

SENATE BILL 2182

By Campfield

AN ACT to amend Tennessee Code Annotated, Title 49,
Chapter 1, relative to student records.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 1, is amended by adding the following language as a new, appropriately designated part.

49-1-1201. As used in this part:

(1) "Directory information" means the information available about a student that is not considered harmful or an invasion of privacy if disclosed without written consent.

Directory information includes:

- (A) The student's name;
- (B) Address;
- (C) Telephone listing;
- (D) Electronic mail address;
- (E) Photograph;
- (F) Date and place of birth;
- (G) Major field of study;
- (H) Grade level;
- (I) Enrollment status (undergraduate or graduate, full time or part time);
- (J) Dates of attendance;
- (K) Participation in officially recognized activities and sports;
- (L) Weight and height of members of athletic teams;
- (M) Degrees, honors, and awards received;
- (N) The most recent educational agency or institution attended; and

(O) Personal identification number pursuant to § 49-6-5101;

(2) "Board" or "state board" means the state board of education, prior to Race to the Top;

(3) "Department" means the department of education, prior to Race to the Top;

(4) "Education record":

(A) Means, records, files, documents, and other materials that:

(i) Contain information directly related to a student; and

(ii) Are maintained by an educational agency, institution or by a person acting for such agency or institution;

(B) Does not mean:

(i) Records of instructional, supervisory, and administrative personnel and educational personnel which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute;

(ii) Records maintained by a law enforcement unit of the educational agency or institution that were created by that law enforcement unit for the purpose of law enforcement;

(iii) In the case of persons who are employed by an educational agency or institution but who are not in attendance at such agency or institution, records made and maintained in the normal course of business which relate exclusively to such person in that person's capacity as an employee and are not available for use for any other purpose; or

(iv) Records on a student who is eighteen (18) years of age or older, or is attending an institution of postsecondary education, which are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his professional or paraprofessional capacity, or assisting in that capacity, and which are made, maintained, or used

only in connection with the provision of treatment to the student, and are not available to anyone other than persons providing such treatment, except that such records can be personally reviewed by a physician or other appropriate professional of the student's choice;

(5) "FERPA" means the federal Family Educational Rights and Privacy Act, codified at 20 U.S.C. § 1232g;

(6) "Personally identifiable student information" means:

(A) The student's name;

(B) The name of the student's parent or other family members;

(C) The address of the student or student's family;

(D)

(i) A personal identifier, such as:

(a) The student's social security number;

(b) Driver's license number; and

(c) Biometric record;

(ii) As used in this subdivision (6), "biometric record" means a record of one (1) or more measurable biological or behavioral characteristics that can be used for automated recognition of an individual, including fingerprints, retina or iris image, voice prints, DNA sequence, facial characteristics, handwriting, microchip implants or other unique physical representation;

(E) Any information that categorizes or defines individual student behavior such as:

(i) Misconduct;

- (ii) Disabilities;
- (iii) Environment;
- (iv) Transfer;
- (v) Withdrawals;
- (vi) Incidents;
- (vii) Accidents;
- (viii) Ethnicity;
- (ix) Financial status;
- (x) Food service eligibility;
- (xi) Home life;
- (xii) Any identifiable parental information, background, or status;
- (xiii) Parental or student employment status;
- (xiv) Political affiliation;
- (xv) Parent or student income;
- (xvi) Religious affiliation; and
- (xvii) Possession of firearms;

(F) Other indirect identifiers, such as:

- (i) The student's date of birth;
- (ii) Place of birth; and
- (iii) Mother's maiden name;

(G) Other information that, alone or in combination, is linked or likable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the

relevant circumstances, to identify the student with reasonable certainty;
and

(H) Information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates;

(7) "School" means any public or private elementary or secondary school or any state-operated institution of higher learning, prior to Race to the Top; and

(h) "Student" means any person with respect to whom an educational agency or institution maintains education records or personally identifiable information but does not include a person who has not been in attendance at such agency or institution.

49-1-1202.

(a) The state board, department, LEAs, or schools shall not disclose personally identifiable student information to anyone without parental notification and written consent from the parents; or in the case of students eighteen (18) years of age or older, the notification and written consent from the student.

(b) Written consent cannot be associated with and cannot be used as a condition for:

- (1) Enrollment in a school;
- (2) Testing;
- (3) The acquisition of transcripts,
- (4) Receipt of a diploma; or
- (5) Participation in commencement exercises.

(c) Except as provided in subsection (a), the state board, department, LEAs or schools may disclose personally identifiable student information when disclosure is pursuant to court order or subpoena.

(d) The state board, department, LEAs and schools shall permit access to, or the release of education records, when the information sought or requested is directory information.

49-1-1203.

The parental notification and written consent forms required by § 49-1-1202(a) shall:

- (1) State the scope, purpose and allowable uses of the personally identifiable student information pursuant to state or federal laws;
- (2) Specify the records to be released;
- (3) State the purpose of the release;
- (4) Identify the specific party or individual to whom the personally identifiable student information is to be released; and
- (5) Be signed and dated by the parent, or if the student is eighteen (18) years or older, may be signed by the student.

SECTION 2. The commissioner is authorized to promulgate rules to effectuate the purposes of this act. All such rules shall be promulgated in accordance with Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 3. This act shall take effect July 1, 2014, the public welfare requiring it.