



Luther S. Olsen

State Senator

14th District

TO: Senate Committee on Education
FROM: Senator Luther Olsen
DATE: Tuesday, August 13, 2019
SUBJECT: Testimony for Assembly Bills 53 and 54

Thank you members of the Senate Committee on Education for holding a hearing and allowing me to testify in support of Assembly Bills 53 and 54.

Most information contained within a pupil's record is confidential, but state law does allow school boards to disclose certain information that is categorized as directory data. Under current law we allow them to disclose a pupil's name, address, telephone listing, date and place of birth, major field of study, participation in activities and sports, dates of attendance, photographs, degrees and awards, and the name of the school most recently attended. It is entirely up to the school district which information they include in their directory data. However, parents and guardians do have the ability to opt out.

Certain agencies including law enforcement or child welfare agencies can access information that is not designated as directory data such as the name of a pupil's parent or guardian, but only under specific circumstances. Assembly Bill 53 will add the name of a pupil's parent or guardian to the list of categories that a school can include it in their list of directory data. This update to the current statute would be beneficial for situations where having access to the name of a pupil's parent or guardian in a timely manner would be useful for safety purposes. Parents will still have the same ability to opt out of this, just as they do the other directory data information.

Under current law, we require that schools conduct drills that prepare students in the event of a fire, tornado, or school safety incident without giving them advanced warning of the drill. Assembly Bill 54 makes a simple change that will allow the person who is responsible for conducting the drills the ability to give advanced notification of the upcoming drill to students, if it would be in their best interest. For example a student with a disability who doesn't do well with changes to their normal routine would be able to prepare ahead of time for the disruption.

Again, thank you for holding a hearing today. I ask for your support on Assembly Bills 53/54 and I would be more than happy to answer any questions.



MARK BORN

STATE REPRESENTATIVE • 39TH ASSEMBLY DISTRICT

Testimony in Support of Assembly Bills 53 and 54
Senate Committee on Education
August 13, 2019

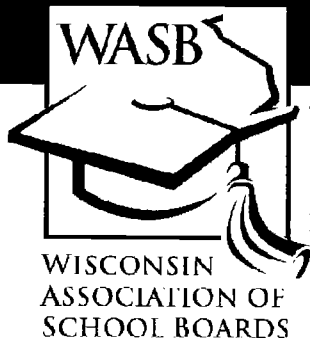
Good morning Chairman Olsen and members of the Senate Committee on Education, thank you for holding a public hearing on Assembly Bills 53 and 54.

Before you today are two bills that were developed out of several meetings with a workgroup on school safety. Over the past few years, I've had the opportunity to join the group to discuss how all aspects of society can work together to improve the safety of our children in our schools. This initiative is a great example of how schools, law enforcement, and government can come together, break down silos, and accomplish our shared goals. In attendance today is Mike Reissmann, Dodge County Detective, to speak to the basis of these proposals and why the workgroup brought these suggestions forward.

Assembly Bill 53 makes a change to statute that will allow school districts to add the name of a pupil's parent or guardian to the list of categories that they can include in their directory data. Directory data is a list of information that a school may disclose, in a timely manner compared to other mechanisms, as long as certain notification procedures are followed. The current list of categories that a school can include in their list is: *a pupil's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, photographs, degrees and awards received and the name of the school most recently previously attended by the pupil.* AB 53 adds a pupil's parent or guardian to that list, giving local school districts the option to include it in their set of directory data.

Assembly Bill 54 makes a simple change to current law that will allow a person that has direct charge of a school to give a warning to students before a fire, tornado, or school safety drill, if it is in the best interest of the student. After meeting with the workgroup, an issue was raised that in some situations it would be in the best interest of students if they were allowed to warn them about an upcoming drill. A warning would be especially useful in situations for students with disabilities.

AB 53 and 54 passed with bipartisan support out of the Assembly Committee on Education in April of this year. In June, they passed the full Assembly. I appreciate your time and consideration of these proposals. Please feel free to contact my office if you have any questions or concerns.



"Leadership in Public School Governance"

JOHN H. ASHLEY, EXECUTIVE DIRECTOR

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TO: Members, Senate Committee on Education
FROM: Dan Rossmiller, WASB Government Relations Director
DATE: August 13, 2019
RE: ASSEMBLY BILL 53, relating to pupil records.

School districts maintain various types of pupil records. The general rule, established under both state and federal law, is that student records containing personally-identifiable information are confidential unless a specific exception to confidentiality applies.

A specific exception applies to certain limited types of information called "directory data" which can be disclosed by a public school once proper procedural steps are taken. These steps include the public school: 1) designating particular categories of information as directory data; 2) notifying parents and guardians of their right to opt-out of disclosure; and 3) allowing a 14-day period for opting out.

Assembly Bill 53 would add the name of a pupil's parents or guardians to the list of categories of pupil information that a public school may designate as directory data.

The WASB believes Assembly Bill 53 provides for local control in maintaining a fair degree of confidentiality with respect to the names of pupils' parents or guardians as is explained below.

Wisconsin's state pupil records law is contained in section 118.125, Wis. Stats. (In addition, federal law, in the form of the Family Educational Records and Privacy Act (or FERPA) and related federal regulations, also governs pupil records.)

Directory data is currently defined in section 118.125(1)(b) of the Wisconsin Statutes as follows:

"Directory data" means those pupil records which include the pupil's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, photographs, degrees and awards received and the name of the school most recently previously attended by the pupil.

Generally speaking, the "directory data" exception to student record confidentiality authorizes schools to disclose a limited subset of pupil record information (such as student names and photos) without first obtaining specific consent, in advance, from each student's parent or guardian.

The “directory data” exception serves as a practical policy tool that facilitates a number of routine school functions and activities, such as: publishing school yearbooks, newspapers, and newsletters; promoting honor rolls and other student awards/achievements; recognizing students (e.g., birthdays) and their work on school bulletin boards; sharing pictures from activities and field trips; and creating programs for graduation ceremonies, athletic contests, fine arts productions, and other school activities/performances.

Without the directory data process, schools would be faced with the extremely burdensome (and perhaps insurmountable) task of obtaining and verifying individualized, student-by-student, written consent to undertake each of these routine activities.

Merely adding or listing a category of information such as the name of a pupil’s parents or guardians in the statutory definition of “directory data” does not by itself remove confidentiality from that information. Additional steps are required before the information may be released. For that reason, current law contains a number of protections or safeguards against abuse that might potentially arise from the changes made in the bill.

The first of these protections is that school districts must have a written policy concerning pupil records (see sec. 118.125(3), Wis. Stats.) and may as part of that policy choose to designate some, none or all of the categories of pupil information listed in the statute as “directory data” that may be disclosed

Some districts incorporate the topic of directory data directly into the district’s general policy/rule on pupil records management and confidentiality. Other districts choose to maintain a separate distinct policy or rule addressing the directory data exception. Just because a category of data is listed in the statute does not mean a district must designate it as directory data in its written board policy concerning pupil records. **A district may choose to designate some, none or all of the data as directory data available for release. If AB 53 is enacted, but a district does not designate the names of pupil’s parents or guardians, those names would remain confidential.** As a result, the directory data law offers substantial local control.

The second level of protection is found in the parent’s or guardian’s right to opt-out of any or all disclosure of directory data as that data is defined by the district’s policy.

Prior to disclosing directory data, a school district must notify the child’s parent, legal guardian, or guardian ad litem of the categories of information designated as directory data with respect to each pupil and allow 14 days for the parent, legal guardian, or guardian ad litem to inform the district that all or any part of the directory data may not be released without prior consent of the parent or guardian. (See Wis. Stat. § 118.125(2)(j), 34 CFR 99.37.) Such notice is sometimes given by the district as part of its annual notice to parents of their rights with regard to pupil records. **If the parent, legal guardian, or guardian ad litem requests that certain directory data be disclosed only with written consent, then that data may not be released without specific written consent.**

The third level of protection is found in federal law that allows limits on disclosure.

Under federal law, disclosure of directory information (as directory data is called under FERPA) to third parties can be limited to specific parties, for specific purposes, or both. Federal regulations (see 34 CFR 99.37(d)) governing the notice and opt-out provisions provide that:

“In its public notice to parents and eligible students in attendance at the agency or institution that is described in paragraph (a) of this section, an educational agency or institution may specify that disclosure of directory information will be limited to specific parties, for specific purposes, or both. When an educational agency or institution specifies that disclosure of directory information will be limited to specific parties, for specific purposes, or both, the educational agency or institution must limit its directory information disclosures to those specified in its public notice that is described in paragraph (a) of this section.” **(emphasis added)**

An increasing number of school districts are making and implementing “limited party” and “limited purpose” designations of student directory data and have adopted this approach in their school board policies on pupil records.

Because we are satisfied that this bill provides for local control and that protections and safeguards for confidentiality of the names of parents and guardians exist, we have expressed support for Assembly Bill 53.