

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001**

**SENATE BILL 990  
RATIFIED BILL**

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. 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, including the student's name, birthdate, address, social security number, individual purchasing behavior or preferences, parents' names, telephone number, or any other information or identification number that would provide information about a specific student.

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

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

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

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

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

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

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

"(40) To adopt emergency response plans. – Local boards of education may adopt emergency response plans relating to incidents of school

violence. These plans are not a public record as the term 'public record' is defined under G.S. 132-1 and shall not be subject to inspection and examination under G.S. 132-6."

**SECTION 3.1.** Chapter 132 of the General Statutes is amended by adding the following new section to read:

**"§ 132-1.6. Emergency response plans.**

Emergency response plans adopted by a constituent institution of The University of North Carolina, a community college, or a public hospital as defined in G.S. 159-39 and the records related to the planning and development of these emergency response plans are not public records as defined by G.S. 132-1 and shall not be subject to inspection and examination under G.S. 132-6."

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

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

- (1) By any means of communication to any person or group of persons, makes a report, knowing or having reason to know the report is false, that there is located on educational property or at a school-sponsored curricular or extracurricular activity off educational property any device, substance, or material designed to cause harmful or life-threatening illness or injury to another person;
- (2) With intent to perpetrate a hoax, conceals, places, disseminates, or displays on educational property or at a school-sponsored curricular or extracurricular activity off educational property any device, machine, instrument, artifact, letter, package, material, or substance, so as to cause any person reasonably to believe the same to be a substance or material capable of causing harmful or life-threatening illness or injury to another person;
- (3) Threatens to commit on educational property or at a school-sponsored curricular or extracurricular activity off educational property an act of terror that is likely to cause serious injury or death, when that threat is intended to cause a significant disruption to the instructional day or a school-sponsored activity or causes that disruption;
- (4) Makes a report, knowing or having reason to know the report is false, that there is about to occur or is occurring on educational property or at a school-sponsored curricular or extracurricular activity off educational property an act of terror that is likely to cause serious injury or death, when that report is intended to cause a significant disruption to the instructional day or a school-sponsored activity or causes that disruption; or
- (5) Conspires to commit any of the acts described in this subsection."

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

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

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

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

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

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

Any person aggrieved by a decision not covered under subdivisions (1) through (4) of this subsection shall have the right to appeal to the superintendent and thereafter shall have the right to petition the local board of education for a hearing, and the local board may grant a hearing regarding any final decision of school personnel within the local school administrative unit. The local board of education shall notify the person making the petition of its decision whether to grant a hearing.

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

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

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

**SECTION 6.1.** G.S. 115C-391(d4) as enacted by S.L. 2001-244 is recodified as G.S. 115C-391(d5).

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

In the General Assembly read three times and ratified this the 6<sup>th</sup> day of December, 2001.

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Beverly E. Perdue  
President of the Senate

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James B. Black  
Speaker of the House of Representatives

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Michael F. Easley  
Governor

Approved \_\_\_\_\_ .m. this \_\_\_\_\_ day of \_\_\_\_\_, 2001