

2013 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB618)

Received: 1/24/2014 Received By: pgrant
 Wanted: As time permits Same as LRB:
 For: Legislative Council - IND By/Representing: Jessica Ozalp
 May Contact: Drafter: pgrant
 Subject: Education - school boards Addl. Drafters:
 Education - state superintendent Extra Copies: TKK
 FFK

Submit via email: YES
 Requester's email: Jessica.Ozalp@legis.wisconsin.gov

Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Pupil records

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pgrant 1/28/2014	csicilia 1/30/2014	rschlue 1/30/2014	_____			
/P1	fknepp 2/3/2014			_____	mbarman 1/30/2014		
/P2	fknepp 2/3/2014	csicilia 2/3/2014	rschlue 2/3/2014	_____	sbasford 2/3/2014		

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/P3	fknepp 2/4/2014	csicilia 2/3/2014	jfrantze 2/3/2014	_____ _____	lparisi 2/3/2014		
/1	pgrant 2/7/2014	csicilia 2/10/2014	jfrantze 2/4/2014	_____ _____	lparisi 2/4/2014	lparisi 2/4/2014	
/2			rschluet 2/10/2014	_____ _____	mbarman 2/10/2014	mbarman 2/10/2014	

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/P1					mbarman 1/30/2014		
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Handwritten notes: /P2 gjs 2/3 /4 and a signature with date 2/3/14.

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FE Sent For:		1/30	13014	jm			
		14	<END>				

for ~~Bill~~ LC 1/24/14
(Jessica) submt. amdt to AB 68

- > del. SEC. 1
- > add SEC. 3 from model act

RE SEC. 3 of Bill :

replace w/ FERPA 3rd party lang.
99.31(a)(1)(A), (B) 1-3
"A contractor..."

1/29 { not (b)
 { but if d. (c)

Student Data Accessibility, Transparency, and Accountability Act

Summary

The Student Data Accessibility, Transparency, and Accountability Act would require the [State Board of Education/State Department of Education] to make publicly available an inventory and index of all data elements with definitions of individual student data fields currently in the statewide longitudinal data system. The [State Board of Education/State Department of Education] would be required to create a data security plan, ensuring compliance with federal and state data privacy laws and policies. Certain contracts would be required to include privacy and security provisions. A Chief Privacy Officer will be created within the State Department of Education whose primary mission includes ensuring department-wide compliance with all privacy laws and regulations. This bill adds new annual security and privacy reporting requirements to the Governor and Legislature.

Model Legislation

Section 1. {Title}

(A) This section shall be known and may be cited as the "Student Data Accessibility, Transparency, and Accountability Act."

Section 2. {Definitions}

(A) As used in this act:

- (1) "Board" means the State Board of Education;
- (2) "Department" means the State Department of Education;
- (3) "Data system" means the State Department of Education statewide longitudinal data system;
- (4) "Aggregate data" means data collected and/or reported at the group, cohort, or institutional level;
- (5) "Redacted data" means a student dataset in which parent and student identifying information has been removed;
- (6) "State-assigned student identifier" means the unique student identifier assigned by the state to each student that shall not be or include the Social Security number of a student in whole or in part; and
- (7) "Student data" means data collected and/or reported at the individual student level included in a student's educational record.
- (8) "Provisional student data" means new student data proposed for inclusion in the state student data system.

Section 3. {Data Inventory – Responsibilities}

(A) The [State Board of Education/State Department of Education] shall:

(1) Create, publish, and make publicly available a data inventory and dictionary or index of data elements with definitions of individual student data fields in the student data system to include, but not be limited to:

(a) any individual student data required to be reported by state and federal education mandates;

(b) any individual student data which has been proposed for inclusion in the student data system with a statement regarding the purpose or reason for the proposed collection; and

(c) any individual student data that the State Department of Education collects or maintains with no current identified purpose;

~~(2) Develop, publish, and make publicly available policies and procedures to comply with all relevant state and federal privacy laws and policies, including but not limited to the Federal Family Educational Rights and Privacy Act (FERPA) and other relevant privacy laws and policies, including but not limited to:~~

~~(a) access to student and redacted data in the statewide longitudinal data system shall be restricted to:~~

~~(1) the authorized staff of the State Department of Education and the contractors working on behalf of the Department who require such access to perform their assigned duties as required by law and/or defined by interagency data-sharing agreements;~~

~~(2) district administrators, teachers and school personnel who require such access to perform their assigned duties;~~

~~(3) students and their parents; and~~

~~(4) the authorized staff of other state agencies in the State of [State] as required by law and/or defined by interagency data-sharing agreements;~~

~~(b) the State Department of Education shall use only aggregate data in public reports or in response to record requests in accordance with paragraph 3 of this subsection;~~

~~(c) unless otherwise prohibited by law, the State Department of Education shall develop criteria for the approval of research and data requests from state and local agencies, the State Legislature, researchers working on behalf of the Department, and the public. Unless otherwise approved by the [State Board of Education/State Department of~~

Education], student data maintained by the State Department of Education shall remain redacted; and

(d) notification to students and parents regarding student privacy rights under federal and state law;

(3) Unless otherwise provided by law or approved by the [State Board of Education/State Department of Education] shall not transfer student or redacted data deemed confidential under division (1) of subparagraph (c) of paragraph 2 of subsection A of this section to any federal, state or local agency or other organization, with the following exceptions:

(a) a student transfers out of state or a school/district seeks help with locating an out-of-state transfer;

(b) a student leaves the state to attend an out-of-state institution of higher education or training program;

(c) a student registers for or takes a national or multistate assessment;

(d) a student voluntarily participates in a program for which such a data transfer is a condition/requirement of participation;

(e) the Department enters into a contract that governs databases, assessments, special education or instructional supports with an out-of-state contractor for the purposes of state level reporting;

(f) a student is classified as "migrant" for federal reporting purposes; or

(g) a federal agency is performing a compliance review;

(4) Develop a detailed data security plan that includes:

(a) guidelines for authorizing access to the student data system and to individual student data including guidelines for authentication of authorized access;

(b) privacy compliance standards;

(c) privacy and security audits;

(d) breach planning, notification and procedures;

(e) data retention and disposition policies; and

(f) data security policies including electronic, physical, and administrative safeguards, such as data encryption and training of employees;

~~(5) Ensure routine and ongoing compliance by the State Department of Education with FERPA, other relevant privacy laws and policies, and the privacy and security policies and procedures developed under the authority of this act, including the performance of compliance audits;~~

(6) Ensure that any contracts that govern databases, assessments or instructional supports that include student or redacted data and are outsourced to private vendors include express provisions that safeguard privacy and security and include penalties for noncompliance; and

(7) Notify the Governor and the Legislature annually of the following:

(a) new student data proposed for inclusion in the state student data system: ^{SIS}

~~(1) any new student data collection proposed by the [State Board of Education/State Department of Education] becomes a provisional requirement to allow districts and their local data system vendors the opportunity to meet the new requirement; and~~

~~(2) the [State Board of Education/Department of Education] must announce any new provisional student data collection to the general public for a review and comment period of at least 60 days;~~

(b) changes to existing data collections required for any reason, including changes to federal reporting requirements made by the U.S. Department of Education;

(c) an explanation of any exceptions granted by the [State Board of Education/State Department of Education] in the past year regarding the release or out-of-state transfer of student or redacted data; and

(d) the results of any and all privacy compliance and security audits completed in the past year. Notifications regarding privacy compliance and security audits shall not include any information that would itself pose a security threat to the state or local student information systems or to the secure transmission of data between state and local systems by exposing vulnerabilities.

(B) Districts shall not report to the state the following individual student data:

- (1) juvenile delinquency records;
- (2) criminal records;
- (3) medical and health records; and
- (4) student biometric information.

(C) Schools shall not collect the following individual student data:

- (1) political affiliation; and

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(2) religion.

Section 4. {Chief Privacy Officer}

(A) The Superintendent shall appoint a Chief Privacy Officer, who shall report directly to the Superintendent, to assume primary responsibility for privacy policy, including:

- (1) assuring that the use of technologies sustain, and do not erode, privacy protections relating to the use, collection, and disclosure of student data;
- (2) assuring that student data contained in the Department of Education student data system is handled in full compliance with the Student Data Accessibility, Transparency, and Accountability Act, FERPA, and other state and federal privacy laws;
- (3) evaluating legislative and regulatory proposals involving collection, use, and disclosure of student data by the Department of Education;
- (4) conducting a privacy impact assessment on proposed rules of the Department in general and proposed rules of the Department on the privacy of student data, including the type of personal information collected and the number of students affected;
- (5) coordinating with the Office of the General Counsel, other legal entities, and organization officers to ensure that programs, policies, and procedures involving civil rights, civil liberties, and privacy considerations are addressed in an integrated and comprehensive manner;
- (6) preparing a report to the Legislature on an annual basis on activities of the Department that affect privacy, including complaints of privacy violations, internal controls, and other matters;
- (7) establishing department-wide policies necessary for implementing Fair Information Practice Principles to enhance privacy protections;
- (8) working with the Chief Information Officer, General Counsel, and other officials in engaging with stakeholders about the quality, usefulness, openness, and privacy of data;
- (9) establishing and operating a Department-wide Privacy Incident Response Program to ensure that incidents are properly reported, investigated and mitigated, as appropriate;
- (10) establishing and operating a process for parents to file complaints of privacy violations;
- (11) establishing and operating a process to collect and respond to complaints of privacy violations and provides redress, as appropriate; and
- (12) Provides training, education and outreach to build a culture of privacy across the Department and transparency to the public;

(B) The Chief Privacy Officer has the authority to investigate under certain conditions and may:

(1) have access to all records, reports, audits, reviews, documents, papers, recommendations, and other materials available to the Department that relate to programs and operations with respect to the responsibilities of the Chief Privacy Officer under this section; and

(2) make such investigations and reports relating to the administration of the programs and operations of the Department as are necessary or desirable;

(C) The Chief Privacy Officer shall report to, and be under the general supervision of, the Superintendent.

Section 5. {Parental request for information}

(A) Parents have the right to inspect and review their child's educational record maintained by the school.

(B) Parents have the right to request student data specific to their child's educational record.

(C) School districts must provide parents or guardians with an electronic copy of their child's educational record upon request.

(D) The State Department of Education shall develop policies for school districts that:

(1) annually notify parents of their right to request student information;

(2) ensure security when providing student data to parents;

(3) ensure student data is provided only to the authorized individuals;

(4) detail the timeframe within which record requests must be provided; and

(5) ensure that school districts have a plan to allow parents to view online, download, and transmit data specific to their child's educational record.

Section 6. {Rules}

(A) The [State Board of Education/State Department of Education] may adopt rules necessary to implement the provisions of the Student Data Accessibility, Transparency, and Accountability Act.

(B) Upon the effective date of this act, any existing collection of student data by the State Department of Education shall not be considered a new student data collection in accordance with subparagraph (a) of Paragraph (7) of Subsection (A) of Section (2).

Section 7. {Effective Date} This act shall become effective July 1, [20XX].

Code of Federal Regulations

Title 34 - Education

Volume: 1

Date: 2011-07-01

Original Date: 2011-07-01

Title: Section 99.31 - Under what conditions is prior consent not required to disclose information?

Context: Title 34 - Education. Subtitle A - Office of the Secretary, Department of Education. -

PART 99 - FAMILY EDUCATIONAL RIGHTS AND PRIVACY. Subpart D - May an Educational Agency or Institution Disclose Personally Identifiable Information From Education Records?

§ 99.31 Under what conditions is prior consent not required to disclose information?

(a) An educational agency or institution may disclose personally identifiable information from an education record of a student without the consent required by § 99.30 if the disclosure meets one or more of the following conditions:

(1)(i)(A) The disclosure is to other school officials, including teachers, within the agency or institution whom the agency or institution has determined to have legitimate educational interests.

(B) A contractor, consultant, volunteer, or other party to whom an agency or institution has outsourced institutional services or functions may be considered a school official under this paragraph provided that the outside party—

(1) Performs an institutional service or function for which the agency or institution would otherwise use employees;

(2) Is under the direct control of the agency or institution with respect to the use and maintenance of education records; and

(3) Is subject to the requirements of § 99.33(a) ^{state law + federal law} governing the use and redisclosure of personally identifiable information from education records.

(ii) An educational agency or institution must use reasonable methods to ensure that school officials obtain access to only those education records in which they have legitimate educational interests. An educational agency or institution that does not use physical or technological access controls must ensure that its administrative policy for controlling access to education records is effective and that it remains in compliance with the legitimate educational interest requirement in paragraph (a)(1)(i)(A) of this section.

(2) The disclosure is, subject to the requirements of § 99.34, to officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll, or where the student is already enrolled so long as the disclosure is for purposes related to the student's enrollment or transfer.

Note:

Section 4155(b) of the No Child Left Behind Act of 2001, 20 U.S.C. 7165(b), requires each State to assure the Secretary of Education that it has a procedure in place to facilitate the transfer of disciplinary records with respect to a suspension or expulsion of a student by a local educational agency to any private or public elementary or secondary school in which the student is subsequently enrolled or seeks, intends, or is instructed to enroll.

(3) The disclosure is, subject to the requirements of § 99.35, to authorized representatives of—

- (i) The Comptroller General of the United States;
- (ii) The Attorney General of the United States;
- (iii) The Secretary; or
- (iv) State and local educational authorities.

(4)(i) The disclosure is in connection with financial aid for which the student has applied or which the student has received, if the information is necessary for such purposes as to:

- (A) Determine eligibility for the aid;
- (B) Determine the amount of the aid;
- (C) Determine the conditions for the aid; or
- (D) Enforce the terms and conditions of the aid.

(ii) As used in paragraph (a)(4)(i) of this section, *financial aid* means a payment of funds provided to an individual (or a payment in kind of tangible or intangible property to the individual) that is conditioned on the individual's attendance at an educational agency or institution.

(Authority: 20 U.S.C. 1232g(b)(1)(D))

(5)(i) The disclosure is to State and local officials or authorities to whom this information is specifically—

- (A) Allowed to be reported or disclosed pursuant to State statute adopted before November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and the system's ability to effectively serve the student whose records are released; or
- (B) Allowed to be reported or disclosed pursuant to State statute adopted after November 19, 1974, subject to the requirements of § 99.38.

(ii) Paragraph (a)(5)(i) of this section does not prevent a State from further limiting the number or type of State or local officials to whom disclosures may be made under that paragraph.

(6)(i) The disclosure is to organizations conducting studies for, or on behalf of, educational agencies or institutions to:

- (A) Develop, validate, or administer predictive tests;
- (B) Administer student aid programs; or
- (C) Improve instruction.

(ii) An educational agency or institution may disclose information under paragraph (a)(6)(i) of this section only if—

- (A) The study is conducted in a manner that does not permit personal identification of parents and students by individuals other than representatives of the organization that have legitimate interests in the information;
- (B) The information is destroyed when no longer needed for the purposes for which the study was conducted; and
- (C) The educational agency or institution enters into a written agreement with the organization that—

(1) Specifies the purpose, scope, and duration of the study or studies and the information to be disclosed;

(2) Requires the organization to use personally identifiable information from education records only to meet the purpose or purposes of the study as stated in the written agreement;

(3) Requires the organization to conduct the study in a manner that does not permit personal identification of parents and students, as defined in this part, by anyone other than representatives of the organization with legitimate interests;

and

(4) Requires the organization to destroy or return to the educational agency or institution all personally identifiable information when the information is no longer needed for the purposes for which the study was conducted and specifies the time period in which the information must be returned or destroyed.

(iii) An educational agency or institution is not required to initiate a study or agree with or endorse the conclusions or results of the study.

(iv) If this Office determines that a third party outside the educational agency or institution to whom information is disclosed under this paragraph (a)(6) violates paragraph (a)(6)(ii)(B) of this section, the educational agency or institution may not allow that third party access to personally identifiable information from education records for at least five years.

(v) For the purposes of paragraph (a)(6) of this section, the term *organization* includes, but is not limited to, Federal, State, and local agencies, and independent organizations.

(7) The disclosure is to accrediting organizations to carry out their accrediting functions.

(8) The disclosure is to parents, as defined in § 99.3, of a dependent student, as defined in section 152 of the Internal Revenue Code of 1986.

(9)(i) The disclosure is to comply with a judicial order or lawfully issued subpoena.

(ii) The educational agency or institution may disclose information under paragraph (a)(9)(i) of this section only if the agency or institution makes a reasonable effort to notify the parent or eligible student of the order or subpoena in advance of compliance, so that the parent or eligible student may seek protective action, unless the disclosure is in compliance with—

(A) A Federal grand jury subpoena and the court has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed;

(B) Any other subpoena issued for a law enforcement purpose and the court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed; or

(C) An *ex parte* court order obtained by the United States Attorney General (or designee not lower than an Assistant Attorney General) concerning investigations or prosecutions of an offense listed in 18 U.S.C. 2332b(g)(5)(B) or an act of domestic or international terrorism as defined in 18 U.S.C. 2331.

(iii)(A) If an educational agency or institution initiates legal action against a parent or student, the educational agency or institution may disclose to the court, without a court order or subpoena, the education records of the student that are relevant for the educational agency or institution to proceed with the legal action as plaintiff.

(B) If a parent or eligible student initiates legal action against an educational agency or institution, the educational agency or institution may disclose to the court, without a court order or subpoena, the student's education records that are relevant for the educational agency or institution to defend itself.

(10) The disclosure is in connection with a health or safety emergency, under the conditions described in § 99.36.

- (11) The disclosure is information the educational agency or institution has designated as "directory information", under the conditions described in § 99.37.
- (12) The disclosure is to the parent of a student who is not an eligible student or to the student.
- (13) The disclosure, subject to the requirements in § 99.39, is to a victim of an alleged perpetrator of a crime of violence or a non-forcible sex offense. The disclosure may only include the final results of the disciplinary proceeding conducted by the institution of postsecondary education with respect to that alleged crime or offense. The institution may disclose the final results of the disciplinary proceeding, regardless of whether the institution concluded a violation was committed.
- (14)(i) The disclosure, subject to the requirements in § 99.39, is in connection with a disciplinary proceeding at an institution of postsecondary education. The institution must not disclose the final results of the disciplinary proceeding unless it determines that—
- (A) The student is an alleged perpetrator of a crime of violence or non-forcible sex offense; and
- (B) With respect to the allegation made against him or her, the student has committed a violation of the institution's rules or policies.
- (ii) The institution may not disclose the name of any other student, including a victim or witness, without the prior written consent of the other student.
- (iii) This section applies only to disciplinary proceedings in which the final results were reached on or after October 7, 1998.
- (15)(i) The disclosure is to a parent of a student at an institution of postsecondary education regarding the student's violation of any Federal, State, or local law, or of any rule or policy of the institution, governing the use or possession of alcohol or a controlled substance if—
- (A) The institution determines that the student has committed a disciplinary violation with respect to that use or possession; and
- (B) The student is under the age of 21 at the time of the disclosure to the parent.
- (ii) Paragraph (a)(15) of this section does not supersede any provision of State law that prohibits an institution of postsecondary education from disclosing information.
- (16) The disclosure concerns sex offenders and other individuals required to register under section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. 14071, and the information was provided to the educational agency or institution under 42 U.S.C. 14071 and applicable Federal guidelines.

(b)(1) *De-identified records and information.* An educational agency or institution, or a party that has received education records or information from education records under this part, may release the records or information without the consent required by § 99.30 after the removal of all personally identifiable information provided that the educational agency or institution or other party has made a reasonable determination that a student's identity is not personally identifiable, whether through single or multiple releases, and taking into account other reasonably available information.

(2) An educational agency or institution, or a party that has received education records or information from education records under this part, may release de-identified student level data from education records for the purpose of education research by attaching a code to each record that may allow the recipient to match information received from the same source, provided that—

(i) An educational agency or institution or other party that releases de-identified data under paragraph (b)(2) of this section does not disclose any information about how it generates and assigns a record code, or that would allow a recipient to identify a student based on a record code;

(ii) The record code is used for no purpose other than identifying a de-identified record for purposes of education research and cannot be used to ascertain personally identifiable information about a student; and

(iii) The record code is not based on a student's social security number or other personal information.

(c) An educational agency or institution must use reasonable methods to identify and authenticate the identity of parents, students, school officials, and any other parties to whom the agency or institution discloses personally identifiable information from education records.

(d) Paragraphs (a) and (b) of this section do not require an educational agency or institution or any other party to disclose education records or information from education records to any party except for parties under paragraph (a)(12) of this section.

(Authority: 20 U.S.C. 1232g(a)(5)(A), (b), (h), (i), and (j)).

[53 FR 11943, Apr. 11, 1988; 53 FR 19368, May 27, 1988, as amended at 58 FR 3189, Jan. 7, 1993; 61 FR 59296, Nov. 21, 1996; 65 FR 41853, July 6, 2000; 73 FR 74852, Dec. 9, 2008; 74 FR 401, Jan. 6, 2009]

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34 CFR 99.30 - UNDER WHAT CONDITIONS IS PRIOR CONSENT REQUIRED TO DISCLOSE INFORMATION?

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CFR Updates Authorities (U.S. Code)

8+1 0

§ 99.30 Under what conditions is prior consent required to disclose information?

(a) The parent or eligible student shall provide a signed and dated written consent before an educational agency or institution discloses personally identifiable information from the student's education records, except as provided in § 99.31.

(b) The written consent must:

- (1) Specify the records that may be disclosed;
- (2) State the purpose of the disclosure; and
- (3) Identify the party or class of parties to whom the disclosure may be made.

(c) When a disclosure is made under paragraph (a) of this section:

- (1) If a parent or eligible student so requests, the educational agency or institution shall provide him or her with a copy of the records disclosed; and
- (2) If the parent of a student who is not an eligible student so requests, the agency or institution shall provide the student with a copy of the records disclosed.

(d) "Signed and dated written consent" under this part may include a record and signature in electronic form that—

- (1) Identifies and authenticates a particular person as the source of the electronic consent; and
- (2) Indicates such person's approval of the information contained in the electronic consent.

(Authority: 20 U.S.C. 1232g (b)(1) and (b)(2)(A))

[53 FR 11943, Apr. 11, 1988, as amended at 58 FR 3189, Jan. 7, 1993; 69 FR 21671, Apr. 21, 2004]

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What in the World Is a FERPA? A Primer on the Family Educational Rights and Privacy Act (Part IV)

3/6/13

Part IV: How Do Third Parties Get Student Records?

Posted by [Claire E. Parsons](#)

FERPA does not outright prohibit educational agencies from disclosing student educational records containing personally identifiable information to third parties, but it does significantly restrict its disclosure. If the sought after educational records contain personally identifiable information, the records can only be released with consent or if an exception applies. In such cases, parties seeking records have two options: (1) obtain the written consent of the student or parent; or (2) fit within an applicable exception. Consent is the most obvious means of obtaining student educational records and requires little explanation, but it is often not a viable option. If consent cannot be obtained, FERPA allows schools to disclose student records to third parties when certain exceptions apply. Though these exceptions are numerous, they are each quite narrow. They fall into four broad categories: (1) educational and research exceptions; (2) law enforcement or judicial exceptions; and (3) emergencies. See 34 CFR 99.31.

The educational exceptions allow schools to disclose student educational records to other supervising agencies, such as the state Department of Education. 34 CFR 99.31(a)(3). It also allows school staff to share student educational records with each other so long as there is a legitimate educational reason for doing so. 34 CFR 99.31(a)(1). Generally, this means that school staff can share student information if they need it to complete an administrative, supervisory, or instructional educational tasks or if they are attempting to provide a service or benefit with respect to the student's education. Along the same lines, student educational records can be released without consent to other schools where the student is seeking to enroll or to agencies charged with administering financial aid applications. 34 CFR 99.31(a)(2) & (4). Similarly, FERPA also allows schools to disclose student educational records without consent for accreditation purposes or to organizations conducting official studies. 34 CFR 99.31(a)(6) & (7). In short, disclosure of student records under FERPA is permitted to allow schools and educational agencies to educate students and perform their day to day activities.

The other broad category of exceptions is that student records can be disclosed under FERPA without parental consent if they are requested by a law enforcement agency or if they are released pursuant to a judicial order or subpoena. FERPA regulations explicitly allow for the release of educational records to "state and local juvenile justice systems or their officials[.]" 34 C.F.R. 99.31(a)(5); 34 CFR 99.38. There is little regulatory guidance about the meaning of this term, and the only required conditions for the release of records to juvenile justice officials is that they must certify in writing that they will not release the records to any third parties. 34 CFR 99.38(b).

FERPA also permit educational records to be released in compliance with "a judicial order or lawfully issued subpoena." 34 CFR 99.31(a)(9). Usually, the subpoena or order will define the information and records that

must be produced. However, unless the subpoena states otherwise, prior to the disclosure of the records, schools are required under FERPA to make a reasonable attempt to notify the affected student or parents of the subpoena or order to give them an opportunity to take protective action, such as objecting to the request or moving to quash the subpoena. 34 CFR 99.31(a)(9). The FPCO has not given much guidance as to what constitutes a reasonable attempt by schools to notify parents or students of the subpoena, see Letter of Finding to Youngstown University, (FPCO 2/16/99); but has made it clear that the failure to make any attempt at notification is a violation of FERPA. *Letter to Lapeer Community Schools* (FPCO 9/15/2000). For this reason, third parties seeking educational records via a subpoena should factor in additional time for the notification of the affected students and parents before they actually receive the requested records. If parents or students object to the release of the records, it does not necessarily mean that the school must refuse to produce them. In most jurisdictions, there is no recognized evidentiary privilege for educational records, so the court or agency from which the subpoena or order emanated will have to decide if the records must be released. See, e.g., *Edmonds v. Detroit Pub. Sch. Sys.*, 2012 U.S. Dist. LEXIS 164503 (E.D. Mich. Nov. 19, 2012) (ordering release of educational records because they were relevant to claims asserted in litigation).

Finally, FERPA allows schools to disclose student records to "appropriate persons" without parental consent in the case of a health or safety emergency. 34 CFR 99.36. For obvious reasons, this exception is left relatively undefined. It does not specify to whom educational records may be released and it does not provide examples of the circumstances which constitute "emergencies." The regulations do make clear, however, that the release of student records without consent is permitted if it is necessary to protect the safety of the student or other individuals which might be averted by the release of the records. *Id.* This does not allow the release of records merely if there is a generalized concern for the "public health," but only if there is an "articulable and significant" threat, such as the threat of significant bodily harm, to the student or to others. 34 CFR 99.36(c); see also 73 Fed. Reg. 74,838 (2008).

In sum, FERPA allows schools to release student educational records without consent, but only insofar as the release is necessary to achieve specific purposes. All of the exceptions to the release of records are narrowly drawn in order to ensure that the privacy of students is maintained.

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34 CFR 99.33 - WHAT LIMITATIONS APPLY TO THE REDISCLOSURE OF INFORMATION?

CFR Updates Authorities (U.S. Code)

§ 99.33 What limitations apply to the redisclosure of information?

(a)

(1) An educational agency or institution may disclose personally identifiable information from an education record only on the condition that the party to whom the information is disclosed will not disclose the information to any other party without the prior consent of the parent or eligible student.

(2) The officers, employees, and agents of a party that receives information under paragraph (a)(1) of this section may use the information, but only for the purposes for which the disclosure was made.

(b)

(1) Paragraph (a) of this section does not prevent an educational agency or institution from disclosing personally identifiable information with the understanding that the party receiving the information may make further disclosures of the information on behalf of the educational agency or institution if—

(i) The disclosures meet the requirements of § 99.31; and

(ii)

(A) The educational agency or institution has complied with the requirements of § 99.32(b); or

(B) A State or local educational authority or Federal official or agency listed in § 99.31(a)(3) has complied with the requirements of § 99.32(b)(2).

(2) A party that receives a court order or lawfully issued subpoena and rediscloses personally identifiable information from education records on behalf of an educational agency or institution in response to that order or subpoena under § 99.31(a)(9) must provide the notification required under § 99.31(a)(9)(ii).

(c) Paragraph (a) of this section does not apply to disclosures under §§ 99.31(a)(8), (9), (11), (12), (14), (15), and (16), and to information that postsecondary institutions are required to disclose under the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 U.S.C. 1092(f) (Clery Act), to the accuser and accused regarding the outcome of any campus disciplinary proceeding brought alleging a sexual offense.

(d) An educational agency or institution must inform a party to whom disclosure is made of the requirements of paragraph (a) of this section except for disclosures made under §§ 99.31(a)(8), (9), (11), (12), (14), (15), and (16), and to information that postsecondary institutions are required to disclose under the Clery Act to the accuser and accused regarding the outcome of any campus disciplinary proceeding brought alleging a sexual offense.

(Authority: 20 U.S.C. 1232g(b)(4)(B))

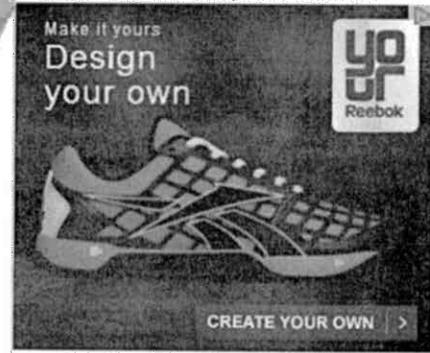
[53 FR 11943, Apr. 11, 1988, as amended at 61 FR 59297, Nov. 21, 1996; 65 FR 41853, July 6, 2000; 73 FR 74853, Dec. 9, 2008; 76 FR 75642, Dec. 2, 2011]

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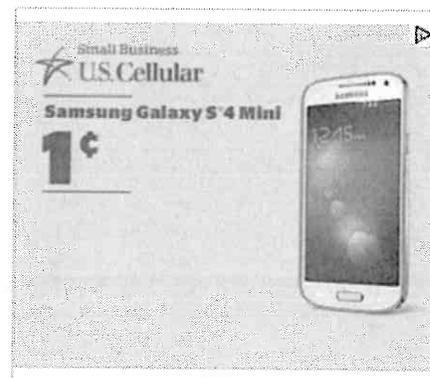


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~~(5) Ensure routine and ongoing compliance by the State Department of Education with FERPA, other relevant privacy laws and policies, and the privacy and security policies and procedures developed under the authority of this act, including the performance of compliance audits;~~

~~(6) Ensure that any contracts that govern databases, assessments or instructional supports that include student or redacted data and are outsourced to private vendors include express provisions that safeguard privacy and security and include penalties for noncompliance.~~

~~(d) Notify the Governor and the Legislature annually of the following:~~

~~(1) new student data proposed for inclusion in the state student data system:~~

~~(1) any new student data collection proposed by the [State Board of Education/State Department of Education] becomes a provisional requirement to allow districts and their local data system vendors the opportunity to meet the new requirement; and~~

~~(2) the [State Board of Education/Department of Education] must announce any new provisional student data collection to the general public for a review and comment period of at least 60 days;~~

~~(b) changes to existing data collections required for any reason, including changes to federal reporting requirements made by the U.S. Department of Education;~~

~~(c) an explanation of any exceptions granted by the [State Board of Education/State Department of Education] in the past year regarding the release or out-of-state transfer of student or redacted data; and~~

~~(d) the results of any and all privacy compliance and security audits completed in the past year. Notifications regarding privacy compliance and security audits shall not include any information that would itself pose a security threat to the state or local student information systems or to the secure transmission of data between state and local systems by exposing vulnerabilities.~~

~~(2) Districts shall not report to the state the following individual student data:~~

~~(a) (1) juvenile delinquency records;~~

~~(b) (2) criminal records;~~

~~(c) (3) medical and health records; and~~

~~(d) (4) student biometric information.~~

~~(C) Schools shall not collect the following individual student data:~~

~~(1) political affiliation; and~~

pg. 1

Intercept
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A. SUBST. AMDT. —
TO 2013 ASSEMBLY BILL 618

SD

January 10, 2014 - Introduced by Representatives PRIDEMORE, THIESFELDT, KNUDSON, STEINEKE, SCHRAA, T. LARSON, LOJDENBECK, JACQUE, KULP, CRAIG, BORN, BERNIER, TITTL, KLEEFISCH, CZAJA, KNODL, MURTHA and RIPP, cosponsored by Senators GROTHMAN and LAZICH. Referred to Committee on Education.

regen.

1 AN ACT to repeal 115.297 (4) (b) 5.; to renumber and amend 118.125 (2) (d);
2 to amend 115.28 (12) (a) 3., 115.297 (4) (a), 115.297 (4) (b) (intro.), 115.30 (1),
3 115.30 (2), 118.125 (2) (a), 118.125 (2) (g) 2. and 120.18 (1) (s); and to create
4 115.28 (61), 115.297 (4) (c), 115.297 (4) (d), 115.297 (7) and 118.125 (2) (d) 1. of
5 the statutes; relating to: ~~the student information system~~, ^{pupil data} the disclosure of
6 ~~personally identifiable student data, and the disclosure of~~ pupil records.

Analysis by the Legislative Reference Bureau

1. Current state law requires a school board to disclose a pupil's records to persons employed by the school district that the pupil attends who are required to hold a license issued by the Department of Public Instruction (DPI), law enforcement officers who are individually designated by the school board and assigned to the school district, and other school district officials who have been determined by the school board to have legitimate educational interests in the records.

The federal regulations adopted under the authority of the federal Family Educational Rights and Privacy Act (FERPA) include a similar provision, but also provide that a contractor, consultant, volunteer, or other party to whom a school has outsourced school services or functions may be considered a school official under certain conditions. See 34 CFR 99.31 (a) (1).

This bill explicitly excludes from the term "school district official" in state law a contractor, consultant, volunteer, or any other person to whom a school board has outsourced school services or functions.

granting rulemaking authority,
and providing an exemption from rulemaking procedures

ASSEMBLY BILL 618

2. Current state law requires a school board, upon request, to provide a copy of a pupil's progress records to an adult pupil or the parent or guardian of a minor pupil. Progress records are records that include the pupil's grades, the courses he or she has taken, the pupil's attendance record, the pupil's immunization and lead screening records, and the pupil's extracurricular activities.

This bill requires a school board, upon request, to provide a copy of all of a pupil's records to an adult pupil or the parent or guardian of a minor pupil.

3. Current law directs DPI, the Board of Regents of the University of Wisconsin System, the Department of Children and Families, the Department of Workforce Development, and the Technical College System Board (and the Wisconsin Association of Independent Colleges and Universities, if it wishes to participate) to enter into a written agreement to establish and maintain a longitudinal data system of student data. Any of the specified entities may submit student data to the longitudinal data system, to another of the specified entities or to a public or private research organization to support an evaluation or study of education programs operated or supervised by one or more of the entities in order to improve student academic achievement. A specified entity may disclose personally identifiable student data, however, only if the disclosure is in connection with a data-sharing agreement that:

- a. Specifies the purpose, scope, and duration of the data-sharing agreement;
- b. Requires the recipient to use personally identifiable student data only for the purpose specified in item a.;
- c. Describes the specific data access, use, and security restrictions with which the recipient will comply;
- d. Requires that the personally identifiable student data be destroyed or returned when it is no longer needed for the purpose specified or upon expiration of the data-sharing agreement, whichever occurs first; and
- e. If the disclosure is to a public or private research organization, prohibits the identification of any person by individuals other than the authorized representatives of the recipient who have legitimate interests in the information.

These provisions mirror those found in the FERPA regulations. See 34 CFR 99.31 (a) (6).

This bill provides that a specified entity may provide personally identifiable student data to a public or private research organization only if the conditions described above are met and the student, if an adult, or the student's parent or guardian, if the student is a minor, consents in writing.

The bill requires a specified entity to maintain a written record of all disclosures of personally identifiable student data made to the longitudinal data system, to another entity, or to a public or private research organization.

The bill also explicitly authorizes the attorney general or any district attorney to enforce the provisions described above.

4. Current law directs DPI to develop a proposal for a multiple-vendor student information system (SIS). DPI must submit the proposal to the Joint Committee on Finance (JCF) for its approval. If JCF approves the proposal, DPI must implement it and must ensure that information about pupils enrolled in charter schools and

ASSEMBLY BILL 618

about pupils enrolled in private schools participating in a parental choice program (PCP) is collected and maintained in the SIS. Current law also provides that if the SIS is established, DPI must ensure that within five years, every school district and every charter school is using the SIS, and that every private school participating in a PCP is either using the SIS or is using a system that is interoperable with the SIS.

This bill prohibits DPI from collecting for the SIS, from public schools, charter schools, or private schools participating in a PCP, any information that is not required to be submitted to DPI on the bill's effective date.

5. The bill directs DPI to annually post on its Internet site a comprehensive list of every distinct type of individual pupil data that it collects and the reason for collecting it.

6. The bill prohibits DPI from providing individual pupil data to an agency of the federal government.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

Stays →

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 115.28 (12) (a) 3. of the statutes, as affected by 2013 Wisconsin Act
2 20, is amended to read:
3 115.28 (12) (a) 3. If the proposal is approved under subd. 2., the state
4 superintendent shall ensure that information about pupils enrolled in charter
5 schools and about pupils enrolled in private schools participating in a parental choice
6 program under s. 118.60 or 119.23, including their academic performance and
7 demographic information, aggregated by school district, school, and teacher, is
8 collected and maintained in the student information system. The state
9 superintendent may not collect for the student information system, from public
10 schools, charter schools, or private schools participating in a parental choice program
11 under s. 118.60 or 119.23, any information that is not required to be submitted to the
12 department under chs. 115 to 121 on the effective date of this subdivision [LRB
13 inserts date].

31/3 →

14 SECTION 2. 115.28 (61) of the statutes is created to read:

ASSEMBLY BILL 618

SECTION 2

(a)

1 115.28 (61) PUPIL DATA. Annually, post on the department's Internet site a
2 comprehensive list of every distinct type of individual pupil data that the department
3 collects and the reason for collecting it. The department may not provide individual
4 pupil data to an agency of the federal government.

5 ~~SECTION 3. 115.297 (4) (a) of the statutes, as affected by 2013 Wisconsin Act 20,~~
6 is amended to read:

7 115.297 (4) (a) Except as provided in ~~par. pars.~~ (b) and (c), any of the agencies
8 may submit student or work force data to the longitudinal data system under sub.
9 (3) (a), to another agency, or to a public or private research organization, to support
10 an evaluation or study under this section.

11 **SECTION 4.** 115.297 (4) (b) (intro.) of the statutes is amended to read:

12 115.297 (4) (b) (intro.) Any of the agencies may disclose personally identifiable
13 student data to the longitudinal data system under sub. (3) (a), or to another agency,
14 ~~or to a public or private research organization,~~ to support an evaluation or study
15 under this section if the disclosure is in connection with a data-sharing agreement
16 that does all of the following:

17 **SECTION 5.** 115.297 (4) (b) 5. of the statutes is repealed.

18 **SECTION 6.** 115.297 (4) (c) of the statutes is created to read:

19 115.297 (4) (c) Any of the agencies may disclose personally identifiable student
20 data to a public or private research organization to support an evaluation or study
21 under this section if all of the following conditions are met:

22 1. The disclosure is in connection with a data-sharing agreement that satisfies
23 the conditions under par. (b).

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ASSEMBLY BILL 618

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~~2. The data-sharing agreement under subd. 1. prohibits the personal identification of any person by individuals other than authorized representatives of the recipient who have legitimate interests in the information.~~

~~3. The student, if an adult, or the student's parent or guardian, if the student is a minor, consents to the disclosure in writing.~~

~~SECTION 7. 115.297 (4) (d) of the statutes is created to read:~~

~~115.297 (4) (d) An agency shall maintain a written record of all disclosures of personally identifiable student data made under this section.~~

SECTION 8. 115.297 (7) of the statutes is created to read:

115.297 (7) ENFORCEMENT. The attorney general or any district attorney may bring an action in circuit court for the enforcement of this section, including an action to restrain by temporary or permanent injunction any violation of this section.

SECTION 9. 115.30 (1) of the statutes is amended to read:

~~115.30 (1) The department shall prepare for the use of school officers suitable forms for making reports, and suitable outlines as aids in conducting school meetings. With the exception of changes due to statute or rule revision, the department shall give school districts a one-year advance notice of any changes to be made to the forms and reports. School Except as provided in s. 115.28 (12) (a) 3. school district officers and employees shall maintain a uniform recording of accounting as prescribed by the department and make such reports to the department as will enable it to distribute state school fund appropriations and state educational appropriations to the schools and persons entitled thereto, and to properly discharge the other duties of the department.~~

SECTION 10. 115.30 (2) of the statutes is amended to read:

LA

SEC. # CR. 115-298

(B) 115-298 Pupil Data. ↗

(no 9) (1) In this section, ^{the} student information system^s means the student information systems under s. 115.28(12).

(B) (2) The department shall post on its Internet site a comprehensive list of every ^{distinct} type of individual pupil data that the department collects, ^{or may collect} including all of the following:

(a) ~~Any~~ Individual pupil data ^{by state or federal law} required to be reported to the department.

(b) ~~Any~~ Individual pupil data included in the student information systems ~~it establishes~~

(4)

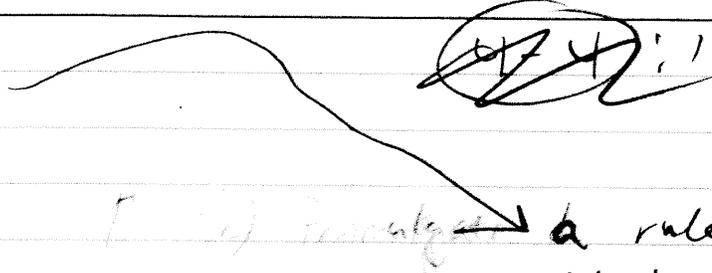
(c) ~~Any~~ Individual pupil data ^{that has been} proposed to be included in the student information system ~~including~~ a statement regarding the reason for the proposed inclusion.

(d) The department shall provide

~~since the most recent report under~~
~~this paragraph,~~

(4) (3) ^(B) ~~(4)~~ Annually by January 15, the department shall notify the governor, and the appropriate standing committees of the legislature under s. ^{13.172 (3)} ~~13.172 (3)~~, of any individual pupil data ^(that is) proposed to be included in the student information system since the last report under this subsection. ~~the information under this paragraph.~~

(9) (4) ^(B) The department shall promulgate



~~§ 19.41~~

 promulgated a rule listing every

 distinct type of individual pupil data that

 the department collects and revise the rule

 periodically to keep it up to date. Revisions

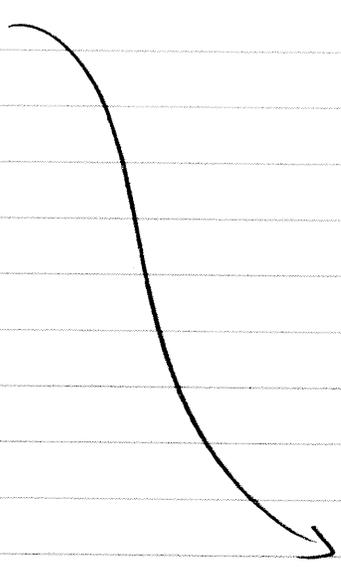
 to the rule that are necessary in order

 to comply with federal law shall be

 promulgated as emergency rules under

 s. 227.24 for the period before the effective

 date of the permanent rules;



4-4:2

or more of the following approaches might help to accomplish the requester's objective:

- 1. Exempt the proposed rule from the statement of scope and gubernatorial approval requirements under ss. 227.24 (1) (e) 1d. and 1g., stats. See the first optional sentence at the end of example 7.15 (5), Section 7.
- 2. Provide a deadline by specifying that the scope statement is considered approved under s. 227.24 (1) (e) 1d., stats., if the governor does not disapprove it within a specified period. See the second

optional sentence at the end of example 7.15 (5), Section 7.

- 3. Provide a deadline by specifying that the proposed emergency rule is considered approved under s. 227.24 (1) (e) 1g., stats., if the governor does not reject it within a specified period. See the third optional sentence at the end of example 7.15 (5), Section 7.

(d) If you provide an exemption from emergency rule procedures, add the appropriate phrase, as specified in sec. 4.02 (2) (be) 2., *Drafting Manual*, to the relating clause.

EXAMPLE 7.15 (5)

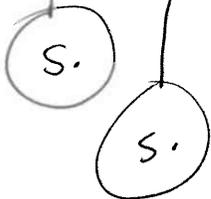
SECTION 6. Nonstatutory provision: Insurance.

(1) HEALTH INSURANCE RISK-SHARING PLAN; RULES.

(a) The commissioner of insurance shall submit in proposed form the rules required under section 619.115 of the statutes, as created by this act, to the legislative council staff under section 227.15 (1) of the statutes no later than the first day of the 6th month beginning after the effective date of this paragraph.

(b) Notwithstanding section 227.135 (2) of the statutes, the commissioner of insurance is not required to present the statement of the scope of the rules required under section 619.115 of the statutes, as created by this act, to the governor for approval.

(c) Using the procedure under section 227.24 of the statutes, the commissioner of insurance may promulgate rules required under section 619.115 of the statutes, as created by this act, for the period before the effective date of the rules submitted under paragraph (a), but not to exceed the period authorized under section 227.24 (1) (c) of the statutes, subject to extension under ~~section~~ 227.24 (2) of the ~~statutes~~. Notwithstanding ~~section~~ 227.24 (1) (a), (2) (b), and (3) ~~of the statutes~~, the commissioner is not required to provide evidence that promulgating a rule under this paragraph as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this paragraph.



department



(4) (B) (5) The department shall develop a detailed data security plan that includes all of the following:

(a) Guidelines for authorizing access to the student information system

~~It establishes~~ one to individual pupil data including guidelines for authenticating authorized access.

(b) Privacy compliance standards

(c) Privacy and security ^{audits} audits

(d) Breach planning, ^{notification} notification,

and procedures

(e) Data ^{retention} retention and ^{disposition} disposition policies.

(f) Data security policies

including electronic, physical, and administrative safeguards, such as data encryption and employee training. (C)

(A) (B) (5) The department shall ensure that any contract with a private vendor that governs databases, assessments, or instructional supports ~~and~~ includes that includes pupil data ~~or~~ ~~or~~ pupil data that has been redacted to remove pupil and parent identifying information; includes provisions to safeguard the privacy and security of the data and includes penalties for noncompliance with the provisions. (D)

ASSEMBLY BILL 618

SECTION 10

1 ~~115.30 (2) The department may require all school boards to report to it, on~~
2 ~~forms provided, the name of the school and its location, the name and address of the~~
3 ~~teachers, the number of months of school maintained during the year, the opening~~
4 ~~and closing dates, the names and ages of all pupils enrolled between the ages of 6 and~~
5 ~~18, the names and post-office addresses and places of residence of the parents of such~~
6 ~~pupils, the number of the school district and the distance such pupils reside from the~~
7 ~~schoolhouse, the number of days each pupil was present during each month, and any~~
8 ~~other information requested by it, except as provided in s. 115.28 (12) (a) 3.~~

9 **SECTION 11.** 118.125 (2) (a) of the statutes is amended to read:

10 118.125 (2) (a) A pupil, or the parent or guardian of a minor pupil, shall, upon
11 request, be shown and provided with a copy of the pupil's progress pupil records other
12 than the pupil's behavioral records.

13 **SECTION 12.** 118.125 (2) (d) of the statutes is renumbered 118.125 (2) (d) 2. and
14 amended to read:

15 118.125 (2) (d) 2. Pupil records shall be made available to persons employed by
16 the school district which the pupil attends who are required by the department under
17 s. 115.28 (7) to hold a license, law enforcement officers who are individually
18 designated by the school board and assigned to the school district, and other school
19 district officials who have been determined by the school board to have legitimate
20 educational interests, including safety interests, in the pupil records. Law
21 enforcement officers' records obtained under s. 938.396 (1) (c) 3. shall be made
22 available as provided in s. 118.127. A school board member or an employee of a school
23 district may not be held personally liable for any damages caused by the
24 nondisclosure of any information specified in this paragraph subdivision unless the
25 member or employee acted with actual malice in failing to disclose the information.

ASSEMBLY BILL 618

1 A school district may not be held liable for any damages caused by the nondisclosure
 2 of any information specified in this ~~paragraph~~ subdivision unless the school district
 3 or its agent acted with gross negligence or with reckless, wanton, or intentional
 4 misconduct in failing to disclose the information.

5 **SECTION 13.** 118.125 (2) (d) 1. of the statutes is created to read:

6 (6) 118.125 (2) (d) 1. In this paragraph, "school district official" ~~excludes~~ ^{includes} a
 7 contractor, consultant, volunteer, or any other person to whom the school board has
 8 outsourced school services or functions. INS 7-8

9 **SECTION 14.** 118.125 (2) (g) 2. of the statutes is amended to read:

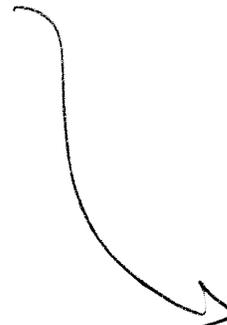
10 118.125 (2) (g) 2. ~~Upon~~ Except as provided in s. 115.28 (12) (a) 3., upon request
 11 by the department, the school board shall provide the department with any
 12 information contained in a pupil record that relates to an audit or evaluation of a
 13 federal or state-supported program or that is required to determine compliance with
 14 requirements under chs. 115 to 121.

15 **SECTION 15.** 120.18 (1) (s) of the statutes is amended to read:

16 120.18 (1) (s) ~~Such~~ Except as provided in s. 115.28 (12) (a) 3., such other facts
 17 and statistics in relation to the public, private or tribal schools, in the school district
 18 as the department requires.

19

~~(END)~~



7-8:1

SEC. # CR. 118.25(2)(d) 1
 118.25(2)(d) In this paragraph
 "school district off"

(no 9) if the contractor consultant
 or other person satisfies the following
 conditions:

(9) a. He or she performs a service or
 function for which the school board
 otherwise use school district employees.

(9) b. He or she is under the direct
 control of the school board with respect to
 the use and maintenance of pupil records.

(9) c. He or she is subject to the
 requirements of this section and federal

7-8:2

law governing the use and redisclosure
of personally identifiable information
from records.
from pupil records.

7-8:3

1+

④

SEC. # CR. 118.125 (8)

③

AND

CS

⑨

118.125(8)

POLITICAL AFFILIATION, RELIGION.

A school board may not request a pupil, or a pupil's parent or guardian, to disclose the pupil's political affiliation or religion.

Nonstat File Sequence: **AAA**

LRB _____/_____/_____

_____:_____:_____

NONSTAT SESSLAW

1. In the component bar:

For the action phrase, execute: create → action: → *NS: → nonstat

For the budget action phrase, execute: create → action: → *NS: → 91XX

For a subsection, execute: create → text: → *NS: → sub

For a paragraph, execute: create → text: → *NS: → par

For a subdivision, execute: create → text: → *NS: → subd

For a subdivision paragraph, execute: create → text: → *NS: → subpar

2. Nonstatutory subunits are numbered automatically. Fill in the SECTION # or subsection # only if a "frozen" number is needed. Below, for the budget, fill in the 9100 department code.

SECTION # 91 . Nonstatutory provisions; ...

(#1) () ^{CS} STUDENT INFORMATION SYSTEM ()

~~The first report required under section 115.298 (3) of the statutes, as created by this act, shall be submitted by January 15, 2015.~~

^{Notwithstanding} section 115.298(3) of the statutes as created by this act, the report required to be submitted by January 15, 2015, shall include any pupil data proposed to be included in the student information ^{system} since the effective date of this subsection January 1, 2014.

Knepp, Fern

equivalent
Create in state law

From: Ozalp, Jessica
Sent: Friday, January 31, 2014 3:07 PM
To: Knepp, Fern
Subject: ferpa language

Add ~~sub~~ to s. 118.125

§99.33 What limitations apply to the redisclosure of information?

(a)(1) An educational agency or institution may disclose personally identifiable information from an education record only on the condition that the party to whom the information is disclosed will not disclose the information to any other party without the prior consent of the parent or eligible student.

(2) The officers, employees, and agents of a party that receives information under paragraph (a)(1) of this section may use the information, but only for the purposes for which the disclosure was made.

Jessica E. Ozalp
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Wisconsin Legislative Council
Jessica.Ozalp@legis.wisconsin.gov
(608) 266-2982

under sub (2)(a) to (p)
A school board may not disclose personally identifiable information from a pupil's record, unless all of the following apply:
~~personally identifiable~~
~~person who possesses pupil records may disclose a pupil's~~

The person to whom the disclosure is made agrees not to disclose the information to any other person w/o ^{first obtaining} the consent of the pupil, or the parent or guardian of a minor pupil.

The party person receiving the the information agrees that to use the information only for the purposes for which the disclosure was made.

Knepp, Fern

From: Ozalp, Jessica
Sent: Friday, January 31, 2014 3:49 PM
To: Knepp, Fern
Subject: suggested language

"Aggregate data" means data collected and/or reported at the group, cohort, or institutional level;

the following exceptions:

- (c) a student registers for or takes a national or multistate assessment;
- (d) a student voluntarily participates in a program for which such a data transfer is a condition/requirement of participation;
- (f) a student is classified as "migrant" for federal reporting purposes; or
- (g) a federal agency is performing a compliance review;

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*DPI can only provide
aggregate data
to fed agency
subject
to
exceptions*



*★ Add DPI & school to
118.125(8)
under the sub*

Knepp, Fern

From: Ozalp, Jessica
Sent: Friday, January 31, 2014 4:20 PM
To: Knepp, Fern
Subject: RE: Need changes to AB618 amendment

Yes, thanks.

From: Knepp, Fern
Sent: Friday, January 31, 2014 4:17 PM
To: Ozalp, Jessica
Subject: RE: Need changes to AB618 amendment

I have a hopefully quick question about the change to s. 118.125 (8). When you said to include "a school" in the prohibition did you want to include charter schools and/or private schools participating in a choice program?

Fern

From: Ozalp, Jessica
Sent: Friday, January 31, 2014 12:40 PM
To: Kuczenski, Tracy; Knepp, Fern
Subject: RE: Need changes to AB618 amendment

Fern and I talked already, but thanks very much!

From: Kuczenski, Tracy
Sent: Friday, January 31, 2014 12:40 PM
To: Ozalp, Jessica; Knepp, Fern
Subject: RE: Need changes to AB618 amendment

Hi Jessica:-

I can help you with this, but I am scheduled to attend a "webinar" in 20 minutes; can I give you a call when it is done?

Tracy

Tracy K. Kuczenski
Senior Legislative Attorney
Wisconsin Legislative Reference Bureau
tracy.kuczenski@legis.wisconsin.gov
(608) 266-9867

From: Ozalp, Jessica
Sent: Friday, January 31, 2014 12:13 PM
To: Kuczenski, Tracy; Knepp, Fern
Subject: Need changes to AB618 amendment

Hi Fern and Tracy,
I met with Liz in Pridemore's office today about a PG draft we just received to amend AB 618. She has a couple very small changes to request and says the committee wants to move quickly so her boss would like it Monday if at all possible. Sorry for the tight timeframe; I did warn her that everyone's a bit backed up with lots of rush requests right

now. I'm forwarding Peter's instructions to contact you in his absence on this. Which of you do I get to visit? ☺
Jessica

From: Grant, Peter
Sent: Thursday, January 30, 2014 3:37 PM
To: Ozalp, Jessica
Subject: RE: AB618 amendment

Oh...if you need to have changes made to it while I'm gone, or make it introducible, ask Tracy or Fern. And if Pridemore wants it jacketed so he can introduce it, you'll need to tell Tracy, Fern, or ask our front office to jacket it for him. (They won't know who to jacket if for because the requester is LCS.)

From: Ozalp, Jessica
Sent: Thursday, January 30, 2014 3:25 PM
To: Grant, Peter
Subject: RE: AB618 amendment

Hi Peter, so Liz gets this via a separate delivery right? I am just checking if I need to take it to her. Thanks.

From: Grant, Peter
Sent: Wednesday, January 29, 2014 2:32 PM
To: Pusch, Liz; Ozalp, Jessica
Subject: RE: AB618 amendment

Liz, you should have a preliminary draft on Friday.

From: Pusch, Liz
Sent: Wednesday, January 29, 2014 12:36 PM
To: Ozalp, Jessica; Grant, Peter
Subject: AB618 amendment

Good Afternoon,
Thank you for all of the assistance you have provided in drafting this amendment. The Education Committee was hoping to exec on this bill next week. Would it be possible to have the amendment ready by Friday or Monday?

Liz Pusch

Office of Rep. Don Pridemore
608-267-2367
Liz.Pusch@legis.wi.gov