

By the Committee on Education and Senator Laurent

304-1098-00

1 A bill to be entitled
2 An act relating to student records; amending s.
3 228.093, F.S.; revising terminology; revising
4 definitions; revising exceptions; expanding the
5 right to a hearing; providing a penalty for
6 third party violation; clarifying and revising
7 lawful release of records and directory
8 information in certain circumstances; expanding
9 notification requirements; authorizing the
10 release of personally identifiable student
11 records to the Department of Highway Safety and
12 Motor Vehicles for purposes of the compulsory
13 attendance driver's license eligibility
14 requirements and to the Department of Children
15 and Family Services for purposes of the
16 Learnfare program compulsory attendance
17 requirements; amending s. 232.23, F.S.,
18 relating to maintenance and transfer of student
19 records, and s. 411.223, F.S., relating to
20 preventive health care services, to conform;
21 reenacting ss. 229.57(6), 240.237, 240.323,
22 240.40401, 242.3315, and 381.0056(5)(p), F.S.,
23 relating to student assessment, university
24 student records, community college student
25 records, student financial assistance, student
26 and employee personnel records, and school
27 health services, to incorporate the amendment
28 of section 228.093, F.S.; providing an
29 effective date.

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31 Be It Enacted by the Legislature of the State of Florida:

1 Section 1. Section 228.093, Florida Statutes, is
2 amended to read:

3 228.093 ~~Pupil and~~ Student records and reports; rights
4 of parents, ~~guardians, pupils,~~ and eligible students;
5 notification; penalty.--

6 (1) PURPOSE.--The purpose of this section is to
7 protect the rights of ~~pupils and~~ students and their parents ~~or~~
8 ~~guardians~~ with respect to ~~pupil and~~ student records and
9 reports as created, maintained, or ~~and~~ used by public
10 educational institutions in the state. The intent of the
11 Legislature is that ~~pupils and students and their parents and~~
12 eligible students ~~or guardians~~ shall have rights of access,
13 rights of challenge, rights of hearing, and rights of privacy
14 with respect to such records and reports, and that rules shall
15 be available for the exercise of these rights.

16 (2) DEFINITIONS.--As used in this section:

17 (a) "Chief executive officer" means that person,
18 whether elected or appointed, who is responsible for the
19 management and administration of any public educational body
20 or unit, or the chief executive officer's designee for ~~pupil~~
21 ~~or~~ student records; that is, the superintendent of a district
22 school system, the director of an ~~the~~ area technical center,
23 the president of a community college, or the president of an
24 institution in the State University System, or their
25 designees.

26 ~~(b) "Child" means any person who has not reached the~~
27 ~~age of majority.~~

28 (b)(c) "Directory information" means information
29 contained in an educational record of a student which would
30 not generally be considered harmful or an invasion of privacy
31 if disclosed. It includes the ~~pupil's or~~ student's name,

1 address, telephone number if it is a listed number, date and
2 place of birth, major field of study, participation in
3 officially recognized activities and sports, weight and height
4 of members of athletic teams, dates of attendance, degrees and
5 awards received, and the most recent previous educational
6 agency or institution attended by the ~~pupil~~ or student.

7 (c) "Disciplinary action or proceeding" means the
8 investigation, adjudication, or imposition of sanctions by the
9 institution with respect to an infraction or violation of the
10 internal rules of conduct applicable to students of the
11 institution.

12 (d) "Disclosure" means to permit access to or the
13 release, transfer, or other communication of personally
14 identifiable information contained in education records to any
15 party, by any means, including oral, written, or electronic
16 means.

17 (e) "Eligible student" means a student who has reached
18 18 years of age or is attending an institution of
19 postsecondary education.

20 (f) "Parent" means a parent of the student and
21 includes a natural parent, a guardian, or an individual acting
22 as a parent in the absence of a parent or a guardian.

23 (g) "Personally identifiable information" includes,
24 but is not limited to: the student's name; the name of the
25 student's parent or other family member; the address of the
26 student or student's family; a personal identifier, such as
27 the student's social security number; a list of personal
28 characteristics that would make the student's identity easily
29 traceable; or other information that would make the student's
30 identity easily traceable.

31

1 ~~(d) "Pupil" means any child who is enrolled in any~~
2 ~~instructional program or activity conducted under the~~
3 ~~authority and direction of a district school board.~~

4 (h)(e) "Records" and "reports" mean ~~any and all~~
5 official records, files, and data directly related to a
6 student pupils and students which are created, maintained, or
7 and used by a public educational institution institutions, or
8 by a party acting for the institution, including all material
9 that is incorporated into each ~~pupil's or~~ student's cumulative
10 record folder and intended for school use or to be available
11 to parties outside the school or school system for legitimate
12 educational or research purposes. Materials which shall be
13 considered as part of a ~~pupil's or~~ student's record include,
14 but are not necessarily limited to: identifying data,
15 including a student's social security number; academic work
16 completed; level of achievement records, including grades and
17 standardized achievement test scores; attendance data; scores
18 on standardized intelligence, aptitude, and psychological
19 tests; interest inventory results; health information data;
20 family background information; teacher or counselor ratings
21 and observations; verified reports of serious or recurrent
22 behavior patterns; and any other evidence, knowledge, or
23 information recorded in any medium, ~~including, but not limited~~
24 ~~to, handwriting, typewriting, print, magnetic tapes, film,~~
25 ~~microfilm, and microfiche,~~ and maintained or and used by an
26 educational agency or institution or by a person acting for
27 such agency or institution. However, the terms "records" and
28 "reports" do not include:

29 1. Records of instructional, supervisory, and
30 administrative personnel, and educational personnel ancillary
31 to those persons, that are kept in the sole possession of the

1 maker of the record thereto, which records are in the sole
2 possession of the maker thereof and are not accessible or
3 revealed to any other person except a substitute for any of
4 such persons. An example of records of this type is
5 instructor's grade books.

6 2. Records of law enforcement units of the institution
7 which are created by a law enforcement unit for a law
8 enforcement purpose, and maintained by the law enforcement
9 unit maintained solely for law enforcement purposes and which
10 are not available to persons other than officials of the
11 institution or law enforcement officials of the same
12 jurisdiction in the exercise of that jurisdiction.

13 3. Records made and maintained by the institution in
14 the normal course of business which relate exclusively to an
15 individual a pupil or student in his or her capacity as an
16 employee and which are not available for use for any other
17 purpose. Records relating to an individual in attendance at
18 the institution who is employed as a result of his or her
19 status as a student are education records and are not
20 excepted.

21 4. Records created or maintained by a physician,
22 psychiatrist, psychologist, or other recognized professional
23 or paraprofessional acting in his or her professional or
24 paraprofessional capacity, or assisting in that capacity,
25 which are created, maintained, or used only in connection with
26 the provision of treatment to the ~~pupil or student~~ and ~~which~~
27 are not available to anyone other than persons providing such
28 treatment. For the purpose of this definition, "treatment"
29 does not include remedial educational activities or activities
30 that are part of the program of instruction at the
31 institution. However, such records shall be open to a

1 physician or other appropriate professional of the parent's
2 ~~pupil's~~ or eligible student's choice.

3 5. Directory information as defined in this section.

4 6. Records that only contain information about an
5 individual after he or she is no longer a student at that
6 institution.

7 ~~7.6.~~ Other information, files, or data which do not
8 permit the personal identification of a ~~pupil or~~ student.

9 ~~8.7.~~ Letters or statements of recommendation or
10 evaluation which were confidential under Florida law and which
11 were received and made a part of the ~~pupil's or~~ student's
12 educational records prior to July 1, 1977.

13 ~~9.8.~~ Copies of the ~~pupil's or~~ student's fingerprints.
14 No public educational institution shall maintain any report or
15 record relative to a ~~pupil or~~ student which includes a copy of
16 the ~~pupil's or~~ student's fingerprints except as otherwise
17 provided by law.

18 ~~(i)(f)~~ "Student" means any child or adult who is
19 enrolled or who has been enrolled in any instructional program
20 or activity conducted under the authority ~~and direction~~ of an
21 institution comprising a part of the state system of public
22 education and with respect to whom an educational institution
23 maintains educational records and reports or personally
24 identifiable information, but does not include a person who
25 has not been in attendance as an enrollee at such institution.

26 (3) RIGHTS OF PARENT, ~~GUARDIAN, PUPIL,~~ OR ELIGIBLE
27 STUDENT.--The parent ~~or guardian~~ of any ~~pupil or~~ student who
28 attends or has attended any public school, area
29 vocational-technical training center, community college, or
30 institution of higher education in the State University System
31 shall have the following rights with respect to any records or

1 reports created, maintained, or ~~and~~ used by any public
2 educational institution in the state. However, whenever a
3 ~~pupil or~~ student has attained 18 years of age, or is attending
4 an institution of postsecondary education, the permission or
5 consent required of, and the rights accorded to, the parents
6 of the ~~pupil or~~ student shall thereafter be required of and
7 accorded to the eligible ~~pupil or~~ student ~~only, unless the~~
8 ~~pupil or student is a dependent pupil or student of such~~
9 ~~parents as defined in 26 U.S.C. s. 152 (s. 152 of the Internal~~
10 ~~Revenue Code of 1954)~~. The State Board of Education shall
11 ~~formulate, adopt, and promulgate~~ rules whereby parents,
12 ~~guardians, pupils, or~~ eligible students may exercise these
13 rights:

14 (a) Right of access.--

15 1. The ~~Such~~ parent, ~~guardian, pupil, or~~ eligible
16 student has ~~shall have~~ the right, upon request directed to the
17 appropriate school official, to be provided with a list of the
18 types of records and reports, directly related to ~~pupils or~~
19 students, as maintained by the institution which the ~~pupil or~~
20 student attends or has attended.

21 2. The ~~Such~~ parent, ~~guardian, pupil, or~~ eligible
22 student has ~~shall have~~ the right, upon request, to inspect and
23 review ~~be shown~~ any record or report relating to the ~~such~~
24 ~~pupil or~~ student maintained by any public educational
25 institution. When the record or report includes information
26 on more than one ~~pupil or~~ student, the parent, ~~guardian,~~
27 ~~pupil, or~~ eligible student is ~~shall be~~ entitled to receive, or
28 be informed of, only that part of the record or report which
29 pertains to the ~~pupil or~~ student who is the subject of the
30 request. Upon a reasonable request ~~therefor,~~ the institution
31 shall furnish the ~~such~~ parent, ~~guardian, pupil, or~~ eligible

1 student with an explanation or interpretation of any such
2 record or report.

3 3. Copies of any list, record, or report requested
4 under the provisions of this paragraph shall be furnished to
5 the parent, ~~guardian, pupil,~~ or eligible student upon request.

6 4. The State Board of Education shall establish rules
7 to be followed by all public educational institutions in
8 granting requests for lists, or for access to reports and
9 records or for copies or explanations thereof under this
10 paragraph. However, access to any report or record requested
11 under the provisions of subparagraph 2. shall be granted
12 within 30 days after receipt of such request by the
13 institution. Fees may be charged for furnishing any copies of
14 reports or records requested under subparagraph 3., but such
15 fees shall not exceed the actual cost to the institution of
16 producing the ~~such~~ copies.

17 (b) Right of waiver of access to confidential letters
18 or statements.--~~The~~ Such parent, ~~guardian, pupil,~~ or eligible
19 student has ~~shall have~~ the right to waive the right of access
20 to letters or statements of recommendation or evaluation,
21 except that such waiver shall apply to recommendations or
22 evaluations only if:

23 1. The parent, ~~guardian, pupil,~~ or eligible student
24 is, upon request, notified of the names of all persons
25 submitting confidential letters or statements; and

26 2. Such recommendations or evaluations are used solely
27 for the purpose for which they were specifically intended.

28
29 Such waivers may not be required as a condition for admission
30 to, receipt of financial aid from, or receipt of any other

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1 services or benefits from, any public agency or public
2 educational institution in this state.

3 (c) Right to challenge ~~and hearing~~.--If a parent or
4 eligible student believes the education records relating to
5 the student contain information that is inaccurate,
6 misleading, or in violation of the student's rights of
7 privacy, the parent or eligible student may ask the
8 institution to amend the record. The institution shall decide
9 whether to amend the record as requested within a reasonable
10 time after the institution receives the request. If the
11 institution decides not to amend the record as requested, it
12 shall inform the parent or eligible student of its decision
13 and of his or her right to a hearing under paragraph (d) and
14 rules adopted by the State Board of Education.~~Such parent,~~
15 ~~guardian, pupil, or student shall have the right to challenge~~
16 ~~the content of any record or report to which such person is~~
17 ~~granted access under paragraph (a), in order to ensure that~~
18 ~~the record or report is not inaccurate, misleading, or~~
19 ~~otherwise in violation of the privacy or other rights of the~~
20 ~~pupil or student and to provide an opportunity for the~~
21 ~~correction, deletion, or expunction of any inaccurate,~~
22 ~~misleading, or otherwise inappropriate data or material~~
23 ~~contained therein. Any challenge arising under the provisions~~
24 ~~of this paragraph may be settled through informal meetings or~~
25 ~~discussions between the parent, guardian, pupil, or student~~
26 ~~and appropriate officials of the educational institution. If~~
27 ~~the parties at such a meeting agree to make corrections, to~~
28 ~~make deletions, to expunge material, or to add a statement of~~
29 ~~explanation or rebuttal to the file, such agreement shall be~~
30 ~~reduced to writing and signed by the parties; and the~~
31 ~~appropriate school officials shall take the necessary actions~~

1 ~~to implement the agreement. If the parties cannot reach an~~
2 ~~agreement, upon the request of either party, a hearing shall~~
3 ~~be held on such challenge under rules promulgated by the State~~
4 ~~Board of Education. Upon the request of the parent, guardian,~~
5 ~~pupil, or student, the hearing shall be exempt from the~~
6 ~~requirements of s. 286.011. Such rules shall include at least~~
7 ~~the following provisions:~~

8 ~~1. The hearing shall be conducted within a reasonable~~
9 ~~period of time following the request for the hearing.~~

10 ~~2. The hearing shall be conducted, and the decision~~
11 ~~rendered, by an official of the educational institution or~~
12 ~~other party who does not have a direct interest in the outcome~~
13 ~~of the hearing.~~

14 ~~3. The parent, guardian, pupil, or student shall be~~
15 ~~afforded a full and fair opportunity to present evidence~~
16 ~~relevant to the issues raised under this paragraph.~~

17 ~~4. The decision shall be rendered in writing within a~~
18 ~~reasonable period of time after the conclusion of the hearing.~~

19 ~~5. The appropriate school officials shall take the~~
20 ~~necessary actions to implement the decision.~~

21 (d) Right to hearing.--

22 1. An educational institution shall give a parent or
23 eligible student, on request, an opportunity for a hearing to
24 challenge the content of the student's education records on
25 the grounds that the information contained in the education
26 records is inaccurate, misleading, or in violation of the
27 privacy rights of the student. Upon request of the parent or
28 eligible student, the hearing shall be exempt from the
29 requirements of s. 286.011.

30 2. If, as a result of the hearing, the institution
31 decides that the information is inaccurate, misleading, or

1 otherwise in violation of the privacy rights of the student,
2 it shall amend the record accordingly and inform the parent or
3 eligible student in writing.

4 3. If, as a result of the hearing, the institution
5 decides that the information in the education record is not
6 inaccurate, misleading, or otherwise in violation of the
7 privacy rights of the student, it shall inform the parent or
8 eligible student of the right to place a statement in the
9 record commenting on the contested information in the record
10 or stating why he or she disagrees with the decision of the
11 institution, or both.

12 4. If an institution places a statement in the
13 education records of a student under subparagraph 3., the
14 institution shall maintain the statement with the contested
15 part of the record for as long as the record is maintained,
16 and disclose the statement whenever it discloses the portion
17 of the record to which the statement relates.

18 (e) Requirements for a hearing.--A hearing under
19 paragraph (d) must meet the following requirements:

20 1. The institution shall hold the hearing within a
21 reasonable time after it has received the request for the
22 hearing from the parent or eligible student.

23 2. The institution shall give the parent or eligible
24 student notice of the date, time, and place, reasonably in
25 advance of the hearing.

26 3. The hearing may be conducted by any individual,
27 including an official of the institution, who does not have a
28 direct interest in the outcome of the hearing.

29 4. The institution shall give the parent or eligible
30 student a full and fair opportunity to present evidence
31 relevant to the issues raised. The parent or eligible student

1 may, at his or her own expense, be assisted or represented by
2 one or more individuals of his or her choice, including an
3 attorney.

4 5. The institution shall make its decision in writing
5 within a reasonable period of time after the hearing.

6 6. The decision must be based solely on the evidence
7 presented at the hearing and must include a summary of the
8 evidence and the reasons for the decision.

9 7. The appropriate school officials shall take the
10 necessary actions to implement the decision.

11 (f)(d) Right of privacy.--Every pupil or student has
12 shall have a right of privacy with respect to the educational
13 records of the student kept on him or her. Personally
14 identifiable records or reports of a ~~pupil or~~ student, and any
15 personal information contained therein, are confidential and
16 exempt from the provisions of s. 119.07(1). No state or local
17 educational agency, board, public school, area technical
18 center, community college, or institution of higher education
19 in the State University System shall permit the release of
20 such records, reports, or information without the written
21 consent of the ~~pupil's or student's parent or guardian,~~ or of
22 the eligible pupil or student himself or herself if he or she
23 is qualified as provided in this subsection, to any
24 individual, agency, or organization. However, personally
25 identifiable records or reports of a ~~pupil or~~ student may be
26 released to the following persons or organizations without the
27 consent of the ~~pupil or the pupil's~~ parent or eligible
28 student:

29 1. Officials of schools, school systems, area
30 technical centers, community colleges, or institutions of
31 higher learning in which the ~~pupil or~~ student seeks or intends

1 to enroll; and a copy of such records or reports shall be
2 furnished to the parent, ~~guardian, pupil, or~~ eligible student
3 upon request.

4 2. Other school officials, including teachers within
5 the educational institution or agency, who have legitimate
6 educational interests in the information contained in the
7 records.

8 3. The United States Secretary of Education, ~~the~~
9 ~~Director of the National Institute of Education, the Assistant~~
10 ~~Secretary for Education,~~ the Comptroller General of the United
11 States, or state or local educational authorities who are
12 authorized to receive such information subject to the
13 conditions set forth in applicable federal statutes and
14 regulations of the United States Department of Education, or
15 in applicable state statutes and rules of the State Board of
16 Education.

17 4. Relevant ~~Other school~~ officials, in connection with
18 ~~a pupil's or student's application for or receipt of financial~~
19 aid for which the student has applied or which the student has
20 received, if the information is necessary to determine
21 eligibility for the aid, the amount of the aid, or the
22 conditions for the aid, or to enforce the terms and conditions
23 of the aid. "Financial aid" means a payment of funds provided
24 to an individual or a payment in kind of tangible or
25 intangible property to the individual that is conditioned on
26 the individual's attendance at an institution.

27 5. Individuals or organizations, including but not
28 limited to federal, state, and local agencies, and independent
29 organizations, conducting studies for or on behalf of an
30 institution ~~or a board of education~~ for the purpose of
31 developing, validating, or administering predictive tests,

1 administering ~~pupil or~~ student aid programs, or improving
2 instruction, if such studies are conducted in such a manner as
3 will not permit the personal identification of ~~pupils or~~
4 students and their parents by persons other than
5 representatives of such organizations and if such information
6 will be destroyed when no longer needed for the purpose of
7 conducting such studies. If the United States Department of
8 Education Family Policy Compliance Office determines that a
9 third party, outside the institution to whom information is
10 disclosed under this subparagraph, violates this subparagraph,
11 the institution may not allow that third party access to
12 personally identifiable information from education records for
13 at least 5 years.

14 6. Accrediting organizations, in order to carry out
15 their accrediting functions.

16 7. For use as evidence in ~~pupil or~~ student expulsion
17 hearings conducted by a district school board pursuant to the
18 provisions of chapter 120.

19 8. Appropriate parties in connection with an
20 emergency, if knowledge of the information in the ~~pupil's or~~
21 student's educational records is necessary to protect the
22 health or safety of the pupil, student, or other individuals.

23 9. The Auditor General in connection with his or her
24 official functions; however, except when the collection of
25 personally identifiable information is specifically authorized
26 by law, any data collected by the Auditor General is
27 confidential and exempt from the provisions of s. 119.07(1)
28 and shall be protected in such a way as will not permit the
29 personal identification of students and their parents by other
30 than the Auditor General and his or her staff, and such
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1 personally identifiable data shall be destroyed when no longer
2 needed for the Auditor General's official use.

3 10.~~a.~~ A court of competent jurisdiction in compliance
4 with an order of that court or the attorney of record pursuant
5 to a lawfully issued subpoena, upon the condition that the
6 ~~pupil or student and the pupil's or student's parent~~ or
7 eligible student is ~~are~~ notified of the order or subpoena in
8 advance of compliance ~~therewith~~ by the educational institution
9 or agency so that the parent or eligible student may seek
10 protective action, unless the disclosure is in compliance with
11 a court order that the existence or the contents of the
12 subpoena or the information furnished in response to the
13 subpoena not be disclosed. If the institution initiates legal
14 action against a parent or student and has complied with this
15 subparagraph it may disclose the student's education records
16 that are relevant to the action to the court without a court
17 order or subpoena.

18 ~~b.~~ A person or entity pursuant to a court of competent
19 jurisdiction in compliance with an order of that court or the
20 attorney of record pursuant to a lawfully issued subpoena,
21 upon the condition that the pupil or student, or his or her
22 parent if the pupil or student is either a minor and not
23 attending an institution of postsecondary education or a
24 dependent of such parent as defined in 26 U.S.C. s. 152 (~~s.~~
25 ~~152~~ of the Internal Revenue Code of 1954), is notified of the
26 order or subpoena in advance of compliance ~~therewith~~ by the
27 educational institution or agency.

28 11. Credit bureaus, in connection with an agreement
29 for financial aid which the student has executed, provided
30 that such information may be disclosed only to the extent
31 necessary to enforce the terms or conditions of the financial

1 aid agreement. Credit bureaus shall not release any
2 information obtained pursuant to this paragraph to any person.
3 12. Parties to an interagency agreement among the
4 Departments ~~Department~~ of Children and Family Services or
5 Juvenile Justice, school and law enforcement authorities, and
6 other signatory agencies for the purpose of reducing juvenile
7 crime ~~and especially motor vehicle theft~~ by promoting
8 cooperation and collaboration, and the sharing of appropriate
9 information in a joint effort to improve school safety, to
10 reduce truancy, to reduce ~~in-school and out-of-school~~
11 suspensions, to support alternatives to ~~in-school and~~
12 ~~out-of-school~~ suspensions and expulsions ~~that provide~~
13 ~~structured and well-supervised educational programs~~
14 ~~supplemented by a coordinated overlay of other appropriate~~
15 ~~services designed to correct behaviors that lead to truancy,~~
16 ~~suspensions, and expulsions,~~ and to which support students in
17 successfully completing their education. The interagency
18 agreement must specify the conditions under which information
19 is to be shared. All parties entering into such agreement
20 must maintain confidentiality of the information unless
21 otherwise provided by law.Information provided to further ~~in~~
22 ~~furtherance of~~ such interagency agreements is intended solely
23 for use in determining the appropriate programs and services
24 for each juvenile or the juvenile's family, or for
25 coordinating the delivery of such programs and services, and
26 as such is inadmissible in any court proceedings prior to a
27 dispositional hearing unless written consent is provided by a
28 parent, ~~guardian, or other responsible adult~~ on behalf of the
29 juvenile.
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1 13. The Department of Highway Safety and Motor
2 Vehicles for purposes of the compulsory attendance driver's
3 license eligibility requirements of s. 322.091.

4 14. The Department of Children and Family Services for
5 purposes of the Learnfare program compulsory attendance
6 requirements of s. 414.125.

7 15. The parent of a dependent student, as defined in
8 Title 26, United States Code, Section 152, the Internal
9 Revenue Code of 1986.

10 16. The parent of a student who is not an eligible
11 student or to the eligible student.

12 17. The alleged victim of any crime of violence, as
13 that term is defined in Title 18, United States Code Section
14 16, of the results of any disciplinary proceeding conducted by
15 an institution of postsecondary education against the alleged
16 perpetrator of that crime with respect to that crime.

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18 ~~This paragraph does not prohibit any educational institution~~
19 ~~from publishing and releasing to the general public directory~~
20 ~~information relating to a pupil or student if the institution~~
21 ~~elects to do so. However, no No school district or K-12~~
22 ~~educational institution shall release, to any individual,~~
23 ~~agency, business, or organization which is not listed in~~
24 ~~subparagraphs 1.-17.1.-11., or to an individual student,~~
25 ~~directory information relating to an individual student or~~
26 ~~students or the student body in general unless the school~~
27 ~~district or K-12 educational institution has received the~~
28 ~~written consent of the parents of the students to whom the~~
29 ~~information relates or a portion thereof unless it is normally~~
30 ~~published for the purpose of release to the public in general.~~
31 ~~Any non-K-12 educational institution desiring to make ~~making~~~~

1 directory information public shall give public notice of the
2 categories of information which it has designated as directory
3 information with respect to all ~~pupils or~~ students attending
4 the institution and shall allow a reasonable period of time
5 after such notice has been given for a parent, ~~guardian,~~
6 ~~pupil,~~ or eligible student to inform the institution in
7 writing that any or all of the information designated should
8 not be released. Prior to releasing directory information, any
9 school district or K-12 educational institution that intends
10 to make directory information public shall provide written
11 notification to the parent of each student whose information
12 will be released, listing the specific directory information
13 to be released and the individual, agency, business, or
14 organization to receive the information. If prior written
15 authorization from the parent or eligible student is not
16 obtained for that release of information, the information
17 shall not be released. However, this paragraph does not
18 prohibit any school district or K-12 educational institution
19 from publishing and releasing to the general public the name
20 or size of any student participating in school activities or
21 extracurricular activities or receiving an honor, provided
22 that the student's address or telephone number is not
23 disclosed without the written consent of the parent; and
24 provided further that if the parent so directs, the school
25 district or K-12 educational institution shall not release any
26 information whatsoever on the student under any circumstances.

27 (4) NOTIFICATION.--

28 (a) Parents of students currently in attendance or
29 eligible students currently in attendance ~~Every parent,~~
30 ~~guardian, pupil, and student entitled to rights relating to~~
31 ~~pupil and student records and reports under the provisions of~~

1 ~~subsection (3)~~ shall be notified annually, in writing, of such
2 rights and that the institution has a policy of supporting the
3 law; the types of information and data generally entered in
4 the ~~pupil and~~ student records as maintained by the
5 institution; and the procedures to be followed in order to
6 exercise such rights.

7 (b) The notification shall be general in form and in a
8 manner to be determined by the State Board of Education and
9 may be incorporated with other printed materials distributed
10 to ~~pupils and~~ students, such as being printed on the back of
11 school assignment forms or report cards for students ~~pupils~~
12 attending kindergarten or grades 1 through 12 in the public
13 school system and being printed in college catalogs or in
14 other program announcement bulletins for students attending
15 postsecondary institutions.

16 (c) The notice must inform parents or eligible
17 students that they have the right to:

18 1. Inspect and review the student's education records.

19 2. Seek amendment of the student's education records
20 that the parent or eligible student believes to be inaccurate,
21 misleading, or otherwise in violation of the student's privacy
22 rights.

23 3. Consent to disclosures of personally identifiable
24 information contained in the student's education records
25 except to the extent that disclosure is authorized.

26 4. File with the United States Department of Education
27 Family Policy Compliance Office concerning alleged failures by
28 the institution to comply with the requirements of this
29 section.

30 (d) The notice must include the procedure for
31 exercising the right to inspect and review education records

1 and the procedures for requesting amendment of records under
2 this section.

3 (e) The institution shall effectively provide this
4 notification to parents or eligible students who are disabled.

5 (f) An institution of elementary or secondary
6 education shall effectively notify parents who have a primary
7 home language other than English.

8 (5) PENALTY.--In the event that any public school
9 official or employee, State University System official or
10 employee, area technical center official or employee,
11 community college official or employee, or district school
12 board official or employee refuses to comply with any of the
13 provisions of this section, the aggrieved parent, ~~guardian,~~
14 ~~pupil,~~ or eligible student ~~has~~ ~~shall have~~ an immediate right
15 to bring an action in the circuit court to enforce the
16 violated right by injunction. Any aggrieved parent, ~~guardian,~~
17 ~~pupil,~~ or eligible student who brings such an action and whose
18 rights are vindicated may be awarded attorney's fees and court
19 costs.

20 (6) APPLICABILITY TO RECORDS OF DEFUNCT
21 INSTITUTIONS.--The provisions of this section also apply to
22 ~~pupil or~~ student records which any nonpublic educational
23 institution that is no longer operating has deposited with the
24 district school superintendent in the county where the
25 nonpublic educational institution was located or with the
26 clerk of the circuit court of that county; with the Department
27 of Education; with the Division of Library and Information
28 Services, records and information management program, of the
29 Department of State; or with any other public agency.

30 Section 2. Section 232.23, Florida Statutes, is
31 amended to read:

1 232.23 Procedures for maintenance and transfer of
2 student ~~pupil~~ records.--

3 (1) Each principal shall maintain a permanent
4 cumulative record for each student ~~pupil~~ enrolled in a public
5 school. Such record shall be maintained in the form, and
6 contain all data, prescribed by rule by the Commissioner of
7 Education. The cumulative record is confidential and exempt
8 from the provisions of s. 119.07(1) and is open to inspection
9 only as provided in s. 228.093.

10 (2) The procedure for transferring and maintaining
11 records of students ~~pupils~~ who transfer from school to school
12 shall be prescribed by regulations of the commissioner.

13 (3) Procedures relating to the acceptance of transfer
14 work and credit for students ~~pupils~~ shall be prescribed by
15 rule by the Commissioner of Education.

16 Section 3. Section 411.223, Florida Statutes, is
17 amended to read:

18 411.223 Uniform standards.--

19 (1) The Department of Children and Family ~~Health and~~
20 ~~Rehabilitative~~ Services, in consultation with the Department
21 of Education, shall establish a minimum set of procedures for
22 each preschool child who receives preventive health care with
23 state funds. Preventive health care services shall meet the
24 minimum standards established by federal law for the Early
25 Periodic Screening, Diagnosis, and Treatment Program and shall
26 provide guidance on screening instruments which are
27 appropriate for identifying health risks and handicapping
28 conditions in preschool children.

29 (2) Duplicative diagnostic and planning practices
30 shall be eliminated to the extent possible. Diagnostic and
31 other information necessary to provide quality services to

1 high-risk or handicapped children shall be shared among the
2 program offices of the Department of Children and Family
3 ~~Health and Rehabilitative~~ Services, pursuant to the provisions
4 of s. 228.093.

5 Section 4. For the purpose of incorporating the
6 amendment of section 228.093, Florida Statutes, in references
7 thereto, the sections or subdivisions of Florida Statutes set
8 forth below are reenacted to read:

9 229.57 Student assessment program.--

10 (6) ANNUAL REPORTS.--The commissioner shall prepare
11 annual reports of the results of the statewide assessment
12 program which describe student achievement in the state, each
13 district, and each school. The commissioner shall prescribe
14 the design and content of these reports, which must include,
15 without limitation, descriptions of the performance of all
16 schools participating in the assessment program and all of
17 their major student populations as determined by the
18 Commissioner of Education, and must also include the median
19 scores of all eligible students who scored at or in the lowest
20 25th percentile of the state in the previous school year;
21 provided, however, that the provisions of s. 228.093
22 pertaining to student records apply to this section. Until
23 such time as annual assessments prescribed in this section are
24 fully implemented, annual reports shall include student
25 performance data based on existing assessments.

26 240.237 Student records.--The university may prescribe
27 the content and custody of records and reports which the
28 university may maintain on its students. Such records are
29 confidential and exempt from the provisions of s. 119.07(1)
30 and are open to inspection only as provided in s. 228.093.

31

1 240.323 Student records.--Rules of the State Board of
2 Community Colleges may prescribe the content and custody of
3 records and reports which a community college may maintain on
4 its students. Such records are confidential and exempt from s.
5 119.07(1) and are open to inspection only as provided in s.
6 228.093.

7 240.40401 Student financial assistance database.--
8 (3) The database must include records on any student
9 receiving any form of financial assistance as described in
10 subsection (2). Institutions participating in any state
11 financial assistance program shall annually submit such
12 information to the Department of Education in a format
13 prescribed by the department and consistent with the
14 provisions of s. 228.093.

15 242.3315 Student and employee personnel records.--The
16 Board of Trustees for the Florida School for the Deaf and the
17 Blind shall provide for the content and custody of student and
18 employee personnel records. Student records shall be subject
19 to the provisions of s. 228.093. Employee personnel records
20 shall be subject to the provisions of s. 231.291.

21 381.0056 School health services program.--
22 (5) Each county health department shall develop,
23 jointly with the district school board and the local school
24 health advisory committee, a school health services plan; and
25 the plan shall include, at a minimum, provisions for:

26 (p) Maintenance of records on incidents of health
27 problems, corrective measures taken, and such other
28 information as may be needed to plan and evaluate health
29 programs; except, however, that provisions in the plan for
30 maintenance of health records of individual students must be
31 in accordance with s. 228.093.

1 Section 5. This act shall take effect July 1, 2000.

2

3 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
4 COMMITTEE SUBSTITUTE FOR
5 SB 848

6

The Committee Substitute differs from SB 848 as follows:

7

"Directory information" is clarified to include information
not generally considered harmful or an invasion of privacy if
8 disclosed.

9

New definitions are added for the terms "disciplinary action,"
"disclosures," and "personally identifiable information."

10

The term "personally identifiable information" is defined to
include information that is easily traceable to a student or
11 students.

12

Clarifies employment records that are and are not protected by
13 the act.

14

An addition is made to what is not considered a student record
which is, records containing information on an individual
15 after he/she is no longer a student at that school.

16

Clarifies a person's rights to a hearing.

17

Clarifies the listing of parties to whom information can be
released without parent/eligible student consent.

18

Adds specific requirements for the annual notice to
19 parents/eligible students of their rights under this statute.

20

Permits school districts/schools to publish information
regarding name and size of students participating in school
21 activities or extracurricular activities or receiving an honor
without consent unless the parent/eligible student has
22 specified not to release any information.

23

Conforms the statute to the federal requirement found in the
Federal Family Education Rights and Privacy Act (FFERP).

24

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