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SCHOOLS

(105 ILCS 10/) Illinois School Student Records Act.

(105 ILCS 10/1) (from Ch. 122, par. 50-1)

Sec. 1. This Act shall be known and may be cited as the Illinois School Student Records Act.

(Source: P.A. 79-1108.)

(105 ILCS 10/2) (from Ch. 122, par. 50-2)

Sec. 2. As used in this Act,

(a) "Student" means any person enrolled or previously enrolled in a school.

(b) "School" means any public preschool, day care center, kindergarten, nursery, elementary or secondary educational institution, vocational school, special educational facility or any other elementary or secondary educational agency or institution and any person, agency or institution which maintains school student records from more than one school, but does not include a private or non-public school.

(c) "State Board" means the State Board of Education.

(d) "School Student Record" means any writing or other recorded information concerning a student and by which a student may be individually identified, maintained by a school or at its direction or by an employee of a school, regardless of how or where the information is stored. The following shall not be deemed school student records under this Act: writings or other recorded information maintained by an employee of a school or other person at the direction of a school for his or her exclusive use; provided that all such writings and other recorded information are destroyed not later than the student's graduation or permanent withdrawal from the school; and provided further that no such records or recorded information may be released or disclosed to any person except a person designated by the school as a substitute unless they are first incorporated in a school student record and made subject to all of the provisions of this Act. School student records shall not include information maintained by law enforcement professionals working in the school.

(e) "Student Permanent Record" means the minimum personal

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information necessary to a school in the education of the student and contained in a school student record. Such information may include the student's name, birth date, address, grades and grade level, parents' names and addresses, attendance records, and such other entries as the State Board may require or authorize.

(f) "Student Temporary Record" means all information contained in a school student record but not contained in the student permanent record. Such information may include family background information, intelligence test scores, aptitude test scores, psychological and personality test results, teacher evaluations, and other information of clear relevance to the education of the student, all subject to regulations of the State Board. The information shall include information provided under Section 8.6 of the Abused and Neglected Child Reporting Act. In addition, the student temporary record shall include information regarding serious disciplinary infractions that resulted in expulsion, suspension, or the imposition of punishment or sanction. For purposes of this provision, serious disciplinary infractions means: infractions involving drugs, weapons, or bodily harm to another.

(g) "Parent" means a person who is the natural parent of the student or other person who has the primary responsibility for the care and upbringing of the student. All rights and privileges accorded to a parent under this Act shall become exclusively those of the student upon his 18th birthday, graduation from secondary school, marriage or entry into military service, whichever occurs first. Such rights and privileges may also be exercised by the student at any time with respect to the student's permanent school record.

(Source: P.A. 92-295, eff. 1-1-02.)

(105 ILCS 10/3) (from Ch. 122, par. 50-3)

Sec. 3. (a) The State Board shall issue regulations to govern the contents of school student records, to implement and assure compliance with the provisions of this Act and to prescribe appropriate procedures and forms for all administrative proceedings, notices and consents required or permitted under this Act. All such regulations and any rules and regulations adopted by any school relating to the maintenance of, access to, dissemination of or challenge to school student records shall be available to the general public.

(b) The State Board, each local school board or other governing body and each school shall take reasonable measures to assure that all persons accorded rights or obligations under this Act are informed of such rights and obligations.

(c) The principal of each school or the person with like responsibilities or his or her designate shall take all action necessary to assure that school personnel are informed of the provisions of this Act.

(Source: P.A. 79-1108.)

(105 ILCS 10/4) (from Ch. 122, par. 50-4)

Sec. 4. (a) Each school shall designate an official records custodian who is responsible for the maintenance, care and security of all school student records, whether or not such records are in his personal custody or control.

(b) The official records custodian shall take all reasonable measures to prevent unauthorized access to or dissemination of school student records.

(c) Information contained in or added to a school student

record shall be limited to information which is of clear relevance to the education of the student.

(d) Information added to a student temporary record after the effective date of this Act shall include the name, signature and position of the person who has added such information and the date of its entry into the record.

(e) Each school shall maintain student permanent records and the information contained therein for not less than 60 years after the student has transferred, graduated or otherwise permanently withdrawn from the school.

(f) Each school shall maintain student temporary records and the information contained in those records for not less than 5 years after the student has transferred, graduated, or otherwise withdrawn from the school. However, student temporary records shall not be disclosed except as provided in Section 5 or 6 or by court order. A school may maintain indefinitely anonymous information from student temporary records for authorized research, statistical reporting or planning purposes, provided that no student or parent can be individually identified from the information maintained.

(g) The principal of each school or the person with like responsibilities or his or her designate shall periodically review each student temporary record for verification of entries and elimination or correction of all inaccurate, misleading, unnecessary or irrelevant information. The State Board shall issue regulations to govern the periodic review of the student temporary records and length of time for maintenance of entries to such records.

(h) Before any school student record is destroyed or information deleted therefrom, the parent shall be given reasonable prior notice at his or her last known address in accordance with regulations adopted by the State Board and an opportunity to copy the record and information proposed to be destroyed or deleted.

(i) No school shall be required to separate permanent and temporary school student records of a student not enrolled in such school on or after the effective date of this Act or to destroy any such records, or comply with the provisions of paragraph (g) of this Section with respect to such records, except (1) in accordance with the request of the parent that any or all of such actions be taken in compliance with the provisions of this Act or (2) in accordance with regulations adopted by the State Board.

(Source: P.A. 90-590, eff. 1-1-00; 90-811, eff. 1-26-99.)

(105 ILCS 10/5) (from Ch. 122, par. 50-5)

Sec. 5. (a) A parent or any person specifically designated as a representative by a parent shall have the right to inspect and copy all school student permanent and temporary records of that parent's child. A student shall have the right to inspect and copy his or her school student permanent record. No person who is prohibited by an order of protection from inspecting or obtaining school records of a student pursuant to the Illinois Domestic Violence Act of 1986, as now or hereafter amended, shall have any right of access to, or inspection of, the school records of that student. If a school's principal or person with like responsibilities or his designee has knowledge of such order of protection, the school shall prohibit access or inspection of the student's school records by such person.

(b) Whenever access to any person is granted pursuant to paragraph (a) of this Section, at the option of either the parent or the school a qualified professional, who may be a psychologist, counsellor or other

advisor, and who may be an employee of the school or employed by the parent, may be present to interpret the information contained in the student temporary record. If the school requires that a professional be present, the school shall secure and bear any cost of the presence of the professional. If the parent so requests, the school shall secure and bear any cost of the presence of a professional employed by the school.

(c) A parent's or student's request to inspect and copy records, or to allow a specifically designated representative to inspect and copy records, must be granted within a reasonable time, and in no case later than 15 school days after the date of receipt of such request by the official records custodian.

(d) The school may charge its reasonable costs for the copying of school student records, not to exceed the amounts fixed in schedules adopted by the State Board, to any person permitted to copy such records, except that no parent or student shall be denied a copy of school student records as permitted under this Section 5 for inability to bear the cost of such copying.

(e) Nothing contained in this Section 5 shall make available to a parent or student confidential letters and statements of recommendation furnished in connection with applications for employment to a post-secondary educational institution or the receipt of an honor or honorary recognition, provided such letters and statements are not used for purposes other than those for which they were specifically intended, and

(1) were placed in a school student record prior to January 1, 1975; or

(2) the student has waived access thereto after being advised of his right to obtain upon request the names of all such persons making such confidential recommendations.

(f) Nothing contained in this Act shall be construed to impair or limit the confidentiality of:

(1) Communications otherwise protected by law as privileged or confidential, including but not limited to, information communicated in confidence to a physician, psychologist or other psychotherapist, school social worker, school counselor, school psychologist, or school social worker, school counselor, or school psychologist intern who works under the direct supervision of a school social worker, school counselor, or school psychologist; or

(2) Information which is communicated by a student or parent in confidence to school personnel; or

(3) Information which is communicated by a student, parent, or guardian to a law enforcement professional working in the school, except as provided by court order.

(g) No school employee shall be subjected to adverse employment action, the threat of adverse employment action, or any manner of discrimination because the employee is acting or has acted to protect communications as privileged or confidential pursuant to applicable provisions of State or federal law or rule or regulation.

(Source: P.A. 96-628, eff. 1-1-10.)

(105 ILCS 10/6) (from Ch. 122, par. 50-6)

Sec. 6. (a) No school student records or information contained therein may be released, transferred, disclosed or otherwise disseminated, except as follows:

(1) To a parent or student or person specifically designated as a representative by a parent, as provided in paragraph (a) of Section 5;

(2) To an employee or official of the school or school district or State Board with current demonstrable educational or administrative interest in the student, in furtherance of such interest;

(3) To the official records custodian of another school within Illinois or an official with similar responsibilities of a school outside Illinois, in which the student has enrolled, or intends to enroll, upon the request of such official or student;

(4) To any person for the purpose of research, statistical reporting, or planning, provided that such research, statistical reporting, or planning is permissible under and undertaken in accordance with the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g);

(5) Pursuant to a court order, provided that the parent shall be given prompt written notice upon receipt of such order of the terms of the order, the nature and substance of the information proposed to be released in compliance with such order and an opportunity to inspect and copy the school student records and to challenge their contents pursuant to Section 7;

(6) To any person as specifically required by State or federal law;

(6.5) To juvenile authorities when necessary for the discharge of their official duties who request information prior to adjudication of the student and who certify in writing that the information will not be disclosed to any other party except as provided under law or order of court. For purposes of this Section "juvenile authorities" means: (i) a judge of the circuit court and members of the staff of the court designated by the judge; (ii) parties to the proceedings under the Juvenile Court Act of 1987 and their attorneys; (iii) probation officers and court appointed advocates for the juvenile authorized by the judge hearing the case; (iv) any individual, public or private agency having custody of the child pursuant to court order; (v) any individual, public or private agency providing education, medical or mental health service to the child when the requested information is needed to determine the appropriate service or treatment for the minor; (vi) any potential placement provider when such release is authorized by the court for the limited purpose of determining the appropriateness of the potential placement; (vii) law enforcement officers and prosecutors; (viii) adult and juvenile prisoner review boards; (ix) authorized military personnel; (x) individuals authorized by court;

(7) Subject to regulations of the State Board, in connection with an emergency, to appropriate persons if the knowledge of such information is necessary to protect the health or safety of the student or other persons;

(8) To any person, with the prior specific dated written consent of the parent designating the person to whom the records may be released, provided that at the time any such consent is requested or obtained, the parent shall be advised in writing that he has the right to inspect and copy such records in accordance with Section 5, to challenge their contents in accordance with Section 7 and to limit any such consent to designated records or designated portions of the information contained therein;

(9) To a governmental agency, or social service

agency contracted by a governmental agency, in furtherance of an investigation of a student's school attendance pursuant to the compulsory student attendance laws of this State, provided that the records are released to the employee or agent designated by the agency;

(10) To those SHOCAP committee members who fall within the meaning of "state and local officials and authorities", as those terms are used within the meaning of the federal Family Educational Rights and Privacy Act, for the purposes of identifying serious habitual juvenile offenders and matching those offenders with community resources pursuant to Section 5-145 of the Juvenile Court Act of 1987, but only to the extent that the release, transfer, disclosure, or dissemination is consistent with the Family Educational Rights and Privacy Act;

(11) To the Department of Healthcare and Family Services in furtherance of the requirements of Section 2-3.131, 3-14.29, 10-28, or 34-18.26 of the School Code or Section 10 of the School Breakfast and Lunch Program Act; or

(12) To the State Board or another State government agency or between or among State government agencies in order to evaluate or audit federal and State programs or perform research and planning, but only to the extent that the release, transfer, disclosure, or dissemination is consistent with the federal Family Educational Rights and Privacy Act (20 U.S.C. 1232g).

(b) No information may be released pursuant to subparagraphs (3) or (6) of paragraph (a) of this Section 6 unless the parent receives prior written notice of the nature and substance of the information proposed to be released, and an opportunity to inspect and copy such records in accordance with Section 5 and to challenge their contents in accordance with Section 7. Provided, however, that such notice shall be sufficient if published in a local newspaper of general circulation or other publication directed generally to the parents involved where the proposed release of information is pursuant to subparagraph 6 of paragraph (a) in this Section 6 and relates to more than 25 students.

(c) A record of any release of information pursuant to this Section must be made and kept as a part of the school student record and subject to the access granted by Section 5. Such record of release shall be maintained for the life of the school student records and shall be available only to the parent and the official records custodian. Each record of release shall also include:

(1) The nature and substance of the information released;

(2) The name and signature of the official records custodian releasing such information;

(3) The name of the person requesting such information, the capacity in which such a request has been made, and the purpose of such request;

(4) The date of the release; and

(5) A copy of any consent to such release.

(d) Except for the student and his parents, no person to whom information is released pursuant to this Section and no person specifically designated as a representative by a parent may permit any other person to have access to such information without a prior consent of the parent obtained in accordance with the requirements of subparagraph (8) of paragraph (a) of this Section.

(e) Nothing contained in this Act shall prohibit the publication of student directories which list student names, addresses and other identifying information and similar publications which comply with regulations issued by the State Board.

(Source: P.A. 95-331, eff. 8-21-07; 95-793, eff. 1-1-09; 96-107, eff. 7-30-09; 96-1000, eff. 7-2-10.)

(105 ILCS 10/7) (from Ch. 122, par. 50-7)

Sec. 7. (a) Parents shall have the right to challenge the accuracy, relevance or propriety of any entry in the school student records, exclusive of (i) academic grades of their child and (ii) references to expulsions or out-of-school suspensions, if the challenge is made at the time the student's school student records are forwarded to another school to which the student is transferring.

(b) The State Board shall prescribe by regulation procedures to govern challenges to school student records under this Act. Such challenge procedures shall provide for a hearing at which each party shall have:

- (1) The right to present evidence and to call witnesses;
- (2) The right to cross-examine witnesses;
- (3) The right to counsel;
- (4) The right to a written statement of any decision and the reasons therefor;
- (5) The right to appeal an adverse decision to an administrative tribunal or official to be established or designated by the State Board.

(c) A final decision under the procedures established pursuant to this Section may be appealed to the Circuit Court of the County in which the school is located.

(d) Parents shall also have the right to insert in their child's school student record a statement of reasonable length setting forth their position on any disputed information contained in that record. The school shall include a copy of such statement in any subsequent dissemination of the information in dispute.

(Source: P.A. 89-261, eff. 8-10-95.)

(105 ILCS 10/8) (from Ch. 122, par. 50-8)

Sec. 8. No person may condition the granting or withholding of any right, privilege or benefit or make as a condition of employment, credit or insurance the securing by any individual of any information from a student's temporary record which such individual may obtain through the exercise of any right secured under this Act.

(Source: P.A. 79-1108.)

(105 ILCS 10/8.1) (from Ch. 122, par. 50-8.1)

Sec. 8.1. (a) No school may refuse to admit or enroll a student because of that student's failure to present his student permanent or temporary record from a school previously attended.

(b) When a new student applies for admission to a school and does not present his school student record, such school may notify the school or school district last attended by such student, requesting that the student's school student record be copied and sent to it; such request shall be honored within 10 days after it is received. Within 10 days after receiving a request from the Department of Children and Family Services, the school district last attended by the student shall send the student's

school student record to the receiving school district.

(c) In the case of a transfer between school districts of a student who is eligible for special education and related services, when the parent or guardian of the student presents a copy of the student's then current individualized education program (IEP) to the new school, the student shall be placed in a special education program in accordance with that described in the student's IEP.

(d) Until June 30, 2012, out-of-state transfer students, including children of military personnel that transfer into this State, may use unofficial transcripts for admission to a school until official transcripts are obtained from his or her last school district.

(Source: P.A. 96-953, eff. 6-28-10.)

(105 ILCS 10/9) (from Ch. 122, par. 50-9)

Sec. 9. (a) Any person aggrieved by any violation of this Act may institute an action for injunctive relief in the Circuit Court of the County in which the violation has occurred or the Circuit Court of the County in which the school is located.

(b) Any person injured by a wilful or negligent violation of this Act may institute an action for damages in the Circuit Court of the County in which the violation has occurred or the Circuit Court of the County in which the school is located.

(c) In the case of any successful action under paragraph (a) or (b) of this Section, any person or school found to have wilfully or negligently violated any provision of this Act is liable to the plaintiff for the plaintiff's damages, the costs of the action and reasonable attorneys' fees, as determined by the Court.

(d) Actions for injunctive relief to secure compliance with this Act may be brought by the State Board, by the State's Attorney of the County in which the alleged violation has occurred or the State's Attorney of the County in which the school is located, in each case in the Circuit Court of such County.

(e) Wilful failure to comply with any Section of this Act is a petty offense; except that any person who wilfully and maliciously falsifies any school student record, student permanent record or student temporary record shall be guilty of a Class A misdemeanor.

(f) Absent proof of malice, no cause of action or claim for relief, civil or criminal, may be maintained against any school, or employee or official of a school or person acting at the direction of a school for any statement made or judgment expressed in any entry to a school student record of a type which does not violate this Act or the regulations issued by the State Board pursuant to this Act; provided that this paragraph (f) does not limit or deny any defense available under existing law.

(Source: P.A. 84-712.)

(105 ILCS 10/10) (from Ch. 122, par. 50-10)

Sec. 10. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

(Source: P.A. 79-1108.)

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