

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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SENATE BILL 990  
Judiciary I Committee Substitute Adopted 4/18/01  
House Committee Substitute Favorable 8/9/01  
House Committee Substitute #2 Favorable 11/14/01

Short Title: No Disclosure of Student Info to 3rd Parties.

(Public)

Sponsors:

Referred to:

April 5, 2001

A BILL TO BE ENTITLED

AN ACT TO PROHIBIT PERSONS CONTRACTING WITH THE PUBLIC  
SCHOOLS FROM DISCLOSING PERSONALLY IDENTIFIABLE  
INFORMATION ABOUT STUDENTS, TO AUTHORIZE SUSPENSIONS OF UP  
TO 365 DAYS FOR STUDENTS WHO MAKE CERTAIN FALSE THREATS,  
PERPETRATE CERTAIN HOAXES, OR THREATEN AN ACT OF  
TERRORISM, AND TO MAKE EMERGENCY RESPONSE PLANS  
CONFIDENTIAL.

The General Assembly of North Carolina enacts:

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

**"§ 115C-401.1. Prohibition on the disclosure of information about students.**

(a) It is unlawful for a person who enters into a contract with a local board of education or its designee to sell any personally identifiable information that is obtained from a student as a result of the person's performance under the contract and that is linked to that student's individual purchasing behavior or preferences. This prohibition does not apply if the person obtains the prior written authorization of the student's parent or guardian. This authorization shall include the parent's or guardian's original signature. The person shall not solicit this authorization and signature through the school's personnel or equipment or on school grounds.

(b) The following definitions apply in this section:

(1) 'Contract' means a contract for the provision of goods or services.

(2) 'Personally identifiable information' means any information directly related to a student that is protected from disclosure by State or federal law, including the student's name, birthdate, address, social security number, parents' names, telephone number, or any other information or

1 identification number that would provide information about a specific  
2 student.

3 (3) 'Sell' means sell or otherwise use for a business or marketing purpose.

4 (c) A violation of this section shall be punished as a Class 2 misdemeanor, and  
5 when the defendant is an organization as defined in G.S. 15A-773(c) the fine shall be  
6 five thousand dollars (\$5,000) for the first violation, ten thousand dollars (\$10,000) for a  
7 second violation, and twenty-five thousand dollars (\$25,000) for a third or subsequent  
8 violation.

9 (d) Nothing in this section shall preclude the enforcement of civil remedies as  
10 otherwise provided by law.

11 (e) Nothing in this section prohibits the identification and disclosure of directory  
12 information in compliance with federal law and local board of education policy or  
13 procedure."

14 **SECTION 2.** G.S. 143-318.11 is amended by adding a new subdivision to  
15 read:

16 "(8) To formulate plans by a local board of education relating to emergency  
17 response to incidents of school violence."

18 **SECTION 3.** G.S. 115C-47 is amended by adding a new subdivision to read:

19 "(40) To adopt emergency response plans. – Local boards of education may  
20 adopt emergency response plans relating to incidents of school  
21 violence. These plans are not a public record as the term 'public record'  
22 is defined under G.S. 132-1 and shall not be subject to inspection and  
23 examination under G.S. 132-6."

24 **SECTION 4.** G.S. 115C-391 is amended by adding the following new  
25 subsection to read:

26 "(d4) A local board of education or superintendent may suspend for up to 365 days  
27 any student who:

28 (1) By any means of communication to any person or group of persons,  
29 makes a report, knowing or having reason to know the report is false,  
30 that there is located on educational property or at a school-sponsored  
31 curricular or extracurricular activity off educational property any  
32 device, substance, or material designed to cause harmful or life-  
33 threatening illness or injury to another person;

34 (2) With intent to perpetrate a hoax, conceals, places, disseminates, or  
35 displays on educational property or at a school-sponsored curricular or  
36 extracurricular activity off educational property any device, machine,  
37 instrument, artifact, letter, package, material, or substance, so as to  
38 cause any person reasonably to believe the same to be a substance or  
39 material capable of causing harmful or life-threatening illness or injury  
40 to another person;

41 (3) Threatens to commit on educational property or at a school-sponsored  
42 curricular or extracurricular activity off educational property an act of

1 terror that is likely to cause serious injury or death, when that threat is  
2 intended to cause a significant disruption to the instructional day or a  
3 school-sponsored activity or causes that disruption;

4 (4) Makes a report, knowing or having reason to know the report is false,  
5 that there is about to occur or is occurring on educational property or at  
6 a school-sponsored curricular or extracurricular activity off  
7 educational property an act of terror that is likely to cause serious  
8 injury or death, when that report is intended to cause a significant  
9 disruption to the instructional day or a school-sponsored activity or  
10 causes that disruption; or

11 (5) Conspires to commit any of the acts described in this subsection."

12 **SECTION 5.** G.S. 115C-391(e) reads as rewritten:

13 "(e) A decision of a superintendent under subsection (c), (d1), (d2), ~~or (d3)-(d3),~~  
14 ~~or (d4)~~ of this section may be appealed to the local board of education. A decision of the  
15 local board upon this appeal or of the local board under subsection (d) or (d1) of this  
16 section is final and, except as provided in this subsection, is subject to judicial review in  
17 accordance with Article 4 of Chapter 150B of the General Statutes. A person seeking  
18 judicial review shall file a petition in the superior court of the county where the local  
19 board made its decision."

20 **SECTION 6.** G.S. 115C-45(c), as amended by S.L. 2001-260, reads as  
21 rewritten:

22 "(c) Appeals to Board of Education and to Superior Court. – An appeal shall lie to  
23 the local board of education from any final administrative decision in the following  
24 matters:

- 25 (1) The discipline of a student under G.S. 115C-391(c), (d), (d1), (d2), ~~or~~  
26 ~~(d3);(d3), or (d4);~~
- 27 (2) An alleged violation of a specified federal law, State law, State Board  
28 of Education policy, State rule, or local board policy, including  
29 policies regarding grade retention of students;
- 30 (3) The terms or conditions of employment or employment status of a  
31 school employee; and
- 32 (4) Any other decision that by statute specifically provides for a right of  
33 appeal to the local board of education and for which there is no other  
34 statutory appeal procedure.

35 As used in this subsection, the term "final administrative decision" means a decision  
36 of a school employee from which no further appeal to a school administrator is  
37 available.

38 Any person aggrieved by a decision not covered under subdivisions (1) through (4)  
39 of this subsection shall have the right to appeal to the superintendent and thereafter shall  
40 have the right to petition the local board of education for a hearing, and the local board  
41 may grant a hearing regarding any final decision of school personnel within the local

1 school administrative unit. The local board of education shall notify the person making  
2 the petition of its decision whether to grant a hearing.

3 In all appeals to the board it is the duty of the board of education to see that a proper  
4 notice is given to all parties concerned and that a record of the hearing is properly  
5 entered in the records of the board conducting the hearing.

6 The board of education may designate hearing panels composed of not less than two  
7 members of the board to hear and act upon such appeals in the name and on behalf of  
8 the board of education.

9 An appeal of right brought before a local board of education under subdivision (1),  
10 (2), (3), or (4) of this subsection may be further appealed to the superior court of the  
11 State on the grounds that the local board's decision is in violation of constitutional  
12 provisions, is in excess of the statutory authority or jurisdiction of the board, is made  
13 upon unlawful procedure, is affected by other error of law, is unsupported by substantial  
14 evidence in view of the entire record as submitted, or is arbitrary or capricious.  
15 However, the right of a noncertified employee to appeal decisions of a local board under  
16 subdivision (3) of this subsection shall only apply to decisions concerning the dismissal,  
17 demotion, or suspension without pay of the noncertified employee. A noncertified  
18 employee may request and shall be entitled to receive written notice as to the reasons  
19 for the employee's dismissal, demotion, or suspension without pay. The notice shall be  
20 provided to the employee prior to any local board of education hearing on the issue.  
21 This subsection shall not alter the employment status of a noncertified employee."

22 **SECTION 7.** Section 1 of this act is effective when it becomes law and  
23 applies to contracts entered into, renewed, or modified after that date. Sections 4-6 of  
24 this act become effective February 1, 2002. The remainder of this act is effective when  
25 it becomes law.