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581-02351-09

Proposed Committee Substitute by the Committee on Education Pre-
K - 12

1 A bill to be entitled
2 An act relating to student records; amending s.
3 1002.21, F.S.; deleting provisions relating to the
4 rights parents have regarding their children's
5 postsecondary student records to conform to changes
6 made by the act; amending s. 1002.22, F.S.; deleting
7 certain provisions governing the release of K-12
8 student records and reports to specified parties;
9 deleting definitions; defining the terms "agency" and
10 "institution"; requiring that the State Board of
11 Education comply with federal law with respect to the
12 release of education records; requiring that the State
13 Board of Education adopt rules; creating s. 1002.225,
14 F.S.; defining the term "education records" for
15 purposes of records of students in public
16 postsecondary educational institutions; requiring that
17 a public postsecondary educational institution comply
18 with federal law; authorizing such institution to
19 charge a fee for furnishing copies of education
20 records; prohibiting an institution from charging a
21 fee that exceeds the actual cost incurred by the
22 institution for producing such copies; prohibiting the
23 institution from including the costs of searching for
24 or retrieving the records in the fee; providing an
25 aggrieved student with the right to bring an action in
26 court; providing for the award of attorney's fees and
27 court costs; amending s. 1009.94, F.S.; conforming a



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28 cross-reference; providing an effective date.

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

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32 Section 1. Section 1002.21, Florida Statutes, is amended to
33 read:

34 1002.21 Postsecondary student and parent rights.—

35 ~~(1) STUDENT RECORDS.—Parents have rights regarding the~~
36 ~~student records of their children, and students 18 years of age~~
37 ~~and older have rights regarding their student records, including~~
38 ~~right of access, right of waiver of access, right to challenge~~
39 ~~and hearing, and right of privacy, in accordance with the~~
40 ~~provisions of ss. 1002.22, 1005.36, and 1006.52.~~

41 (1)~~(2)~~ LEARNING DISABLED STUDENTS.—Impaired and learning
42 disabled students may be eligible for reasonable substitution
43 for admission, graduation, and upper-level division requirements
44 of public postsecondary educational institutions, in accordance
45 with the provisions of ss. 1007.264 and 1007.265.

46 (2)~~(3)~~ EXPULSION, SUSPENSION, DISCIPLINE.—Public
47 postsecondary education students may be expelled, suspended, or
48 otherwise disciplined by the president of a public postsecondary
49 educational institution after notice to the student of the
50 charges and a hearing on the charges, in accordance with the
51 provisions of s. 1006.62.

52 (3)~~(4)~~ RELIGIOUS BELIEFS.—Public postsecondary educational
53 institutions must provide reasonable accommodations for the
54 religious practices and beliefs of individual students in regard
55 to admissions, class attendance, and the scheduling of
56 examinations and work assignments, in accordance with the



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57 provisions of s. 1006.53, and must provide and describe in the
58 student handbook a grievance procedure for students to seek
59 redress when they feel they have been unreasonably denied an
60 educational benefit due to their religious beliefs or practices.

61 (4)~~(5)~~ STUDENT HANDBOOKS.—Each state university and
62 community college shall provide its students with an up-to-date
63 student handbook that includes student rights and
64 responsibilities, appeals processes available to students,
65 contact persons available to help students, student conduct
66 code, and information regarding HIV and AIDS, in accordance with
67 the provisions of s. 1006.50.

68 (5)~~(6)~~ STUDENT OMBUDSMAN OFFICE.—Each state university and
69 community college shall maintain a student ombudsman office and
70 established procedures for students to appeal to the office
71 regarding decisions about the student's access to courses and
72 credit granted toward the student's degree, in accordance with
73 the provisions of s. 1006.51.

74 Section 2. Section 1002.22, Florida Statutes, is amended to
75 read:

76 (Substantial rewording of section. See
77 s. 1002.22, F.S., for present text.)

78 1002.22 Education ~~Student~~ records and reports of K-12
79 students; rights of parents and students; notification;
80 penalty.—

81 (1) DEFINITIONS.—As used in this section, the term:

82 (a) "Agency" means any board, agency, or other entity that
83 provides administrative control or direction of or performs
84 services for public elementary or secondary schools, centers, or
85 other institutions as defined in this chapter.



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86 (b) "Institution" means any public school, center,
87 institution, or other entity that is part of Florida's education
88 system under s. 1000.04(1), (3), and (4).

89 (2) RIGHTS OF STUDENTS AND PARENTS.—The rights of students
90 and their parents with respect to education records created,
91 maintained, or used by public educational institutions and
92 agencies shall be protected in accordance with the Family
93 Educational Rights and Privacy Act (FERPA), 20 U.S.C. s. 1232g,
94 the implementing regulations issued pursuant thereto, and this
95 section. In order to maintain the eligibility of public
96 educational institutions and agencies to receive federal funds
97 and participate in federal programs, the State Board of
98 Education shall comply with the FERPA after the board has
99 evaluated and determined that the FERPA is consistent with the
100 following principles:

101 (a) Students and their parents shall have the right to
102 access their education records, including the right to inspect
103 and review those records;

104 (b) Students and their parents shall have the right to
105 waive their access to their education records in certain
106 circumstances;

107 (c) Students and their parents shall have the right to
108 challenge the content of education records in order to ensure
109 that the records are not inaccurate, misleading, or otherwise a
110 violation of privacy or other rights;

111 (d) Students and their parents shall have the right of
112 privacy with respect to such records and reports; and

113 (e) Students and their parents shall receive notice of
114 their rights with respect to education records.



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115 (3) DUTIES AND RESPONSIBILITIES.—The State Board of
116 Education shall:

117 (a) Adopt rules pursuant to ss. 120.536(1) and 120.54 to
118 administer this section;

119 (b) Monitor the FERPA and notify the Legislature of any
120 significant change to the requirements of the FERPA or other
121 major changes in federal law which may impact this section; and

122 (c) Advise the Legislature of any change in the FERPA which
123 may create a need for an exemption to the requirements of s.
124 24(a), Art. I of the State Constitution.

125 (4) PENALTY.—If any official or employee of an institution
126 refuses to comply with this section, the aggrieved parent or
127 student has an immediate right to bring an action in circuit
128 court to enforce his or her rights by injunction. Any aggrieved
129 parent or student who brings such action and whose rights are
130 vindicated may be awarded attorney's fees and court costs.

131 (5) APPLICABILITY TO RECORDS OF DEFUNCT INSTITUTIONS.—This
132 section applies to student records that any nonpublic
133 educational institution that is no longer operating has
134 deposited with the district school superintendent in the county
135 where the nonpublic educational institution was located.

136 Section 3. Section 1002.225, Florida Statutes, is created
137 to read:

138 1002.225 Education records of students in public
139 postsecondary educational institutions; penalty.—

140 (1) As used in this section, the term "education records"
141 means education records as defined in the Family Educational
142 Rights and Privacy Act (FERPA), 20 U.S.C. s. 1232g, and the
143 federal regulations issued pursuant thereto.



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144 (2) All public postsecondary educational institutions shall
145 comply with the FERPA with respect to the education records of
146 students. A public postsecondary educational institution may
147 charge fees for furnishing copies of education records that are
148 requested under this section. Such fees may not exceed the
149 actual cost incurred by the institution for producing such
150 copies and may not include the costs of searching for or
151 retrieving the education records.

152 (3) If any public postsecondary educational institution
153 refuses to comply with this section, the aggrieved student has
154 an immediate right to bring an action in circuit court to
155 enforce his or her rights by injunction. Any aggrieved student
156 who brings such action and whose rights are vindicated may be
157 awarded attorney's fees and court costs.

158 Section 4. Subsection (3) of section 1009.94, Florida
159 Statutes, is amended to read:

160 1009.94 Student financial assistance database.—

161 (3) The database must include records on any student
162 receiving any form of financial assistance as described in
163 subsection (2). Institutions participating in any state
164 financial assistance program shall annually submit such
165 information to the Department of Education in a format
166 prescribed by the department and consistent with the provisions
167 of s. 1002.225 ~~s. 1002.22~~.

168 Section 5. This act shall take effect July 1, 2009.