

1st Sub. S.B. 296
Student Consent Amendments

Representative **Stephanie Gricius** proposes the following amendments:

1. *Line 36 through 55:*

- 36 **53E-9-311** Disclosure of educational data -- Informed consent -- Access and
37 disclosure.
- 38 (1) As used in this section:
39 {(a) "Bona fide educational purpose" means a need to access a student's educational data
40 } {to provide services to the student directly related to the student's:
41 {(i) educational program; or
42 {(ii) participation in the workforce following completion of the student's educational
43 {program:}
44 {(b)} (a) "Educational data" means a student's:
45 (i) transcript data;
46 (ii) enrollment information;
47 (iii) course history; and
48 (iv) academic credentials.
49 {(c)} (b) "Informed consent" means the same as that term is defined in Section 53H-7-1001.
50 (2) In accordance with the Family Educational Rights and Privacy Act, 20 U.S.C. Sec.
51 1232g, this chapter, and other relevant state and federal privacy laws, a student who is
52 currently enrolled in, or has previously been enrolled in, an education entity, or a parent if the
53 student is under 18 years old, has the right
54 to:
54 (a) access the student's educational data; and
55 (b) authorize access to the student's educational data in accordance with this section.

2. *Line 79 through 87:*

- 79 (ii) prevents the student from requesting renewed access; or
80 (iii) limits the student's ability to provide informed consent for disclosure of the
81 student's educational data.
82 (6) (a) If a student is under 18 years old and the disclosure is to a party other than the student,
83 an education entity shall obtain the parent's consent {on behalf of the student} in
84 accordance with this section.

(b) The restrictions described in Subsection (5) apply to a parent of a student if the student is under 18 years old.

- 85 (7) This section does not alter, limit, or supersede any right or obligation under:
86 (a) the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g;
87 (b) this chapter; or

3. *Line 88 through 101:*

- 88 (c) any other applicable state or federal privacy law.
89 (8) The state board may issue nonbinding guidance regarding best practices for consent
90 mechanisms that comply with the requirements of this section.
91 (9) {An} **Except as provided in the Family Educational Rights and Privacy Act, 20 U.S.C.**
92 **Sec. 1232g, an** education entity shall disclose a student's educational data to a third party under this
93 section only:
94 (a) with the informed consent of the student;
95 (b) according to the terms of the document expressing the student's informed consent; **and**
96 {(c) **if the purpose of the disclosure stated in the document expressing the student's**}
97 **{informed consent to the disclosure demonstrates a bona fide educational purpose in}**}
98 **{the student's educational data; and}**}
99 {(d)} **(c)** subject to the agreement of the third party receiving the student's educational data:
100 (i) to use the student's educational data only as provided in the document expressing
101 the student's informed consent to the disclosure; and
(ii) to not redisclose the student's educational data to any other party.

4. *Line 112 through 125:*

- 112 **PART 10. Student Data**
113 **53H-7-1001** General provisions -- Definitions.
114 As used in this part:
115 {(1) **"Bona fide educational purpose" means the same as that term is defined in Section**}
116 **53E-9-311.**}
117 {(2)} **(1)** "Educational data" means a student's:
118 (a) transcript data;
119 (b) enrollment information;
120 (c) course history; and
121 (d) academic credentials.
122 {(3)} **(2)** "Informed consent" means voluntary, affirmative, written authorization complying
123 with
the requirements of 34 C.F.R. Sec. 99.30 that a student provides after the individual is

124 presented, in a clear manner, with sufficient information to reasonably understand:

125 (a) the educational data that is subject to access or disclosure;

5. *Line 153 through 166:*

153 (i) clearly disclose the limitation at the time the institution grants access; and

154 (ii) provide a reasonable mechanism that allows a student to re-access educational
155 data after the expiration of a time-based or session-based limitation.

156 (3) {An} **Except as provided in the Family Educational Rights and Privacy Act, 20 U.S.C.**
Sec. 1232g, an institution shall disclose a student's educational data under this section only:

157 (a) with the informed consent of the student;

158 (b) according to the terms of the document expressing the informed consent of the
159 student; **and**

160 {(c) if the purpose of the disclosure stated in the document expressing the informed }

161 { consent of the student to the disclosure demonstrates a bona fide educational purpose }

162 { for the student's educational data; and }

163 {(d)} (c) subject to the agreement of the third party receiving the student's educational data:

164 (i) to use the student's educational data only as provided in the document expressing
165 the informed consent of the student to the disclosure; and

166 (ii) to not redisclose the student's educational data to any other party.