H/D
NEVADA
SECRETARY OF STATE
2015 SEP 1 PM 1 37
K Kut
RECEIVED
CARSON CITY NV

EXPLANATION – Matter in ***bolded italics*** is new

THE PUPIL INFORMATION PRIVACY PROTECTION INITIATIVE

The People of the State of Nevada do enact as follows:

Section 1. Article 11 of the Nevada Constitution is hereby amended by adding thereto a new section to be designated as Section 11, to read as follows:

Under penalty of law, any data facts, statistics, scores, observations, or other information, including personally identifiable information that is created, collected, managed, maintained, stored, or otherwise recorded, in electronic or hard-copy format, by a publically funded educational system on any pupil shall:

(a)Not exceed in extent the minimum moral or academic purpose to facilitate the function of the publicly funded educational system;

(b)Be deemed the property of the pupil who is the subject of that information if the pupil is 18 years old or is under the age of 18 and is legally emancipated from the pupil's parents, or the parent or guardian of the pupil if the pupil is under the age of 18.

1. Except as otherwise provided in subsection 2 and3, a school district or a public school, including, without limitation, a charter school, a private school, or a school district in receipt of a Notification of Intent to Homeschool shall not allow the release of personally identifiable information contained in the education records of a pupil, including, without limitation, any such information that is directory information, without the affirmative, informed written consent of:

(a) Theparent or legal guardian of the pupil, if thepupil is under 18 years of age; or

(b) The pupil, if he or she is 18years of age or older.

2. A school district or public school, including, without limitation, a charter school, may release personally identifiable information contained in the education records of a pupil, including, without limitation, any such information that is directory information, without the written consent required pursuant to subsection 3 to a school official or the parent or guardian of a pupil for the purpose of ensuring the academic progress of the pupil.

3. A school district or public school, including, without limitation, a charter school, may release information contained in the education records of a pupil enrolled in a public school without the written consent required pursuant to subsection 3 when:

(a) Required by a publicly funded educational system for the sole purpose of meeting a condition of funding established in Nevada statute or U.S. Code; or

(b) Required by a court of law.

4. In the event of an unauthorized use or release of pupil data, in any manner without limitation, including verbal, hard-copy format, or electronically; the publically funded educational system bears fiduciary responsibility for the security of pupil data and shall;

(a) immediately notify, in writing, the parent or pupil of the unauthorized use or release of pupil data that includes personally identifiable information or the pupil's education record, in a manner consistent with Nevada statute, and

(b) Provide a means for a pupil to file a complaint with the Superintendent of Public Instruction.

(c) For purposes of this statute, written notice of a breach of secure data or the complaint shall not be made via email or other form of electronic communication.

5. The Privacy Act creates both criminal and civil penalties for violators as follows;

(a) Individuals who willfully violate the disclosure provisions can be convicted of a misdemeanor, and are subject to imprisonment, fine or both, and fined per child according to Nevada State Law on misdemeanor penalties, and

(b) Any party who knowingly or willfully obtains a person's record also faces criminal penalties. Civil liability for willful or intentional acts includes injunctions against further acts, damages of not less than $1,000, attorney fees and costs.

6. As used in this section:

(a) "Directory information" Directory information means information contained in an education Record of a student that would not generally be considered harmful or an invasion of privacy if disclosed.

i. Directory information includes, but is not limited to, the student's name; address; telephone listing; electronic mail address; photograph; date and place of birth; major field of study; grade level; enrollment status (e.g., undergraduate or graduate, fulltime or part-time); dates of attendance; participation in officially recognized activities and sports; weight and height of members of athletic teams; degrees, honors, and awards received; and the most recent educational agency or institution attended.

ii. Directory information does not include a student's--

(1) Social security number; or

(2) Student identification (ID) number, except as provided in paragraph (c) of this definition.

iii. In accordance with paragraphs (a) and (b) of this definition, directory information includes—A student ID number, user ID, or other unique personal identifier used by a student for purposes of accessing or communicating in electronic systems, but only if the identifier cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user's identity, such as a personal identification number (PIN), password or other factor known or possessed only by the authorized user; and

(b)"Education records"means, except as may be provided otherwise in subparagraph

(c), those records, files, documents, and other materials which –

i. Contain information directly related to a pupil; and

ii. Are maintained by a public school or school district or by a person authorized by Nevada.

(d) "Educational Records" does not include –

i. records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute;

ii. records maintained by a law enforcement unit of the educational agency or institution that were created by that law enforcement unit for the purpose of law enforcement;

iii. in the case of persons who are employed by an educational agency or institution but who are not in attendance at such agency or institution, records made and maintained in the normal course of business which relate exclusively to such person in that person's capacity as an employee and are not available for use for any other purpose; or

iv. records on an individual who is eighteen years of age or older, or is attending an institution of postsecondary education, which are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his professional or paraprofessional capacity, or assisting in that capacity, and which are made, maintained, or used only in connection with the provision of treatment to the individual, and are not available to anyone other than persons providing such treatment, except that such records can be personally reviewed by a physician or other appropriate professional of the individual's choice.

(e) "Personally identifiable information" includes, but is not limited to--

i. The student's name;

ii. The name of the student's parent or other family members;

iii. The address of the student or student's family;

iv. A personal identifier, such as the student's social security number, student number, or biometric record;

v. Other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name;

vi. Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or

vii. Information requested by a person who the educational agency or institution reasonably believes knows the identityof the student to whom the education record relates.

(f) "Publicly funded educational system" means a Nevada public school, public school district, charter school, the Department of Education or an entity specifically authorized, entitled or permitted by Nevada.

(g) "School official" means a licensed or unlicensed employee of a school district or public school, including, without limitation, a charter school.

DESCRIPTION OF EFFECT

If enacted, this measure prohibits a school district or public school, including, without limitation, a charter school, from allowing the release of personally identifiable information, including directory information, to anyone other than an employee of the school district or school without the written consent of: (1) the parent or legal guardian, if the pupil is under 18 years of age; or (2) the pupil, if 18 years of age or older. It creates both criminal and civil penalties for: (a) willful violation, a misdemeanor punishment per child as prescribed by law, (b) civil liability, fine not less than $1,000, attorney fees and costs. Federal law provides a school district or public school may not release personally identifiable information other than directory information that is contained in the education records of a pupil without the written consent of the parent or legal guardian of the pupil. (20 U.S.C. § 1232g) Federal law defines "directory information" to include pupil's name, address, telephone listing, date and place of birth, major field of study, participation in activities, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and most recent previous educational agency or institution attended by the pupil.

DESCRIPTION OF EFFECT

If enacted, this measure prohibits a school district or public school, including, without limitation, a charter school, from allowing the release of personally identifiable information, including directory information, to anyone other than an employee of the school district or school without the written consent of: (1) the parent or legal guardian, if the pupil is under 18 years of age; or (2) the pupil, if 18 years of age or older. It creates both criminal and civil penalties for: (a) willful violation, a misdemeanor punishment per child as prescribed by law, (b) civil liability, fine not less than $1,000, attorney fees and costs. Federal law provides a school district or public school may not release personally identifiable information other than directory information that is contained in the education records of a pupil without the written consent of the parent or legal guardian of the pupil. (20 U.S.C. § 1232g) Federal law defines "directory information" to include pupil's name, address, telephone listing, date and place of birth, major field of study, participation in activities, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and most recent previous educational agency or institution attended by the pupil.

County of _____ **(Only registered voters of this county may sign below)**

Petition District: _____ **(Only registered voters of this petition district may sign below)**

This Space For Office Use Only

1	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE DATE / /	CITY COUNTY PETITION DISTRICT	
2	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE DATE / /	CITY COUNTY PETITION DISTRICT	
3	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE DATE / /	CITY COUNTY PETITION DISTRICT	
4	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE DATE / /	CITY COUNTY PETITION DISTRICT	
5	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE DATE / /	CITY COUNTY PETITION DISTRICT	
6	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE DATE / /	CITY COUNTY PETITION DISTRICT	

DESCRIPTION OF EFFECT

If enacted, this measure prohibits a school district or public school, including, without limitation, a charter school, from allowing the release of personally identifiable information, including directory information, to anyone other than an employee of the school district or school without the written consent of: (1) the parent or legal guardian, if the pupil is under 18 years of age; or (2) the pupil, if 18 years of age or older. It creates both criminal and civil penalties for: (a) willful violation, a misdemeanor punishment per child as prescribed by law, (b) civil liability, fine not less than $1,000, attorney fees and costs. Federal law provides a school district or public school may not release personally identifiable information other than directory information that is contained in the education records of a pupil without the written consent of the parent or legal guardian of the pupil. (20 U.S.C. § 1232g) Federal law defines "directory information" to include pupil's name, address, telephone listing, date and place of birth, major field of study, participation in activities, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and most recent previous educational agency or institution attended by the pupil.

County of _____ **(Only registered voters of this county may sign below)**

Petition District: _____ **(Only registered voters of this petition district may sign below)**

This Space For Office Use Only

7	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE DATE / /	CITY COUNTY PETITION DISTRICT	
8	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE DATE / /	CITY COUNTY PETITION DISTRICT	
9	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE DATE / /	CITY COUNTY PETITION DISTRICT	
10	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE DATE / /	CITY COUNTY PETITION DISTRICT	
11	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE DATE / /	CITY COUNTY PETITION DISTRICT	
12	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE DATE / /	CITY COUNTY PETITION DISTRICT	

DESCRIPTION OF EFFECT

If enacted, this measure prohibits a school district or public school, including, without limitation, a charter school, from allowing the release of personally identifiable information, including directory information, to anyone other than an employee of the school district or school without the written consent of: (1) the parent or legal guardian, if the pupil is under 18 years of age; or (2) the pupil, if 18 years of age or older. It creates both criminal and civil penalties for: (a) willful violation, a misdemeanor punishment per child as prescribed by law, (b) civil liability, fine not less than $1,000, attorney fees and costs. Federal law provides a school district or public school may not release personally identifiable information other than directory information that is contained in the education records of a pupil without the written consent of the parent or legal guardian of the pupil. (20 U.S.C. § 1232g) Federal law defines "directory information" to include pupil's name, address, telephone listing, date and place of birth, major field of study, participation in activities, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and most recent previous educational agency or institution attended by the pupil.

County of _____ **(Only registered voters of this county may sign below)**

Petition District: _____ **(Only registered voters of this petition district may sign below)**

This Space For Office Use Only

13	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE DATE / /	CITY COUNTY PETITION DISTRICT	
14	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE DATE / /	CITY COUNTY PETITION DISTRICT	
15	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE DATE / /	CITY COUNTY PETITION DISTRICT	
16	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE DATE / /	CITY COUNTY PETITION DISTRICT	
17	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE DATE / /	CITY COUNTY PETITION DISTRICT	
18	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE DATE / /	CITY COUNTY PETITION DISTRICT	

DESCRIPTION OF EFFECT

If enacted, this measure prohibits a school district or public school, including, without limitation, a charter school, from allowing the release of personally identifiable information, including directory information, to anyone other than an employee of the school district or school without the written consent of: (1) the parent or legal guardian, if the pupil is under 18 years of age; or (2) the pupil, if 18 years of age or older. It creates both criminal and civil penalties for: (a) willful violation, a misdemeanor punishment per child as prescribed by law, (b) civil liability, fine not less than $1,000, attorney fees and costs. Federal law provides a school district or public school may not release personally identifiable information other than directory information that is contained in the education records of a pupil without the written consent of the parent or legal guardian of the pupil. (20 U.S.C. § 1232g) Federal law defines "directory information" to include pupil's name, address, telephone listing, date and place of birth, major field of study, participation in activities, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and most recent previous educational agency or institution attended by the pupil.

County of _____ **(Only registered voters of this county may sign below)**

Petition District: _____ **(Only registered voters of this petition district may sign below)**

This Space For Office Use Only

19	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE DATE / /	CITY COUNTY PETITION DISTRICT	
20	PRINT YOUR NAME (first name, initial, last name)	RESIDENCE ADDRESS ONLY	
	YOUR SIGNATURE DATE / /	CITY COUNTY PETITION DISTRICT	

AFFIDAVIT OF CIRCULATOR

(To be signed by circulator in the presence of a notary public)

STATE OF NEVADA)
)
COUNTY OF _____)

I, _____ (print name), being first duly sworn under penalty of perjury, depose and say: (1) that I reside at _____ (print street, city and state); (2) that I am 18 years of age or older; (3) that I personally circulated this document; (4) that all signatures were affixed in my presence; (5) that the number of signatures affixed thereon is _____; and (6) that each person who signed had an opportunity before signing to read the full text of the act or resolution on which the initiative is demanded.

_____
Signature of Circulator

Subscribed and sworn to or affirmed before me this
_____ day of _____, _____.

_____
Notary Public