By the Committee on Education Pre-K - 12; and Senator Detert

581-03496-09 20092426c1

A bill to be entitled

An act relating to student records; amending s. 1002.21, F.S.; deleting provisions relating to the rights parents have regarding their children's postsecondary student records to conform to changes made by the act; amending s. 1002.22, F.S.; deleting certain provisions governing the release of K-12 student records and reports to specified parties; deleting definitions; defining the terms "agency" and "institution"; requiring that the State Board of Education comply with federal law with respect to the release of education records; requiring that the State Board of Education adopt rules; creating s. 1002.225, F.S.; defining the term "education records" for purposes of records of students in public postsecondary educational institutions; requiring that a public postsecondary educational institution comply with federal law; authorizing such institution to charge a fee for furnishing copies of education records; prohibiting an institution from charging a fee that exceeds the actual cost incurred by the institution for producing such copies; prohibiting the institution from including the costs of searching for or retrieving the records in the fee; providing an aggrieved student with the right to bring an action in court; providing for the award of attorney's fees and court costs; amending s. 1009.94, F.S.; conforming a cross-reference; providing an effective date.

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

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

1002.21 Postsecondary student and parent rights.—

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

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

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

(3)~~(4)~~ RELIGIOUS BELIEFS.—Public postsecondary educational institutions must provide reasonable accommodations for the religious practices and beliefs of individual students in regard to admissions, class attendance, and the scheduling of examinations and work assignments, in accordance with the provisions of s. 1006.53, and must provide and describe in the student handbook a grievance procedure for students to seek

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redress when they feel they have been unreasonably denied an educational benefit due to their religious beliefs or practices.

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

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

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

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

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

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

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

(b) "Institution" means any public school, center, institution, or other entity that is part of Florida's education

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system under s. 1000.04(1), (3), and (4).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) All public postsecondary educational institutions shall comply with the FERPA with respect to the education records of

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students. A public postsecondary educational institution may charge fees for furnishing copies of education records that are requested under this section. Such fees may not exceed the actual cost incurred by the institution for producing such copies and may not include the costs of searching for or retrieving the education records.

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

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

1009.94 Student financial assistance database.—

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

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

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