

18A: 36-19

LEGISLATIVE HISTORY CHECKLIST

HJSA 18A:36-19 (Confidentiality of Pupil Records.)

LAWS OF 1977 CHAPTER 346

Bill No. S260

Sponsor(s) Scardino

Date Introduced Pre-filed

Committee: Assembly Education

Senate Education

Amended during passage Yes No

Date of Passage: Assembly April 12, 1976

Senate Sept. 26, 1977

Date of approval January 30, 1978

Following statements are attached if available:

Sponsor statement Yes No

Committee Statement: Assembly Yes No

Senate Yes No

Fiscal Note Yes No

Veto Message Yes No

Message on signing Yes No

Following were printed:

Reports Yes No

Hearings Yes No

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9/1/78

CHAPTER 346 LAWS OF N. J. 1977
APPROVED 1-30-78

SENATE, No. 260

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1976 SESSION

By Senators SCARDINO, MUSTO and ORECHIO

AN ACT concerning disclosure to parents of pupils' records and amending N. J. S. 18A:36-19.

1 BE IT ENACTED by the Senate and General Assembly of the State
2 of New Jersey:

1 1. N. J. S. 18A:36-19 is amended to read as follows:

2 18A:36-19. **【**Public inspection of pupil records may be per-
3 mitted and any other information relating to the pupils or former
4 pupils of any school district may be furnished in accordance with
5 rules prescribed by the State board, and no liability shall attach to
6 any member, officer or employee of any board of education permit-
7 ting or furnishing the same accordingly.**】** *The State Board of*
8 *Education shall provide by regulation for the creation, maintenance*
9 *and retention of pupil records and for the security thereof and*
10 *access thereto, to provide general protection for the right of the*
11 *pupil to be supplied with necessary information about herself or*
12 *himself, the right of the parent or guardian and the adult pupil*
13 *to be supplied with full information about the pupil, except as*
14 *may be inconsistent with reasonable protection of the persons*
15 *involved, the right of both pupil and parent or guardian to reason-*
16 *able privacy as against other persons and the opportunity for the*
17 *public schools to have the data necessary to provide a thorough*
18 *and efficient educational system for all pupils.*

19 *No liability shall attach to any member, officer or employee of*
20 *any board of education for the furnishing of any pupil records*
21 *consistent with this act and the regulations adopted hereunder.*

1 2. This act shall take effect 90 days after enactment.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

SENATE EDUCATION COMMITTEE

STATEMENT TO

SENATE, No. 260

STATE OF NEW JERSEY

DATED: MARCH 29, 1976

This bill is the result of extensive deliberation by the Senate Education Committee during the 1975 legislative session. After careful consideration, it is the judgment of the committee that Senate Bill No. 260 represents the most effective and appropriate legislative response to the problem of the maintenance and confidentiality of pupil records.

Provisions:

This bill directs the State Board of Education to provide by regulation for parental and adult pupil access to pupil records and for the maintenance of the confidentiality of these records. It also provides that no member, officer or employee of any board of education shall be liable for the furnishing of pupil records as required by this act.

Fiscal implications:

None.

Problem addressed:

There are two central areas of concern pertaining to the problem of pupil records: the confidentiality of these records and their accessibility to parents and adult students. There is general agreement that the current statutes, rules and regulations should be revised to afford greater protection to both parents and students.

Over the past year, two developments have occurred regarding the pupil records, both of which have been carefully considered by the committee:

1. "*Family Educational Rights and Privacy Act of 1974*" (P. L. 93-380, sec. 513).

Rules and regulations pursuant to this act have been published in the Federal Register, Vol. 40, no. 3, part III, January 6, 1975. The Federal law specifies that parents or adult students have the right to examine, to challenge and if necessary correct all data and official records directly related to the student. Third party access is strictly limited and requires written consent of the parents, or in the event of subpoena or transfer of records to another school, advance notification of release to the parents or adult pupil.

2. *Revisions of the New Jersey Administrative Code* (N. J. A. C. 6:3-2.1 et seq.).

These revisions are based upon more than a year of study by the department in consultation with various educational associations and interest groups. They include extensive provisions relative to the creation, maintenance, retention and security of these records and provide for both parental access to and confidentiality of pupil records. Senate Bill No. 260 provides legislative direction in regard to these code revisions.

Summary:

Revisions of N. J. A. C. 6:3-2.1 et seq. Student records are divided into three categories:

1. Mandated—(required by statute or by legally authorized governmental agency directives)—including name, address, age, parents, ethnic origin, sibling order, citizenship, race, sex, attendance, pupil progress, health history, classification.
2. Permitted—(authorized by local boards)—including teacher observations, work, standardized tests, authenticated information provided by the parents or pupil.
3. Prohibited—hearsay, religious or political affiliation, indication of illegitimacy, any information prohibited by State or Federal statute, rule or regulation.

The essential difference between mandated and permitted records is that mandated records are preserved in perpetuity and may, in some instances, be released without consent, but with advanced notification; and that permitted records may be destroyed at the discretion of local districts and require consent for release to a third party except in the case of a court order.

In addition, the code revisions specify that all information collected about a pupil shall be authenticated, dated and signed (6:3-2.3, sec. f) and that release, with advance notification, shall be on court order, rather than subpoena (6:3-2.6, sec. i). Parents and adult students may challenge the records and may request an immediate stay of disclosure pending final determination of the challenge (6:3-2.8). Also, the records shall be reviewed annually by the chief school administrator, or his designee and any data which is detrimental or no longer applicable to the pupil must be deleted. No record of this data or its deletion may be kept (6:3-2.3 sec. g).

The only limitation on accessibility of a record is when the person who originated the record demonstrates clear and convincing proof that its release would involve substantial risk of harm to the pupil or the person the records concerns. In that event, the parent or adult pupil may request a professional review of that record. The decision to withhold a record may be appealed to the State Board of Education.

Once a student leaves the system a copy of all records shall be given to the parent or adult pupil, and only those records, a copy of which was given, shall be preserved.

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

JANUARY 30, 1978

ANNE BURNS

1976-77

Governor Brendan Byrne today signed the following bills into law:

S-260, sponsored by Senator Anthony Scardino, (D-Bergen), which requires the State Board of Education to develop regulations governing the creation, retention and security of students' records.

These regulations are required to serve the following purposes: (1) to protect the rights of pupils to obtain necessary information about themselves; (2) to protect the rights of parents or guardians to obtain full information about pupils; and (3) to protect the rights of both pupils and parents to reasonable privacy.

A-908, sponsored by former Assemblyman William Hamilton (D-Middlesex), which directs the Commissioner of Environmental Protection to develop a Comprehensive Master Plan for the acquisition and development of recreation and conservation lands funded under the provisions of the Green Acres law.

The bill also directs the Commissioner to make an annual report to the Legislature concerning the status of the plan.

A-910, sponsored by former Assemblyman William Hamilton which requires tax collectors in municipalities eligible for flood insurance under the "National Flood Insurance Act of 1968" to notify property owners so they may obtain the flood insurance.

Under current provisions of the "National Flood Insurance Act" property owners who are eligible for the insurance and do not purchase it, are prohibited from receiving federal disaster relief in the event of a flood disaster.

A-1657, sponsored by former Assemblyman William Hamilton, which amends the law governing mobile homes.

Under this legislation, a park owner cannot require a mobile home owner to be relocated within the park unless 30 days written notice is given and the relocation is reasonably necessary. The cost of a relocation is to be paid by the owner or operator of the mobile home park, and the mobile home dwellers has a right to reimbursement for any loss or damage caused by a relocation.