

ACT No. 837

HOUSE BILL NO. 1076 (Substitute for House Bill No. 946 by Representative Schroder)

BY REPRESENTATIVES SCHRODER, ADAMS, ANDERS, ARMES, ARNOLD, BADON, BARRAS, BARROW, BERTHELOT, BURFORD, CARMODY, CHAMPAGNE, COX, CROMER, GAROFALO, GISCLAIR, HARRIS, HAVARD, HENRY, HENSGENS, HODGES, HOFFMANN, HOLLIS, HOWARD, HUNTER, IVEY, KATRINA JACKSON, KLECKLEY, LORUSSO, MILLER, JAY MORRIS, NORTON, ORTEGO, PEARSON, POPE, PYLANT, REYNOLDS, RICHARD, RITCHIE, SEABAUGH, ST. GERMAIN, TALBOT, THIERRY, THOMPSON, WHITNEY, AND WILLMOTT AND SENATORS ALARIO, ALLAIN, AMEDEE, APPEL, BROWN, CHABERT, CLAITOR, CORTEZ, CROWE, DONAHUE, ERDEY, GUILLORY, JOHNS, KOSTELKA, LAFLEUR, LONG, MARTINY, MILLS, MORRELL, NEVERS, PEACOCK, PERRY, RISER, GARY SMITH, JOHN SMITH, TARVER, THOMPSON, WALSWORTH, WARD, AND WHITE

1 AN ACT

2 To enact R.S. 17:3913 and 3996(B)(34), relative to student information; to limit the type of
3 information to be collected on students; to prohibit the collection of certain
4 information; to prohibit the sharing of student information; to provide exceptions;
5 to provide for access by parents and specified others to certain student information
6 stored in public school computer systems; to provide for student identification
7 numbers; to provide definitions; to provide criminal penalties; and to provide for
8 related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 17:3913 and 3996(B)(34) are hereby enacted to read as follows:

11 §3913. Student information; privacy; legislative intent; definitions; prohibitions;
12 parental access; penalties

13 A. The legislature hereby declares that all personally identifiable information
14 is protected as a right to privacy under the Constitution of Louisiana and the
15 Constitution of the United States.

16 B.(1) For purposes of this Section, "personally identifiable information" is
17 defined as information about an individual that can be used on its own or with other

1 information to identify, contact, or locate a single individual, including but not
2 limited to the following:

3 (a) Any information that can be used to distinguish or trace an individual's
4 identity such as full name, social security number, date and place of birth, mother's
5 maiden name, or biometric records.

6 (b) Any other information that is linked or linkable to an individual such as
7 medical, educational, financial, and employment information.

8 (c) Two or more pieces of information that separately or when linked
9 together can be used to reasonably ascertain the identity of the person.

10 (2) For purposes of this Section, "aggregate data" are statistics and other
11 information that relate to broad classes, groups, or categories from which it is not
12 possible to distinguish the identities of individuals.

13 (3) For purposes of this Section, "parent or legal guardian" shall mean a
14 student's parent, legal guardian, or other person responsible for the student.

15 C.(1) Notwithstanding any provision of this Subpart or any other law to the
16 contrary, no official or employee of a city, parish, or other local public school system
17 shall require the collection of any of the following student information unless
18 voluntarily disclosed by the parent or legal guardian:

19 (a) Political affiliations or beliefs of the student or the student's parent.

20 (b) Mental or psychological problems of the student or the student's family.

21 (c) Sexual behavior or attitudes.

22 (d) Illegal, anti-social, self-incriminating, or demeaning behavior.

23 (e) Critical appraisals of other individuals with whom a student has a close
24 family relationship.

25 (f) Legally recognized privileged or analogous relationships, such as those
26 of lawyers, physicians, and ministers.

27 (g) Religious practices, affiliations, or beliefs of the student or the student's
28 parent.

29 (h) Family income.

30 (i) Biometric information.

1 (j) Social security number.

2 (k) Gun ownership.

3 (l) Home Internet Protocol Address.

4 (m) External digital identity.

5 (2) Beginning June 1, 2015, no official or employee of a city, parish, or other
6 local public school system shall provide personally identifiable student information
7 to any member of the school board or to any other person or public or private entity,
8 except such an official or employee may, in accordance with State Board of
9 Elementary and Secondary Education regulation or applicable state and federal law:

10 (a) Provide a student's identification number as provided in Paragraph (3) of
11 this Subsection and aggregate data to the local school board, the state Department of
12 Education, or the State Board of Elementary and Secondary Education solely for the
13 purpose of satisfying state and federal reporting requirements.

14 (b) Provide to the state Department of Education, for the purpose of
15 satisfying state and federal assessment, auditing, funding, monitoring, program
16 administration, and state accountability requirements, information from which
17 enough personally identifiable information has been removed such that the remaining
18 information does not identify a student and there is no basis to believe that the
19 information alone can be used to identify a student. No official or employee of the
20 state Department of Education shall share such information with any person or public
21 or private entity located outside of Louisiana, other than for purposes of academic
22 analysis of assessments.

23 (c) Provide personally identifiable information regarding a particular student
24 to any person or public or private entity if the sharing of the particular information
25 with the particular recipient of the information has been authorized in writing by the
26 parent or legal guardian of the student, or by a student who has reached the age of
27 legal majority, or if the information is provided to a person authorized by the state,
28 including the legislative auditor, to audit processes including student enrollment
29 counts. Any recipient of such information shall maintain the confidentiality of such
30 information. Any person who knowingly and willingly fails to maintain the

1 confidentiality of such information shall be subject to the penalties provided in
2 Subsection G of this Section.

3 (d) Provide for the transfer of student information pursuant to the provisions
4 of R.S. 17:112.

5 (3) By not later than May 1, 2015, the state Department of Education shall
6 develop a system of unique student identification numbers. By not later than June
7 1, 2015, each local public school board shall assign such a number to every student
8 enrolled in a public elementary or secondary school. Student identification numbers
9 shall not include or be based on social security numbers, and a student shall retain
10 his student identification number for his tenure in Louisiana public elementary and
11 secondary schools.

12 D.(1) Except as provided in Paragraphs (2) and (3) of this Subsection, no
13 person or public or private entity shall access a public school computer system on
14 which student information is stored. No official or employee of a public school
15 system shall authorize access to such a computer system to any person or public or
16 private entity except as authorized by Paragraphs (2) and (3) of this Subsection.

17 (2) The following persons may access a public school computer system on
18 which student information for students at a particular school is stored:

19 (a) A student who has reached the age of eighteen or is judicially
20 emancipated or emancipated by marriage and the parent or legal guardian of a
21 student who is under the age of eighteen and not emancipated. For a student who has
22 reached the age of eighteen or is emancipated, such access is limited to information
23 about the student. For the parent or legal guardian of a student who has not reached
24 the age of eighteen and is not emancipated, such access shall be limited to
25 information about the student. A student who has reached the age of eighteen or is
26 emancipated and the parent or legal guardian of a student who has not reached the
27 age of eighteen and is not emancipated may authorize, in writing, another person to
28 access such information.

29 (b) A teacher of record. Such access shall be limited to information about
30 his current students.

1 (c) The school principal and school registrar.

2 (d) A school system employee employed at the school and designated by the
 3 principal. Such access shall be limited to student information necessary to perform
 4 his duties.

5 (e) A person authorized by the superintendent to maintain or repair the
 6 computer system or to provide services that the school system would otherwise
 7 provide.

8 (f) A person authorized by the state to audit student records.

9 (3) The following persons may access a computer system of a city, parish,
 10 or other local public school system on which student information for students from
 11 throughout the system is stored:

12 (a) The superintendent of the school system.

13 (b) A school system employee designated by the superintendent. Such
 14 access shall be limited to student information necessary to perform his duties.

15 (c) A person authorized by the superintendent to maintain or repair the
 16 computer system or to provide services that the school system would otherwise
 17 provide.

18 (d) A person authorized by the state to audit student records.

19 (4) Any person who is authorized by this Subsection to access a public
 20 school computer system, except a parent or legal guardian, shall maintain the
 21 confidentiality of any student information to which he has access. Failure to
 22 maintain the confidentiality of such information is punishable as provided in
 23 Subsection G of this Section.

24 E.(1) No person who has access to student information shall convert the
 25 student information as specified in Subparagraph (C)(2)(b) of this Section such that
 26 the remaining information can be used to identify a student.

27 (2) The State Board of Elementary and Secondary Education and the state
 28 Department of Education shall not require a city, parish, or other local public school
 29 system to limit a student's learning opportunity or opportunities to explore any
 30 occupation based upon predictive modeling.

1 F.(1) A city, parish, or other local public school board may contract with a
2 private entity for student and other education services, and pursuant to such contract,
3 student information, including personally identifiable information and cumulative
4 records, may be transferred to computers operated and maintained by the private
5 entity for such purpose.

6 (2) No contractor pursuant to this Subsection shall allow access to, release,
7 or allow the release of student information to any person or entity except as specified
8 in the contract.

9 (3) A contract pursuant to this Subsection shall include requirements
10 regarding the protection of student information which at a minimum include
11 provision for all of the following:

12 (a) Guidelines for authorizing access to computer systems on which student
13 information is stored including guidelines for authentication of authorized access.

14 (b) Privacy compliance standards.

15 (c) Privacy and security audits performed under the direction of the local
16 school superintendent.

17 (d) Breach planning, notification, and remediation procedures.

18 (e) Information storage, retention, and disposition policies.

19 (f) Disposal of all information from the servers of the contractor upon
20 termination of the contract, unless otherwise directed by an applicable legal
21 requirement or otherwise specified in the contract and subject to the privacy
22 protection provisions of this Part. Upon termination of the contract, all information
23 removed from the contractor's servers shall be returned to the city, parish, or other
24 local public school board.

25 (4) Any person who knowingly and willingly violates the provisions of this
26 Subsection shall be fined not more than ten thousand dollars or imprisoned for not
27 more than three years, or both.

28 G. Except as provided in Paragraph (F)(4) of this Section, a person who
29 violates any provision of this Section shall be punished by imprisonment for not
30 more than six months or by a fine of not more than ten thousand dollars.

1 H. Nothing in this Section shall prohibit a school system employee employed
2 at the school and a person authorized by the superintendent of the school system
3 from having access to a student's records as may be necessary to perform his duties.

4 I. The provisions of this Part shall apply to each charter school, its governing
5 authority, and any education management organization under contract to operate a
6 charter school.

7 J.(1) No city, parish, or other local public school system, local or state
8 governmental agency, public or private entity, or any person with access to
9 personally identifiable student information shall sell, transfer, share, or process any
10 student data for use in commercial advertising, or marketing, or any other
11 commercial purpose, unless otherwise stipulated in a contract for services as
12 provided in Subsection (F) of this Section.

13 (2) The provisions of Paragraph (1) of this Subsection shall not apply to a
14 student's parent or legal guardian, or a student who has reached the legal age of
15 majority.

16 K.(1) Notwithstanding any provision of this Part to the contrary, the
17 governing authority of each public school, with the permission of a student's parent
18 or legal guardian, shall collect the following personally identifiable information for
19 each student enrolled in grades eight through twelve:

20 (a) Full name.

21 (b) Date of birth.

22 (c) Social security number.

23 (d) Student transcript data.

24 (2) The governing authority of a public school shall disclose the information
25 collected pursuant to Paragraph (1) of this Subsection, upon request, only to a
26 Louisiana postsecondary educational institution, to be used solely for the purpose of
27 processing applications for admission, and to the Office of Student Financial
28 Assistance, to be used solely for the purpose of processing applications made to the
29 office for state and federal grant and for required grant program reporting.

