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HB 7117

2009 Legislature

1 A bill to be entitled
2 An act relating to student records; amending s. 1002.21,
3 F.S.; deleting provisions relating to the rights parents
4 have regarding their children's postsecondary student
5 records to conform to changes made by the act; amending s.
6 1002.22, F.S.; deleting certain provisions governing the
7 release of K-12 student records and reports to specified
8 parties; deleting definitions; defining the terms "agency"
9 and "institution"; requiring that the State Board of
10 Education comply with federal law with respect to the
11 release of education records; requiring that the State
12 Board of Education adopt rules; creating s. 1002.225,
13 F.S.; defining the term "education records" for purposes
14 of records of students in public postsecondary educational
15 institutions; requiring that a public postsecondary
16 educational institution comply with federal law;
17 authorizing such institution to charge a fee for
18 furnishing copies of education records; prohibiting an
19 institution from charging a fee that exceeds the actual
20 cost incurred by the institution for producing such
21 copies; prohibiting the institution from including the
22 costs of searching for or retrieving the records in the
23 fee; providing an aggrieved student with the right to
24 bring an action in court; providing for the award of
25 attorney's fees and court costs; amending ss. 220.187,
26 1002.39, 1003.451, and 1009.94, F.S.; conforming cross-
27 references; providing an effective date.
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29 Be It Enacted by the Legislature of the State of Florida:

30
31 Section 1. Section 1002.21, Florida Statutes, is amended
32 to read:

33 1002.21 Postsecondary student and parent rights.--

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

40 (1)~~(2)~~ LEARNING DISABLED STUDENTS.--Impaired and learning
41 disabled students may be eligible for reasonable substitution
42 for admission, graduation, and upper-level division requirements
43 of public postsecondary educational institutions, in accordance
44 with the provisions of ss. 1007.264 and 1007.265.

45 (2)~~(3)~~ EXPULSION, SUSPENSION, DISCIPLINE.--Public
46 postsecondary education students may be expelled, suspended, or
47 otherwise disciplined by the president of a public postsecondary
48 educational institution after notice to the student of the
49 charges and a hearing on the charges, in accordance with the
50 provisions of s. 1006.62.

51 (3)~~(4)~~ RELIGIOUS BELIEFS.--Public postsecondary
52 educational institutions must provide reasonable accommodations
53 for the religious practices and beliefs of individual students
54 in regard to admissions, class attendance, and the scheduling of
55 examinations and work assignments, in accordance with the
56 provisions of s. 1006.53, and must provide and describe in the

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57 student handbook a grievance procedure for students to seek
58 redress when they feel they have been unreasonably denied an
59 educational benefit due to their religious beliefs or practices.

60 (4)~~(5)~~ STUDENT HANDBOOKS.--Each state university and
61 community college shall provide its students with an up-to-date
62 student handbook that includes student rights and
63 responsibilities, appeals processes available to students,
64 contact persons available to help students, student conduct
65 code, and information regarding HIV and AIDS, in accordance with
66 the provisions of s. 1006.50.

67 (5)~~(6)~~ STUDENT OMBUDSMAN OFFICE.--Each state university
68 and community college shall maintain a student ombudsman office
69 and established procedures for students to appeal to the office
70 regarding decisions about the student's access to courses and
71 credit granted toward the student's degree, in accordance with
72 the provisions of s. 1006.51.

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

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

77 1002.22 Education records and reports of K-12 students;
78 rights of parents and students; notification; penalty.--

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

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

84 (b) "Institution" means any public school, center,

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85 institution, or other entity that is part of Florida's education
86 system under s. 1000.04(1), (3), and (4).

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

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

102 (b) Students and their parents shall have the right to
103 waive their access to their education records in certain
104 circumstances.

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

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

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

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113 (3) DUTIES AND RESPONSIBILITIES.--The State Board of
114 Education shall:

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

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

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

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

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

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

137 1002.225 Education records of students in public
138 postsecondary educational institutions; penalty.--

139 (1) As used in this section, the term "education records"
140 means education records as defined in the Family Educational

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141 Rights and Privacy Act (FERPA), 20 U.S.C. s. 1232g, and the
142 federal regulations issued pursuant thereto.

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

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

157 Section 4. Paragraph (c) of subsection (10) of section
158 220.187, Florida Statutes, is amended to read:

159 220.187 Credits for contributions to nonprofit
160 scholarship-funding organizations.--

161 (10) COMMISSIONER OF EDUCATION AUTHORITY AND
162 OBLIGATIONS.--

163 (c) The commissioner may immediately suspend payment of
164 scholarship funds if it is determined that there is probable
165 cause to believe that there is:

- 166 1. An imminent threat to the health, safety, and welfare
- 167 of the students; or
- 168 2. Fraudulent activity on the part of the private school.

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169 Notwithstanding s. 1002.22~~(3)~~, in incidents of alleged
170 fraudulent activity pursuant to this section, the Department of
171 Education's Office of Inspector General is authorized to release
172 personally identifiable records or reports of students to the
173 following persons or organizations:

174 a. A court of competent jurisdiction in compliance with an
175 order of that court or the attorney of record in accordance with
176 a lawfully issued subpoena, consistent with the Family
177 Educational Rights and Privacy Act, 20 U.S.C. s. 1232g.

178 b. A person or entity authorized by a court of competent
179 jurisdiction in compliance with an order of that court or the
180 attorney of record pursuant to a lawfully issued subpoena,
181 consistent with the Family Educational Rights and Privacy Act,
182 20 U.S.C. s. 1232g.

183 c. Any person, entity, or authority issuing a subpoena for
184 law enforcement purposes when the court or other issuing agency
185 has ordered that the existence or the contents of the subpoena
186 or the information furnished in response to the subpoena not be
187 disclosed, consistent with the Family Educational Rights and
188 Privacy Act, 20 U.S.C. s. 1232g, and 34 C.F.R. s. 99.31.

189
190 The commissioner's order suspending payment pursuant to this
191 paragraph may be appealed pursuant to the same procedures and
192 timelines as the notice of proposed action set forth in
193 paragraph (b).

194 Section 5. Paragraph (c) of subsection (7) of section
195 1002.39, Florida Statutes, is amended to read:

196 1002.39 The John M. McKay Scholarships for Students with

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197 Disabilities Program.--There is established a program that is
198 separate and distinct from the Opportunity Scholarship Program
199 and is named the John M. McKay Scholarships for Students with
200 Disabilities Program.

201 (7) COMMISSIONER OF EDUCATION AUTHORITY AND OBLIGATIONS.--

202 (c) The commissioner may immediately suspend payment of
203 scholarship funds if it is determined that there is probable
204 cause to believe that there is:

205 1. An imminent threat to the health, safety, or welfare of
206 the students; or

207 2. Fraudulent activity on the part of the private school.
208 Notwithstanding s. 1002.22~~(3)~~, in incidents of alleged
209 fraudulent activity pursuant to this section, the Department of
210 Education's Office of Inspector General is authorized to release
211 personally identifiable records or reports of students to the
212 following persons or organizations:

213 a. A court of competent jurisdiction in compliance with an
214 order of that court or the attorney of record in accordance with
215 a lawfully issued subpoena, consistent with the Family
216 Educational Rights and Privacy Act, 20 U.S.C. s. 1232g.

217 b. A person or entity authorized by a court of competent
218 jurisdiction in compliance with an order of that court or the
219 attorney of record pursuant to a lawfully issued subpoena,
220 consistent with the Family Educational Rights and Privacy Act,
221 20 U.S.C. s. 1232g.

222 c. Any person, entity, or authority issuing a subpoena for
223 law enforcement purposes when the court or other issuing agency
224 has ordered that the existence or the contents of the subpoena

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225 or the information furnished in response to the subpoena not be
226 disclosed, consistent with the Family Educational Rights and
227 Privacy Act, 20 U.S.C. s. 1232g, and 34 C.F.R. s. 99.31.

228
229 The commissioner's order suspending payment pursuant to this
230 paragraph may be appealed pursuant to the same procedures and
231 timelines as the notice of proposed action set forth in
232 paragraph (b).

233 Section 6. Paragraph (b) of subsection (3) of section
234 1003.451, Florida Statutes, is amended to read:

235 1003.451 Junior Reserve Officers' Training Corps; military
236 recruiters; access to public school campuses.--

237 (3)

238 (b) A school district shall, as required in 20 U.S.C. s.
239 7908(a)(1), grant military recruiters access to the names,
240 addresses, and telephone listings of secondary school students,
241 except, the district shall comply with a student's or parent's
242 request under 20 U.S.C. s. 7908(a)(2) or s. 1002.22~~(3)(d)~~ not to
243 release the student's information without prior written parental
244 consent.

245 Section 7. Subsection (3) of section 1009.94, Florida
246 Statutes, is amended to read:

247 1009.94 Student financial assistance database.--

248 (3) The database must include records on any student
249 receiving any form of financial assistance as described in
250 subsection (2). Institutions participating in any state
251 financial assistance program shall annually submit such
252 information to the Department of Education in a format

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253 | prescribed by the department and consistent with the provisions
254 | of s. 1002.225 ~~1002.22~~.

255 | Section 8. This act shall take effect July 1, 2009.