

Sixty-fourth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1453

Introduced by

Representatives B. Koppelman, Rick C. Becker, Dosch, Kasper, Rohr, Sanford, Schatz,
Toman

Senators Larsen, Luick, Rust, Schaible

1 A BILL for an Act to create and enact chapter 15.1-02.1, a new section to chapter 15.1-19, and
2 three new sections to chapter 15.1-21 of the North Dakota Century Code, relating to restrictions
3 on the collection and dissemination of student information; and to provide a penalty.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1.** Chapter 15.1-02.1 of the North Dakota Century Code is created and enacted
6 as follows:

7 **15.1-02.1-01. Student information - Collection by state agency - Limitation.**

8 1. A state agency may not collect any information about a student other than the
9 following:

10 a. The student's name;

11 b. The student's ~~age~~date of birth;

12 c. The student's gender;

13 d. The student's race and ethnicity;

14 e. The student's grade level;

15 f. The student's ~~teacher of record~~, school, and school district of enrollment;

16 g. The student's state assessment scores;

17 h. Courses or units the student has completed, together with the grades obtained;

18 i. The student's dates of enrollment and attendance information;

19 j. The student's disciplinary record;

20 k. The student's unique state identification number, ~~as used in PowerSchool~~; and

21 ~~l. A list of federal programs in which the student participates.~~

22 m. The student's participation in state and federal education programs.

23 2. ASubsection 1 does not apply to:

- 1 a. The bureau of criminal investigation;
- 2 b. The center for distance education;
- 3 c. The department of corrections and rehabilitation;
- 4 d. The state department of health with respect to the collection and retention of
- 5 student immunization records and the investigation and reportability of infectious
- 6 diseases;
- 7 e. North Dakota vision services - school for the blind;
- 8 f. The school for the deaf;
- 9 g. The state board of higher education;
- 10 h. Workforce safety and insurance; or
- 11 i. The youth correctional center.

12 3. Nothing in this section precludes a state agency from entering a data sharing

13 agreement or from hosting a student information system. However, a state agency

14 may not, by means of ~~a data sharing contract~~ such activity, expand the list of permitted

15 information set forth in this section.

16 **15.1-02.1-02. Student information - Collection by ~~state assessment~~**

17 **administrator entity other than school district - Limitation.**

18 ~~— An entity administering~~

19 1. If an entity other than a school district administers state assessments to public school

20 students, that entity may not collect any information about a student other than the

21 following:

22 ~~1.~~ a. The student's unique identification number, as derived from a state or school

23 district database;

24 ~~2.~~ b. The student's gender;

25 ~~3.~~ c. The student's race and ethnicity;

26 ~~4.~~ d. The student's grade level;

27 ~~5.~~ e. The student's school and school district of enrollment; and

28 ~~6. A list of federal programs in which the student participates.~~

29 f. The student's participation in state and federal education programs.

30 2. This section does not apply to the administration of the ACT or the national

31 assessment of educational progress.

15.1-02.1-03. Directory information - ~~Disclosable~~ School district responsibility.

~~1. A school district may disclose directory information about a student only if:~~

~~a. The student or the student's parent in the case of a student who is younger than eighteen has been notified of:~~

~~(1) The intent to disclose the directory information;~~

~~(2) The proposed recipient of the directory information; and~~

~~(3) The purpose of the proposed disclosure;~~

~~b. The student or the student's parent in the case of a student who is younger than eighteen has been given an opportunity to opt-out of the disclosure; and~~

~~c. The disclosure is limited to:~~

~~(1) The student's school newspaper or yearbook;~~

~~(2) A newspaper in this state;~~

~~(3) A club or organization at the student's school;~~

~~(4) An honor roll or other student recognition list;~~

~~(5) A graduation program;~~

~~(6) A sports-related publication that provides specific information about particular students for the purpose of an athletic activity or function; or~~

~~(7) A parent teacher organization.~~

~~2. For purposes of this section, directory information means a student's:~~

~~a. Name;~~

~~b. Age;~~

~~c. Photograph;~~

~~d. Grade level;~~

~~e. Participation in school district-sponsored activities; and~~

~~f. Height and weight if required for participation in certain athletic activities.~~

~~15.1-02.1-04. Personally identifiable student information - Requirements for disclosure.~~

~~1. A school district may disclose a student's personally identifiable information only if:~~

~~a. The student or the student's parent in the case of a student who is younger than eighteen has been notified of:~~

~~(1) The intent to disclose the personally identifiable information;~~

~~(2) The proposed recipient of the personally identifiable information;~~

~~(3) The purpose of the proposed disclosure;~~

~~b. The student or the student's parent in the case of a student who is younger than eighteen has provided written permission for the disclosure; and~~

~~c. The recipient of the information is:~~

~~(1) Another student enrolled in the school or the parent of another student enrolled in the school; or~~

~~(2) A not-for-profit organization that requests the information for a specific purpose, which the student's school district determines is beneficial to the student, and agrees in writing to use the personally identifiable student information only for the stated purpose and to return or destroy the information upon the fulfillment of that purpose or within one year of the receipt, whichever comes first.~~

~~2. For purposes of this section, "personally identifiable information" means:~~

~~a. Any information listed as disclosable directory information if the information is to be disclosed for a purpose not permitted under section 15.1-02.1-01;~~

~~b. The address, telephone number, and email address of a student; and~~

~~c. The address, telephone number, and email address of a student's parent.~~

1. The board of each school district shall determine what constitutes directory information within the district.

2. The board of each school district shall develop a policy to address the use and disclosure of directory information and shall identify, by name or title, those individuals who have access to directory information. The board shall review the policy annually.

3. Directory information about a student may be disclosed only if:

a. The student or the student's parent in the case of a student who is younger than eighteen has been notified of:

(1) The intent to disclose the directory information;

(2) The proposed recipient of the directory information; and

(3) The purpose of the proposed disclosure; and

b. The student or the student's parent in the case of a student who is younger than eighteen has been given an opportunity to opt out of the disclosure.

c. For purposes of this subsection, notification means a posting on the school district's website.

15.1-02.1-04. Penalty.

A person willfully violating this chapter is subject to a class A misdemeanor and to a civil penalty in the amount of up to ten thousand dollars per violation. The impermissible disclosure of each student's information is deemed to be a violation for purposes of this section.

15.1-02.1-05. Applicability of chapter.

Nothing in this chapter limits the release of school district records to or the administrative use of school district records by:

1. A court;
2. An employee of a school district, a state agency, or the bureau of Indian education, provided that:
 - a. The individual is acting within the scope of the individual's employment; and
 - b. The individual's employment bears a direct relationship to the provision of elementary or secondary education; or
3. Any other governmental entity if there is a reasonable belief that an individual is or may be in imminent danger.

SECTION 2. A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

Participation in surveys.

1. Without the prior written consent of a student age eighteen or older and without prior written consent from a student's parent, in the case of a student under the age of eighteen, a school district may not permit a student to participate in or respond to a survey, analysis, evaluation, or questionnaire, which seeks information pertaining to:
 - ~~a. The political beliefs of the student, the student's parent, or a family member;~~
 - ~~b. Mental or psychological conditions of the student, the student's parent, or a family member;~~
 - ~~c. The sexual behavior of or attitudes regarding sexual behavior held by the student, the student's parent, or a family member;~~
 - ~~d. Illegal, antisocial, self incriminating, or demeaning behavior engaged in by the student, the student's parent, or a family member;~~

- ~~e. Critical appraisals of individuals with whom the student has a familial or close relationship;~~
- ~~f. Legally recognized privileged relationships;~~
- ~~g. Religious practices, affiliations, or beliefs of the student, the student's parent, or a family member;~~
- ~~h. Gun ownership by the student, the student's parent, or a family member; and~~
- ~~i. Income of the student, the student's parent, or a family member.~~ any matter not directly related to the state or school district content standards or the student's grade level curriculum.

2. The written consent required under subsection 1 must be specific to each identified survey, analysis, evaluation, or questionnaire.

3. If a student's failure to participate in a survey, analysis, evaluation, or questionnaire, as set forth in subsection 1, will cause or could cause a student to lose direct or indirect benefits, those consequences must be specifically communicated to the student and the student's parent, by means of a written document.

4. Any individual from whom consent is required, in accordance with this section, must upon request be:

a. Provided with a copy of the survey, analysis, evaluation, or questionnaire; or

b. Permitted to view the survey, analysis, evaluation, or questionnaire, at the school in which the student is enrolled.

SECTION 3. A new section to chapter 15.1-21 of the North Dakota Century Code is created and enacted as follows:

Provision of electronic devices to students.

Before a school district may ~~implement a program under which~~ issue to a student ~~is provided with his or her~~ the student's own laptop, netbook, tablet computer, or other mobile-computing device, the student's parent, in the case of a student under the age of eighteen must be notified of the program and provided with an opportunity to ~~prohibit their child's participation in the program. A student age eighteen or older may refuse to accept such a device~~ decline permission for the student to bring the device home or to remove the device from the school.

SECTION 4. A new section to chapter 15.1-21 of the North Dakota Century Code is created and enacted as follows:

1 **Information and communication monitoring.**

2 Without written parental consent in the case of a student under the age of eighteen and
3 without written consent from a student age eighteen or older, a school district may not utilize
4 any individualized technology that:

5 1. Scans, monitors, or records the student's biometric information, body temperature,
6 vital signs, posture, or facial expressions, provided that the prohibition of this section
7 does not extend to:

8 a. School nurses or other health care professionals delivering health care services
9 to students; or

10 b. Classes or related activities in which the scanning, monitoring, or recording of
11 such information is a required curricular element;

12 2. ~~Scans, monitors, or records the~~ Reviews a student's internet browsing habits;

13 ~~3. Monitors or tracks the student's~~ electronic communications, or data storage, except if
14 there is a reasonable suspicion that a law is being broken, that a policy is being
15 violated, or that an individual is in imminent danger; or

16 ~~4.3.~~ Monitors or tracks the student's location, except as necessary for the provision of
17 transportation services.

18 **SECTION 5.** A new section to chapter 15.1-21 of the North Dakota Century Code is created
19 and enacted as follows:

20 **Assessment questions - ~~Survey items~~ -- Limitations.**

21 1. Any assessment required by this state or by a school district may not include any
22 questions or survey items, whether mandatory or optional, that seek information
23 pertaining to:

24 ~~1.~~ a. The political beliefs of the student, the student's parent, or a family member;

25 ~~2.~~ b. Mental or psychological conditions of the student, the student's parent, or a family
26 member;

27 ~~3.~~ c. The sexual behavior of or attitudes regarding sexual behavior held by the
28 student, the student's parent, or a family member;

29 ~~4.~~ d. Illegal, antisocial, self-incriminating, or demeaning behavior engaged in by the
30 student, the student's parent, or a family member;

~~5.~~ e. Critical appraisals of individuals with whom the student has a familial or close relationship;

~~6.~~ f. Legally recognized privileged relationships;

~~7.~~ g. Religious practices, affiliations, or beliefs of the student, the student's parent, or a family member;

~~8.~~ h. Gun ownership by the student, the student's parent, or a family member;

~~9.~~ i. Income of the student, the student's parent, or a family member; or

~~10.~~ j. Any other matter not directly related to the content of the assessment, as identified in state or school district standards.

2. Nothing in this section precludes a student from taking a survey in accordance with the requirements of section 2 of this Act.

SECTION 6. A new section to chapter 15.1-21 of the North Dakota Century Code is created and enacted as follows:

Additional requirements - Penalty.

1. In order to validate that student data is protected, as required by law, a school district may consult with the information technology department, or a designee of the department, before the district acquires or initiates the utilization of any technology options.

2. a. A school district may not enter an agreement with a vendor of technology, including software, if the agreement permits the vendor to collect and retain student data for any purpose, unless the district contractually and specifically requests or requires that the data be collected and retained by the vendor. Such a requirement by the district is limited to school district or educational purposes.

b. Any vendor that willfully violates an agreement under this section is subject to a class A misdemeanor and to a civil penalty in an amount up to ten thousand dollars per violation.

3. Each school district shall develop and implement a policy that clearly sets forth which individuals, by name or title, are authorized to access specified student data. The board shall review the policy annually.