

2015 Regular Session

HOUSE BILL NO. 718

BY REPRESENTATIVE SCHRODER

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

STUDENTS: Provides relative to the collection and sharing of certain student information

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AN ACT

To amend and reenact R.S. 17:3913(A)(2), (C)(introductory paragraph) and (2), and (D), 3914(B)(3), (C)(2)(introductory paragraph) and (3), (F)(1), (2), and (4), (G), (H), (K)(3)(c)(ii) and (4), and 3996(B)(38) and to enact R.S. 17:3914(C)(2)(e), (F)(5), and (K)(3)(d), relative to student information; to provide relative to requirements for information on the transfer of personal student information to be made available to the public; to provide relative to exceptions to the prohibition on the collection and sharing of student information; to extend time lines relative to such prohibition and the assignment of student identification numbers; to provide relative to prohibitions, requirements, and exceptions with respect to certain contracts and access to student information pursuant to such contracts; to provide relative to parental consent and required notification with respect to the withdrawal of such consent; to require the Board of Regents to destroy certain data; to provide for effectiveness; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 17:3913(A)(2), (C)(introductory paragraph) and (2), and (D), 3914(B)(3), (C)(2)(introductory paragraph) and (3), (F)(1), (2), and (4), (G), (H), (K)(3)(c)(ii) and (4), and 3996(B)(38) are hereby amended and reenacted and R.S. 17:3914(C)(2)(e), (F)(5), and (K)(3)(d) are hereby enacted to read as follows:

1 §3913. Transfer of personally identifiable student information

2 A.

3 * * *

4 (2) The purpose of this Section is to increase awareness of the transfer of
5 student information by requiring the state Department of Education and ~~local~~
6 ~~education agencies~~ public school governing authorities to ~~publicize~~ make such
7 information available to the public ~~on their Internet websites~~.

8 * * *

9 C. By January 1, 2015, ~~each local education agency that has a website~~ the
10 governing authority of each public school shall make available ~~on its website~~ at the
11 main office of the governing authority information about the transfer of personally
12 identifiable student information. Such information shall include but need not be
13 limited to all of the following, to the extent such information is obtainable:

14 * * *

15 (2) A copy of the signed agreement between the ~~local education agency~~
16 governing authority of the public school and the authorized recipient.

17 * * *

18 D. The information specified in Paragraphs (B)(1) through (5) and (C)(1)
19 through (5) of this Section shall be made available ~~on the respective website~~ as
20 specified in this Section no later than ten business days following the execution of
21 an agreement providing for a transfer of personally identifiable student information
22 and shall remain available for the duration of the agreement.

23 §3914. Student information; privacy; legislative intent; definitions; prohibitions;
24 parental access; penalties

25 * * *

26 B.

27 * * *

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

3 * * *

4 C.

5 * * *

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

12 * * *

13 (e) Provide student information for a school year prior to the 2015-2016
14 school year for the purpose of completing or correcting required submissions to the
15 state Department of Education or responding to financial audits.

16 * * *

17 (3) By not later than May 1, 2015, the state Department of Education shall
18 develop a system of unique student identification numbers. By not later than ~~June~~
19 ~~1, 2015~~ August 1, 2015, each local public school board shall assign such a number
20 to every student enrolled in a public elementary or secondary school. Student
21 identification numbers shall not include or be based on social security numbers, and
22 a student shall retain his student identification number for his tenure in Louisiana
23 public elementary and secondary schools.

24 * * *

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

1 (2) No contractor pursuant to this Subsection shall allow access to, release,
2 or allow the release of student information to any person or entity except as specified
3 in the contract. No contractor shall use student information to conduct predictive
4 modeling for the purpose of limiting the educational opportunities of students.

5 * * *

6 (4) The requirements of Paragraph (3) of this Subsection shall not apply to
7 a contract entered into prior to June 1, 2015, for the acquisition of goods, equipment,
8 or instructional materials purchased in accordance with R.S. 38:2212.1(E), (F), or
9 (N) but shall apply to any extension or renewal of such contract.

10 (5) Any person who knowingly and willingly violates the provisions of this
11 Subsection shall be fined not more than ten thousand dollars or imprisoned for not
12 more than three years, or both.

13 G. Except as provided in Paragraph (F)~~(4)~~(5) of this Section, a person who
14 violates any provision of this Section shall be punished by imprisonment for not
15 more than six months or by a fine of not more than ten thousand dollars.

16 H. Nothing in this Section shall prohibit a ~~school system employee employed~~
17 ~~at the person employed in a public school and a~~ or other person authorized by the
18 superintendent of the public school or school system from being provided or having
19 access to a student's records as may be necessary to perform his duties in accordance
20 with a policy adopted by the local public school board for such purpose.

21 * * *

22 K.

23 * * *

24 (3)

25 * * *

26 (c) The form will contain the following:

27 * * *

28 (ii) ~~A statement whereby a student's parent or legal guardian acknowledges~~
29 Notification that the failure to provide written consent for the collection and

1 disclosure of the student's information as provided in this Subsection may result in
2 delays or may prevent successful application for admission to a postsecondary
3 educational institution and for state and federal student financial aid. This statement
4 shall be displayed prominently and shall be printed in bold type.

5 (d) Consent provided by a student's parent or legal guardian shall continue
6 unless such consent is withdrawn in writing. Annual notification shall be provided
7 to the student's parent or legal guardian as to the right and process used to withdraw
8 consent.

9 (4) ~~The governing authority of each public school, each~~ Each Louisiana
10 postsecondary ~~educational~~ education institution, ~~the Board of Regents,~~ and the Office
11 of Student Financial Assistance shall destroy all data collected for purposes of this
12 Subsection not later than five years after the student graduates, unless otherwise
13 required by state or federal law or regulation.

14 * * *

15 §3996. Charter schools; exemptions; requirements

16 * * *

17 B. Notwithstanding any state law, rule, or regulation to the contrary and
18 except as may be otherwise specifically provided for in an approved charter, a
19 charter school established and operated in accordance with the provisions of this
20 Chapter and its approved charter and the school's officers and employees shall be
21 exempt from all statutory mandates or other statutory requirements that are
22 applicable to public schools and to public school officers and employees except for
23 the following laws otherwise applicable to public schools with the same grades:

24 * * *

25 (38) Student information, R.S. 17:3913 and 3914.

26 * * *

27 Section 2. This Act shall become effective on July 1, 2015; if vetoed by the governor
28 and subsequently approved by the legislature, this Act shall become effective on July 1,
29 2015, or on the day following such approval by the legislature, whichever is later.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 718 Engrossed

2015 Regular Session

Schroder

Abstract: Provides relative to the collection and sharing of certain student information.

Present law (R.S. 17:3914) prohibits the collection of certain student information by local public school systems and charter schools unless the information is voluntarily disclosed by the parent or legal guardian. Prohibits (beginning June 1, 2015) local school system and charter school officials and employees from sharing personally identifiable student information with local school board members and any other person or public or private entity with certain exceptions and in accordance with State Board of Elementary and Secondary Education regulation or applicable law. Prohibits access to public school computer systems where student information is stored with certain exceptions. Provides for penalties for violations of present law. Requires the state Dept. of Education to develop a system of unique student identification numbers not later than May 1, 2015. Requires local public school boards to assign such numbers to every student not later than June 1, 2015, and provides that such numbers shall not include or be based on social security numbers. Defines "parent or legal guardian" as a student's parent, legal guardian, or other person responsible for the student.

Proposed law changes the June 1st dates on the effectiveness of present law prohibition on sharing student information and the required assignment of identification of numbers to Aug. 1, 2015. Proposed law adds to present law exceptions, the sharing of student information from prior school years for completing or correcting required submissions to the department or responding to financial audits and deletes the requirement that exceptions to present law prohibitions be in accordance with State Board of Elementary and Secondary Education regulation. Includes entities that are responsible for a student in present law definition of "parent or legal guardian". Otherwise retains present law.

Present law requires public school governing authorities annually to provide a parental consent form (for students beginning in the eighth grade) that contains a statement notifying a student's parent or legal guardian of what student information will be collected and a statement that a student's parent or legal guardian acknowledges that failure to provide written consent for the collection and disclosure of such information may result in delays or prevent successful application for admission to a postsecondary educational institution and for state and federal student financial aid. Requires public school governing authorities, postsecondary educational institutions, and the Office of Student Financial Assistance to destroy the data collected not later than five years after the student graduates, unless otherwise required by state or federal law or regulation. Proposed law provides that such consent shall continue unless withdrawn in writing and requires annual notification to parents as to the right and process used to withdraw consent. Deletes public school governing authorities from present law requirement to destroy data and adds the Board of Regents to such requirement. Otherwise retains present law.

Present law permits local public school boards and charter schools to contract with a private entity for student and other education services and prohibits a contractor from allowing access to, releasing, or allowing the release of such student information except as specified in the contract. Requires that contracts include specified requirements for protection of student information. Requires a contractor to return student information that has been removed from the contractor's servers to the local school board upon termination of the contract. Proposed law additionally permits such contracts with a public entity and excludes certain initial contracts for goods, equipment, or instructional materials acquired pursuant

to present law (relative to the procurement of certain materials and supplies) from present law requirements relative to the protection of student information. Proposed law prohibits a contractor from using student information to conduct predictive modeling to limit the educational opportunities of students. Otherwise retains present law.

Present law provides that present law shall not prohibit a school system employee employed at the school and a person authorized by the superintendent of the school system from having access to a student's records as may be necessary to perform his duties. Proposed law provides that present law shall apply to a person employed in a public school (whether an employee of the system or not). Specifies that student records provided or accessed pursuant to present law and proposed law shall be in accordance with local public school board policy and deletes the condition that the records be provided or accessed as necessary to perform his duties.

Present law (R.S. 17:3913) requires the state Dept. of Education and each local education agency that has a website to post by Jan. 1, 2015, certain information regarding agreements providing for the transfer of personally identifiable student information as provided in present law. Requires that such information be made available on the respective website no later than 10 business days following the execution of an agreement providing for a transfer of personally identifiable student information and remain available for the duration of the agreement. Further requires that the website contain information on a process by which parents of students attending public schools may register a complaint related to the unauthorized transfer of personally identifiable student information.

Proposed law requires each public school governing authority to make the information available at the main office of the governing authority instead of on its website. Changes present law references to "local education agencies" to "public school governing authorities". Otherwise retains present law.

Effective July 1, 2015.

(Amends R.S. 17:3913(A)(2), (C)(intro. para.) and (2), and (D), 3914(B)(3), (C)(2)(intro. para.) and (3), (F)(1), (2), and (4), (G), (H), (K)(3)(c)(ii) and (4), and 3996(B)(38); Adds R.S. 17:3914(C)(2)(e), (F)(5), and (K)(3)(d))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Education to the original bill:

1. Prohibit a contractor from using student information to conduct predictive modeling to limit educational opportunities instead of to direct such opportunities.
2. Relative to proposed law exclusion of certain initial contracts for services acquired from certain present law requirements, exclude instructional materials from such requirement instead of services.
3. Add entities that are responsible for a student to present law definition of "parent or legal guardian".
4. Require each public school governing authority to make student information available at the main office of the governing authority instead of on its website.