



# PUBLIC SCHOOLS OF NORTH CAROLINA

DEPARTMENT OF PUBLIC INSTRUCTION | June St. Clair Atkinson, Ed.D., *State Superintendent*

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August 18, 2015

**TO** LEA Superintendents  
Charter School Directors

**FROM** June St. Clair Atkinson *JSA*

## **LEA REQUIREMENTS UNDER S.L. 2014-50/SENATE BILL 815 AN ACT TO ENSURE THE PRIVACY AND SECURITY OF STUDENT EDUCATIONAL RECORDS**

This memo is a reminder of the local education agencies (LEAs)/Charter School requirements of S.L. 2014-15/Senate Bill 815 that Governor McCrory signed into law on July 14, 2014. This law requires specific actions regarding the privacy and security of student educational records. This memo constitutes the second annual reminder of your efforts to protect these records pursuant to the requirements of the Federal Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g.

### **Obligations of the LEAs/Charter Schools:**

1. Local boards of education shall annually provide parents, by a method reasonably designed to provide actual notice, information on parental rights under state and federal law with regard to student records and opt-out opportunities for disclosure of directory information as provided under FERPA, and notice and opt-out opportunities for surveys covered by the Protection of Pupil Rights Amendment (PPRA), 20 U.S.C. § 1232h.
2. The notice shall include information on parental rights under state and federal law to:
  - (a) Inspect and review education records.
  - (b) Seek to amend inaccurate education records.
  - (c) Provide written consent prior to disclosure of personally identifiable information from education records, except as otherwise provided by law. Information shall be included on disclosure of directory information and parental rights to opt out of disclosure of directory information.
  - (d) File a complaint with the U.S. Department of Education concerning alleged failures to comply with FERPA.
  - (e) Receive notice and the opportunity to opt out prior to the participation of the student in a protected information survey under PPRA.

It is important to note that the parent's right to "opt out" is not in reference to data being stored about their child in the school's database system but only in reference to disclosure of the child's information contained in a school directory.

### **OFFICE OF THE STATE SUPERINTENDENT**

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Please visit our website at <http://www.ncpublicschools.org/data/management/resources/> to find a current list of documents dealing with data security. If you have any questions or comments, please send them to Dr. Lou Fabrizio, Director of Data, Research and Federal Policy at [Lou.Fabrizio@dpi.nc.gov](mailto:Lou.Fabrizio@dpi.nc.gov) or call 919.807.3770.

JSA:LMF

c: State Board of Education

Attached: S.L. 2014-50, Senate Bill 815

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013**

**SESSION LAW 2014-50  
SENATE BILL 815**

**AN ACT TO ENSURE THE PRIVACY AND SECURITY OF STUDENT EDUCATIONAL  
RECORDS.**

The General Assembly of North Carolina enacts:

**PART I. ENSURE SECURITY OF STUDENT RECORDS**

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

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

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

- (1) Aggregate student data. – Data collected or reported at the group, cohort, or institutional level.
- (2) De-identified student data. – A student dataset in which parent and student personal or indirect identifiers, including the unique student identifier, have been removed.
- (3) FERPA. – The federal Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g.
- (4) Personally identifiable student data. – Student data that:
  - a. Includes, but is not limited to, the following:
    1. Student name.
    2. Name of the student's parent or other family members.
    3. Address of the student or student's family.
    4. Personal identifier, such as the student's Social Security number or unique student identifier.
    5. Other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name.
    6. Other information that, alone or in combination, is linked or linkable 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.
    7. Information requested by a person who the Department of Public Instruction or local school administrative unit reasonably believes knows the identity of the student to whom the education record relates.
  - b. Does not include directory information that a local board of education has provided parents with notice of and an opportunity to opt out of disclosure of that information, as provided under the Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g, unless a parent has elected to opt out of disclosure of the directory information.
- (5) Student data system. – The student information management system used by the State Board of Education and Department of Public Instruction as part of the Uniform Education Reporting Systems for collection and reporting of student data from local boards of education.



(b) Security of Student Data System. – To ensure student data accessibility, transparency, and accountability relating to the student data system, the State Board of Education shall do all of the following:

- (1) Create and make publicly available a data inventory and index of data elements with definitions of individual student data fields in the student data system, including, but not limited to:
  - a. Any personally identifiable student data required to be reported by State and federal education mandates.
  - b. Any other individual student data which has been proposed for inclusion in the student data system, with a statement regarding the purpose or reason for the proposed collection.
- (2) Develop rules to comply with all relevant State and federal privacy laws and policies that apply to personally identifiable student data in the student data system, including, but not limited to, FERPA and other relevant privacy laws and policies. At a minimum, the rules shall include the following:
  - a. Restrictions on access to personally identifiable student data in the student data system to the following individuals:
    1. Authorized staff of the State Board of Education and Department of Public Instruction and the contractors working on behalf of the Department who require such access to perform their assigned duties.
    2. Authorized North Carolina public school administrators, teachers, and other school personnel and contractors working on behalf of the board of the North Carolina public school who require such access to perform their assigned duties.
    3. Students and their parents or legal guardians, or any individual that a parent or legal guardian has authorized to receive personally identifiable student data.
    4. Authorized staff of other State agencies and contractors working on behalf of those State agencies as required by law and governed by interagency data-sharing agreements.
  - b. Criteria for approval of research and data requests for personally identifiable student data in the student data system made to the State Board of Education from State or local agencies, researchers working on behalf of the Department, and the public.
- (3) Prohibit the transfer of personally identifiable student data in the student data system to individuals other than those identified in subdivision (2) of this subsection, unless otherwise permitted by law and authorized by rules adopted under this section. Such rules shall authorize the release of personally identifiable data out of State to schools or educational agencies when a student enrolls in a school out of State or a local school administrative unit seeks help with locating a student formerly enrolled in this State who is now enrolled out of State.
- (4) Develop a detailed data security plan for the student data system that includes all of the following:
  - a. Guidelines for authorizing access to the student data system and to individual student data, including guidelines for authentication of authorized access.
  - b. Privacy compliance standards.
  - c. Privacy and security audits.
  - d. Breach planning, notification, and procedures.
  - e. Data retention and disposition policies.
  - f. Data security policies, including electronic, physical, and administrative safeguards such as data encryption and training of employees.
- (5) Ensure routine and ongoing compliance by the Department of Public Instruction with FERPA, other relevant privacy laws and policies, and the privacy and security rules, policies, and procedures developed under the authority of this section related to personally identifiable student data in the

- student data system, including the performance of compliance audits within the Department.
- (6) Ensure that any contracts for the student data system that include de-identified student data or personally identifiable student data and are outsourced to private contractors include express provisions that safeguard privacy and security and include penalties for noncompliance.
- (7) Notify the Governor and the General Assembly annually by October 1 of the following:
- a. New student data, whether aggregate data, de-identified data, or personally identifiable student data, included or proposed for inclusion in the student data system for the current school year.
- b. Changes to existing data collections for the student data system required for any reason, including changes to federal reporting requirements made by the United States Department of Education.
- (c) Restricting on Student Data Collection. – The following information about a student or a student's family shall not be collected in nor reported as part of the student data system:
- (1) Biometric information.
- (2) Political affiliation.
- (3) Religion.
- (4) Voting history."

## **PART II. INCREASE TRANSPARENCY ON STUDENT PRIVACY ISSUES**

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

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

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

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

- (1) Inspect and review education records.
- (2) Seek to amend inaccurate education records.
- (3) Provide written consent prior to disclosure of personally identifiable information from education records, except as otherwise provided by law. Information shall be included on disclosure of directory information and parental rights to opt out of disclosure of directory information.
- (4) File a complaint with the U.S. Department of Education concerning alleged failures to comply with the Family Educational Rights and Privacy Act.
- (5) Receive notice and the opportunity to opt out prior to the participation of the student in a protected information survey under 20 U.S.C. § 1232h."

## **PART III. EFFECTIVE DATE**

**SECTION 3.** This act is effective when it becomes law. Annual notice requirements to parents required by Section 2 apply beginning with the 2014-2015 school year. In the General Assembly read three times and ratified this the 25<sup>th</sup> day of June, 2014.

s/ Daniel J. Forest  
President of the Senate

s/ Tim Moore  
Presiding Officer of the House of Representatives

s/ Pat McCrory  
Governor

Approved 11:55 a.m. this 1<sup>st</sup> day of July, 2014