

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

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SENATE BILL 815  
PROPOSED COMMITTEE SUBSTITUTE S815-PCS45178-TC-48

Short Title: Ensuring Privacy of Student Records.

(Public)

Sponsors:

Referred to:

May 21, 2014

1 THE BILL TO BE ENTITLED  
2 AN ACT TO ENSURE THE PRIVACY AND SECURITY OF STUDENT EDUCATIONAL  
3 RECORDS.

4 The General Assembly of North Carolina enacts:

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6 **PART I: ENSURE SECURITY OF STUDENT RECORDS**

7 **SECTION 1.** Article 29 of Chapter 115C of the General Statutes is amended by  
8 adding a new section to read:

9 **"§ 115C-402.5. Student data system security.**

10 (a) Definitions. – The following definitions apply in this section:

- 11 (1) Aggregate student data. – Data collected or reported at the group, cohort, or  
12 institutional level.  
13 (2) De-identified student data. – A student dataset in which parent and student  
14 personal or indirect identifiers, including the unique student identifier, have  
15 been removed.  
16 (3) FERPA. – The federal Family Educational Rights and Privacy Act, 20  
17 U.S.C. § 1232g.  
18 (4) Personally identifiable student data. – Includes, but is not limited to, the  
19 following:  
20 a. Student name.  
21 b. Name of the student's parent or other family members.  
22 c. Address of the student or student's family.  
23 d. Personal identifier, such as the student's Social Security number or  
24 unique student identifier.  
25 e. Other indirect identifiers, such as the student's date of birth, place of  
26 birth, and mother's maiden name.  
27 f. Other information that, alone or in combination, is linked or linkable  
28 to a specific student that would allow a reasonable person in the  
29 school community, who does not have personal knowledge of the  
30 relevant circumstances, to identify the student with reasonable  
31 certainty.  
32 g. Information requested by a person who the Department of Public  
33 Instruction or local school administrative unit reasonably believes  
34 knows the identity of the student to whom the education record  
35 relates.



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- 1           (5)    Student data system. – The student information management system used by  
2           the State Board of Education and Department of Public Instruction as part of  
3           the Uniform Education Reporting Systems for collection and reporting of  
4           student data from local boards of education.
- 5           (b)    Security of Student Data System. – To ensure student data accessibility,  
6           transparency, and accountability relating to the student data system, the State Board of  
7           Education shall do all of the following:
- 8           (1)    Create and make publicly available a data inventory and index of data  
9           elements with definitions of individual student data fields in the student data  
10           system, including, but not limited to:
- 11           a.     Any personally identifiable student data required to be reported by  
12           State and federal education mandates.
- 13           b.     Any other individual student data which has been proposed for  
14           inclusion in the student data system, with a statement regarding the  
15           purpose or reason for the proposed collection.
- 16           (2)    Develop rules to comply with all relevant State and federal privacy laws and  
17           policies that apply to personally identifiable student data in the student data  
18           system, including, but not limited to, FERPA and other relevant privacy laws  
19           and policies. At a minimum, the rules shall include the following:
- 20           a.     Restrictions on access to personally identifiable student data in the  
21           student data system to the following individuals:
- 22                1.    Authorized staff of the State Board of Education and  
23                Department of Public Instruction and the contractors working  
24                on behalf of the Department who require such access to  
25                perform their assigned duties.
- 26                2.    Authorized North Carolina public school administrators,  
27                teachers, and other school personnel and contractors working  
28                on behalf of the board of the North Carolina public school  
29                who require such access to perform their assigned duties.
- 30                3.    Students and their parents or legal guardians.
- 31                4.    Authorized staff of other State agencies and contractors  
32                working on behalf of those State agencies as required by law  
33                and governed by interagency data-sharing agreements.
- 34           b.     Criteria for approval of research and data requests for personally  
35           identifiable student data in the student data system made to the State  
36           Board of Education from State or local agencies, researchers working  
37           on behalf of the Department, and the public.
- 38           (3)    Prohibit the transfer of personally identifiable student data in the student  
39           data system to individuals other than those identified in subdivision (2) of  
40           this subsection, unless otherwise permitted by law and authorized by rules  
41           adopted under this section. Such rules shall authorize the release of  
42           personally identifiable data out of State to schools or educational agencies  
43           when a student enrolls in a school out of State or a local school  
44           administrative unit seeks help with locating a student formerly enrolled in  
45           this State who is now enrolled out of state.
- 46           (4)    Develop a detailed data security plan for the student data system that  
47           includes all of the following:
- 48           a.     Guidelines for authorizing access to the student data system and to  
49           individual student data, including guidelines for authentication of  
50           authorized access.
- 51           b.     Privacy compliance standards.

- 1                   c.     Privacy and security audits.  
2                   d.     Breach planning, notification, and procedures.  
3                   e.     Data retention and disposition policies.  
4                   f.     Data security policies, including electronic, physical, and  
5                         administrative safeguards such as data encryption and training of  
6                         employees.  
7           (5)   Ensure routine and ongoing compliance by the Department of Public  
8                   Instruction with FERPA, other relevant privacy laws and policies, and the  
9                   privacy and security rules, policies, and procedures developed under the  
10                  authority of this section related to personally identifiable student data in the  
11                  student data system, including the performance of compliance audits within  
12                  the Department.  
13           (6)   Ensure that any contracts for the student data system that include  
14                   de-identified student data or personally identifiable student data and are  
15                   outsourced to private contractors include express provisions that safeguard  
16                   privacy and security and include penalties for noncompliance.  
17           (7)   Notify the Governor and the General Assembly annually by October 1 of the  
18                   following:  
19                  a.     New student data, whether aggregate data, de-identified data, or  
20                         personally identifiable student data, included or proposed for  
21                         inclusion in the student data system for the current school year.  
22                  b.     Changes to existing data collections for the student data system  
23                         required for any reason, including changes to federal reporting  
24                         requirements made by the United States Department of Education.  
25           (c)   Restricting on Student Data Collection. – The following information about a student  
26                   or a student's family shall not be collected in nor reported as part of the student data system:  
27                  (1)   Biometric information.  
28                  (2)   Political affiliation.  
29                  (3)   Religion.  
30                  (4)   Voting history."

## 31 32 **PART II: INCREASE TRANSPARENCY ON STUDENT PRIVACY ISSUES**

33           **SECTION 2.** Article 29 of Chapter 115C of the General Statutes is amended by  
34 adding a new section to read:

### 35 **"§ 115C-402.15. Parental notification regarding rights to student records and opt-out** 36 **opportunities.**

37           (a)   Annual Parental Notification. – Local boards of education shall annually provide  
38 parents, by a method reasonably designed to provide actual notice, information on parental  
39 rights under State and federal law with regards to student records and opt-out opportunities for  
40 disclosure of directory information as provided under the Family Educational Rights and  
41 Privacy Act, 20 U.S.C. § 1232g, and notice and opt-out opportunities for surveys covered by  
42 the Protection of Pupil Rights Amendment, 20 U.S.C. § 1232h.

43           (b)   Notice Content. – The notice shall include information on parental rights under  
44 State and federal law to:

- 45                  (1)   Inspect and review education records.  
46                  (2)   Seek to amend inaccurate education records.  
47                  (3)   Provide written consent prior to disclosure of personally identifiable  
48 information from education records, except as otherwise provided by law.  
49 Information shall be included on disclosure of directory information and  
50 parental rights to opt out of disclosure of directory information.

- 1           (4)   File a complaint with the U.S. Department of Education concerning alleged  
2                   failures to comply with the Family Educational Rights and Privacy Act.  
3           (5)   Receive notice and the opportunity to opt out prior to the participation of the  
4                   student in a protected information survey under 20 U.S.C. § 1232h."  
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6 **PART III: EFFECTIVE DATE**

7           **SECTION 3.** This act is effective when it becomes law. Annual notice  
8 requirements to parents required by Section 2 apply beginning with the 2014-2015 school year.