



Ohio Legislative Service Commission

Bill Analysis

William Schwartz

H.B. 181

130th General Assembly
(As Introduced)

Reps. Brenner, J. Adams, Stautberg, Roegner, Huffman, Buchy, Becker, Terhar, Henne, Young, Hood, Retherford, Lynch, Thompson, Blair

BILL SUMMARY

- Specifies that no state law, rule of the State Board of Education, or other regulation or guideline from the Ohio Department of Education may require a public school to submit a student's personally identifiable information to the federal government.
- Permits a school's governing board to submit a student's personally identifiable information (for which consent is required) to the federal government, if the governing board has adopted a resolution approving such a submission.
- Defines "personally identifiable information" as a student's name, the name of the student's parent or other family member, the address of the student or student's family, a personal identifier, such as the student's social security number or student number, a list of personal characteristics that would make the student's identity easily traceable, or other information that would make the student's identity easily traceable.

CONTENT AND OPERATION

Restrictions on disclosing student information

The bill specifies that no "public school" can be required by state law, any rule of the State Board of Education, or other regulation or guideline of the Ohio Department of Education to submit personally identifiable information (see "**Personally identifiable information definition**" below) of a student to any office, agency, or department of the federal government.¹ (Although not defined by the bill, the term

¹ R.C. 3301.97(A).

"public school" generally includes school districts, individual school buildings, educational service centers, community schools, STEM schools, and college-preparatory boarding schools.)

The bill also specifies that no public school can submit a student's personally identifiable information for which consent is required to any office, agency, or department of the federal government, unless the school's "governing board" has adopted a resolution approving the submission of the information. "Governing board," presumably, means the board of education of a school district, the governing board of an educational service center, governing authority of a community school, governing body of a STEM school, and board of trustees of a college-preparatory boarding school. The bill also specifically includes any information that may be required to receive a grant under the federal Race to the Top program as information that cannot be submitted unless the school's governing board has adopted a resolution approving the submission of such information.²

In other words, the bill authorizes, but does not require, the unconsented release of a student's personally identifiable information by a school's governing board to the federal government, if the governing board has adopted a resolution approving such a release. Alternatively, it appears, if consent is granted, the bill authorizes a school's governing board to submit a student's personally identifiable information to the federal government *without* such a resolution. The bill does not specify who must grant consent, but presumably it appears consent must be granted by the student's parent or the student, if at least 18 years of age in accordance with separate state and federal law not affected by the bill.

Personally identifiable information definition

"Personally identifiable information" is defined under the bill to include a student's name, the name of a student's parent or other family member, a student's address or the address of a student's family, a personal identifier, such as the student's social security number or student number, a list of personal characteristics that would make the student's identity easily traceable, or other information that would make the student's identity easily traceable.³

² R.C. 3301.97(B).

³ R.C. 3301.97(C).



Background

Ohio law prohibits the reporting of a student's name, address, and social security number to the State Board of Education or the Ohio Department of Education.⁴ Moreover, the reporting of any personally identifiable information about any student is prohibited, except in certain cases (see "**Permitted release of student information**" below).

The federal Family Educational Rights and Privacy Act (FERPA) controls the handling and release of student information by primary and secondary schools and higher education institutions that receive federal financial assistance.⁵ An Ohio state statute implements FERPA. Those laws generally prohibit the unconsented release of personally identifiable information contained in a student's education records, except for directory information, such as student's name, address, and telephone number.⁶ A student's "education records" (called "school records" in the state statute) include any information, other than directory information, related to the student that contains "personally identifiable information" and that is actually maintained by the educational institution.⁷

FERPA regulations (but not the federal statute itself) specify that "personally identifiable information" includes the student's name, names of the student's parents or other family member, address of the student or the student's family, a personal identifier, such as the student's social security number or student identification number, or other information that would make the student's identity easily traceable.⁸ The regulations further define directory information as "information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed." The regulations also add a student's grade level, photograph, and e-mail address to the list of items that may be directory information. Neither the FERPA statute nor the state statute includes those items in the definition of directory information.⁹

⁴ R.C. 3301.0714(D), not in the bill.

⁵ 20 United States Code (U.S.C.) 1232g.

⁶ R.C. 3319.321, not in the bill.

⁷ 20 U.S.C. 1232g(a)(4).

⁸ 34 Code of Federal Regulations (C.F.R.) 99.3.

⁹ 34 C.F.R. 99.3.



Permitted release of student information

Ohio law states that contractors employed by the Ohio Department of Education are authorized to have student personally identifiable information for purposes of creating student statewide identification numbers that the Department uses to track student data and for purposes of developing the state achievement assessments. It also permits the Department to have access to a student's personally identifiable information in order to administer state scholarship programs.¹⁰

FERPA permits the unconsented release of personally identifiable information only under specific exceptions to the general prohibition. These exceptions include, among others, release to (1) other school officials for "legitimate educational interests" of the child, (2) certain state and federal officials for specified reasons, (3) juvenile justice officials (not law enforcement officers), but only in relation to the ability to effectively serve the student prior to adjudication, and (4) protect the student or other person in case of an imminent health risk.¹¹

As stated above, FERPA permits directory information, which includes a student's grade level, photograph, telephone number, and e-mail address, to be subject to unconsented release. However, the state implementing statute outright prohibits the release of even directory information for use in a "profit-making plan or activity."¹²

HISTORY

ACTION	DATE
Introduced	05-29-13

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¹⁰ R.C. 3301.0714(D).

¹¹ 20 U.S.C. 1232g(b).

¹² R.C. 3319.321(A).

