

House Bill 1486

By: Representatives Persinger of the 119<sup>th</sup>, Camp of the 135<sup>th</sup>, and Erwin of the 32<sup>nd</sup>

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 20 of the Official Code of Georgia Annotated, relating to education, so as to  
2 revise definitions of the term "education record"; to include additional cross-references  
3 relative to access to student education records by parents and legal custodians; to repeal a  
4 specific time limitation upon a parent or legal custodian's right to request education records;  
5 to replace certain terms used in such title with "school business day"; to provide for  
6 definitions; to provide for an effective date; to provide for related matters; to repeal  
7 conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended in  
11 Article 1 of Chapter 1, relating to general provisions, by repealing Code Section 20-1-9,  
12 relating to "local school system," "local boards of education," and "county boards of  
13 education" defined, and enacting a new Code Section 20-1-9 to read as follows:

14 "20-1-9.

15 Except as may otherwise be specifically provided, as used in this title, the term:

16 (1) 'Area school system' means a local school system authorized by and created pursuant  
17 to Article VIII, Section V, Paragraph I of the Georgia Constitution that comprises the  
18 consolidation of two or more county school systems, independent school systems,  
19 portions thereof, or any combination thereof.

20 (2) 'County school system' means a local school system authorized by Article VIII,  
21 Section V, Paragraph I of the Georgia Constitution, that is not an area school system or  
22 an independent school system, and that comprises the portion of a county that is not part  
23 of an area school system or an independent school system.

24 (3) 'Independent school system' means a local school system authorized by Article VIII,  
25 Section V, Paragraph I of the Georgia Constitution that existed at the time of the  
26 ratification thereof and that is not a county school system or an area school system.

27 (4) 'Local board of education' means the board of education for a local school system.

28 (5) 'Local school system' means any area school system, county school system, or  
29 independent school system authorized by Article VIII, Section V, Paragraph I of the  
30 Georgia Constitution.

31 (6) 'School business day' means any day except Saturday, Sunday, or a legal holiday  
32 when:

33 (A) At least one school administrator is required to report to the school in person for  
34 duty for all or part of the day; provided, however, that this requirement shall not be met  
35 when such school administrator's presence is for the exclusive purpose of securing or  
36 maintaining school facilities; and

37 (B)(i) The school is not designated as closed for students and school personnel, or a  
38 similar designation, on its official school calendar; or

39 (ii) The school is not closed for students and school personnel pursuant to a lawful  
40 order by the Governor, the local board of education or other governing body, the local  
41 school superintendent, or another government agency or official with legal authority  
42 to issue such order.

43 (7) 'School day' means any day when:

44 (A) A school is in operation and providing for in-person or virtual instruction or other  
 45 educational programs or services to students enrolled in such school; and

46 (B)(i) The school is not designated as closed for students, on break, on holiday, not  
 47 in session, or a similar designation on its official school calendar; or

48 (ii) The school is not closed for students pursuant to a lawful order by the Governor,  
 49 the local board of education or other governing body, the local school superintendent,  
 50 or another government agency or official with legal authority to issue such order.

51 (8) 'School system' shall have the same meaning as local school system."

52 **SECTION 2.**

53 Said title is further amended in Article 15 of Chapter 2, relating to student data privacy,  
 54 accessibility, and transparency, by revising paragraph (4) of Code Section 20-2-662, relating  
 55 to definitions, as follows:

56 "(4) 'Education record' means an education record as defined in the federal Family  
 57 Educational Rights and Privacy Act (FERPA) and its implementing regulations, 20  
 58 U.S.C. Section 1232g; and 34 C.F.R. Part 99.3. An education record does not include the  
 59 types of student data excepted in FERPA, does not include student data collected by an  
 60 operator when it is used for internal operations purposes; ~~does not include~~ or student data  
 61 that is not formatted for or expected to be accessed by school, local board of education,  
 62 or department employees; ~~nor does it include student data that a local board of education~~  
 63 ~~determines cannot reasonably be made available to the parent or eligible student."~~

64 **SECTION 3.**

65 Said title is further amended in Subpart 1 of Part 1 of Article 16 of Chapter 2, relating to  
 66 transfer students, by revising paragraph (2) of subsection (a) and subsection (e) of Code  
 67 Section 20-2-670, relating to disclosures and information required for permanent enrollment

68 in a grade higher than third, provisional enrollment, and transfer of education records, as  
69 follows:

70 "(2) 'Education records' means any education record, as such term is defined in the  
71 federal Family Educational Rights and Privacy Act (FERPA) and its implementing  
72 regulations, 20 U.S.C. Section 1232g; and 34 C.F.R. Part 99.3, that is maintained by a  
73 local education agency, a public or private elementary or secondary school, the  
74 Department of Juvenile Justice school system, or a party acting on behalf of such entity  
75 and is directly related to a student. Such term shall include, but shall not be limited to,  
76 records of such student's enrollment, attendance, class schedules, academic transcripts,  
77 grades, student discipline, student financial information, health records, special education  
78 records, and psychological evaluations. Such term shall include the student's critical  
79 records."

80 "(e) Each time a transferring student's education records, including, but not limited to,  
81 critical records, are transferred to a receiving school, such student's parent or legal  
82 custodian shall be notified in writing by the receiving school of the transfer of such records  
83 and shall, upon written request ~~made within five school business days of the date of such~~  
84 ~~notice~~, be entitled to receive a copy of such records from the receiving school. Within five  
85 school business days of the receipt of a copy of such records, such student's parent or legal  
86 custodian may make a written request for and shall be entitled to a meeting with the  
87 principal of the sending school or of the receiving school or his or her designee for the  
88 purpose of correcting the content of such records as provided in Code Section 20-2-667.  
89 The parties may mutually agree for such meeting to occur at a date and time outside of such  
90 five-day period."

91 **SECTION 4.**

92 Said title is further amended in Subpart 3 of Part 1 of Article 16 of Chapter 2, relating to  
 93 records, by revising subsections (a) and (b) of Code Section 20-2-720, relating to inspection  
 94 of students' records by parents or legal custodians, as follows:

95 "(a) As used in this Code section, the term:

96 (1) 'Education ~~record~~ records' shall have the same meaning as ~~provided for~~ set forth in  
 97 Code Section ~~20-2-662~~ 20-2-670.

98 (2) 'Legal custodian' means an entity or individual other than a parent with legal  
 99 authority to act on behalf of a student. Such term shall include the Department of  
 100 Juvenile Justice and the Division of Family and Children Services of the Department of  
 101 Human Services.

102 (3) 'Local board of education' means the governing body of each local education agency  
 103 as such terms are defined in Code Section 20-2-167.1. Such term shall include the school  
 104 system of the Department of Juvenile Justice.

105 (4) 'Parent' means an individual other than a legal custodian who has legal authority to  
 106 act on behalf of a student as a natural or adoptive parent or a legal guardian.

107 (b) No local board of education shall have a policy of denying, or which effectively  
 108 prevents, the parents or legal custodians of students who are in attendance at or who have  
 109 been enrolled in any facility within such system the right to inspect and review the  
 110 education records of their child as provided in Code ~~Section~~ Sections 20-2-667, 20-2-670,  
 111 and 20-2-786."

112 **SECTION 5.**

113 Said title is further amended by replacing the terms "school day", "school days", "business  
 114 day", and "business days" with "school business day" or "school business days", respectively,  
 115 wherever the former terms appear in:

- 116 (1) Code Section 20-1-11, relating to advocating for divisive concepts, prohibition on  
117 discrimination, practice of tolerance and mutual respect encouraged, complaint resolution  
118 policies, inspection of records, and waivers prohibited;
- 119 (2) Code Section 20-2-315, relating to sexual discrimination in sports, designations of  
120 teams, equal opportunity for all sexes, facilities, accommodations, and violations;
- 121 (3) Code Section 20-2-324.6, relating to complaint resolution policy for materials  
122 "harmful to minors";
- 123 (4) Code Section 20-2-667, relating to parental and student review of education record  
124 and model policies;
- 125 (5) Subsection (f) of Code Section 20-2-670, relating to disclosures and information  
126 required for permanent enrollment in a grade higher than third, provisional enrollment,  
127 and transfer of education records;
- 128 (6) Subsection (a.1) of Code Section 20-2-697, relating to cooperation of principals and  
129 teachers in public schools with visiting teachers and attendance officers, attendance  
130 reports and records kept by public schools, and letter indicating enrollment;
- 131 (7) Code Section 20-2-786, the "Parents' Bill of Rights"; and
- 132 (8) Code Section 20-2-2064, relating to approval or denial of petition under the "Charter  
133 Schools Act of 1998."

134 **SECTION 6.**

135 This Act shall become effective upon its approval by the Governor or upon its becoming law  
136 without such approval.

137 **SECTION 7.**

138 All laws and parts of laws in conflict with this Act are repealed.