privacy and data safeguarding
2 rules the Department of Education, State Board of Education,
3 county or city board of education, or school is subject to, to
4 protect the security, confidentiality, and integrity of the
5 personally identifiable student information.

6 (6) The entity's indemnification of the Department
7 of Education, State Board of Education, county or city board
8 of education, or school for any violation of this section.

9 (d) Notification and consent forms shall include:

10 (1) The scope, purpose, and allowable uses of the
11 personally identifiable student information.

12 (2) The risk of data breaches and the reasonable
13 administrative, technical, and physical safeguards used to
14 protect the security, confidentiality, and integrity of the
15 personally identifiable student information.

16 (3) Information regarding who is legally and
17 financially responsible should there be a violation of this
18 section.

19 (e) Notwithstanding subsection (a), the Department
20 of Education, the State Board of Education, a county or city
21 board of education, a school, and any other entity may not use
22 any personally identifiable student information for the
23 development of commercial products or services or disclose any
24 personally identifiable student information to any third party
25 for the development of commercial products or services.

26 (f) Any person or entity found in violation of the
27 provisions of this section shall be prohibited from obtaining

1 personally identifiable student information for a period of no
2 less than five years.

3 (g) Nothing in this section shall limit the
4 provisions of Section 16-5-7, Code of Alabama 1975, or limit
5 the administrative use of school records by a person acting
6 exclusively in the person's capacity as an employee of a
7 school, a board of education, or of the state or any of its
8 political subdivisions, any court, or the federal government,
9 that demonstrates an appropriate need for the information.

10 Section 3. The Attorney General shall have the
11 authority to oversee and enforce compliance with this act and
12 to impose appropriate penalties on those found in violation of
13 any of its provisions.

14 Section 4. With regard to Section 2, the State
15 Auditor shall carry out regular audits to ensure all of the
16 following:

17 (1) Proper procedures have been used.

18 (2) Relevant notification and consent forms are
19 completed.

20 (3) Security and privacy protection measures used in
21 the storage, transmission, and usage of personally
22 identifiable student information are effective and accurately
23 described in the notification documents.

24 Section 5. This act shall become effective on the
25 first day of the third month following its passage and
26 approval by the Governor, or its otherwise becoming law.