

Senate Bill 431

By: Senators Kirkpatrick of the 32nd, Hatchett of the 50th, Payne of the 54th, Gooch of the 51st and Parent of the 44th

AS PASSED

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 require the timely
6 enrollment of foster care students; to provide for reporting noncompliance and for corrective
7 action plans; to revise provisions relative to provisional enrollment; to provide for reports;
8 to allow inclusive postsecondary education (IPSE) grants to be used at qualified private
9 postsecondary institutions; to provide for award amounts; to repeal a sunset provision; to
10 provide for definitions; to provide for an effective date; to provide for related matters; to
11 repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

14 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended in
15 Article 1 of Chapter 1, relating to general provisions, by repealing Code Section 20-1-9,

16 relating to "local school system," "local boards of education," and "county boards of
17 education" defined, and enacting a new Code Section 20-1-9 to read as follows:

18 "20-1-9.

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

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

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

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

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

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

35 (6) 'Public school' means and includes:

36 (A) Traditional public schools that are part of a local school system;

37 (B) Charter schools that are established pursuant to Article 31 or Article 31A of
38 Chapter 2 of this title, including both local charter schools and state charter schools, as
39 such terms are defined in Code Sections 20-2-2062 and 20-2-2081, respectively; and

40 (C) Completion special schools established pursuant to Article 31C of Chapter 2 of this
41 title.

42 (7) 'School business day' includes, but is not limited to, school days and means any day
43 except Saturday, Sunday, or a legal holiday when:

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

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

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

54 (8) 'School day' means any day when:

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

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

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

62 (9) 'School district' shall have the same meaning as local school system.

63 (10) 'School system' shall have the same meaning as local school system."

64 **SECTION 2.**

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

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

76 **SECTION 3.**

77 Said title is further amended in Subpart 1 of Part 1 of Article 16 of Chapter 2, relating to
 78 transfer students, by adding new subsections and by revising paragraph (2) of subsection (a),
 79 subsection (c), and subsection (e) of Code Section 20-2-670, relating to disclosures and
 80 information required for permanent enrollment in a grade higher than third, provisional
 81 enrollment, and transfer of education records, to read as follows:

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

92 "(c)(1) ~~A~~ In the event that a student cannot be permanently enrolled in a receiving school,
 93 such student may be provisionally enrolled in a receiving school for not more than ten

94 school days on a conditional basis; provided, however, that such provisional enrollment
95 shall not commence until the next school day after such student's parent or legal custodian
96 executes a document:

97 (A) Disclosing the information required in paragraph (1) of subsection (b) of this Code
98 section; and

99 (B) Providing the name and address of each sending school such student attended
100 during the previous 24 months and authorizing the immediate release of such student's
101 critical records to the receiving school.

102 (2) If the receiving school does not receive such student's critical records from each
103 sending school such student attended during the previous 24 months, the receiving school
104 shall be authorized to temporarily assign such student to remote learning until such
105 critical records are received or the case management consultation provided for in
106 subsection (i) of this Code section is completed.

107 (3) If a student provisionally enrolled in a receiving school is found to be ineligible for
108 enrollment pursuant to the provisions of Code Section 20-2-751.2, or is subsequently
109 found to be so ineligible, he or she shall be dismissed from enrollment in such receiving
110 school until such time as he or she becomes so eligible.

111 (c.1)(1) Notwithstanding any provision of this Code section to the contrary, no receiving
112 school shall fail or refuse to immediately enroll a foster care student, as such term is
113 defined in Code Section 20-2-692.2, and under no circumstances later than three school
114 business days following the receipt of a completed enrollment registration form for such
115 foster care student from his or her parent or legal custodian; provided, however, that
116 requirements for completing such registration forms shall not be so strictly enforced as
117 to unreasonably delay the timely enrollment of foster care students. Such enrollment may
118 be either permanent or provisional and enrollment shall not be construed to waive the
119 requirements of subsections (b) and (c) of this Code section applicable to the parent or
120 legal custodian of such foster care student.

121 (2) If a receiving school does not enroll a foster care student within the time required by
122 paragraph (1) of this subsection the receiving school not having received such foster care
123 student's critical records, the receiving school principal or his or her designee shall
124 immediately provide the parent or legal custodian of such foster care student with
125 accurate contact information, including name and official email address and telephone
126 number, for:

127 (A) The RESA student affairs officer of the RESA in which the receiving school is
128 located; and

129 (B) The Department of Education's chief privacy officer.

130 (3) Upon a recommendation by the Department of Education's chief privacy officer or
131 the RESA student affairs officer provided for in paragraph (2) of this subsection, the
132 Department of Education shall be authorized to require the receiving school to comply
133 with an appropriate corrective action plan."

134 "(e) Each time a transferring student's education records, including, but not limited to,
135 critical records, are transferred to a receiving school, such student's parent or legal
136 custodian shall be notified in writing, including, but not limited to, email, by the receiving
137 school of the transfer of such records and shall, upon written request ~~made within five~~
138 ~~school business days of the date of such notice~~, be entitled to receive a copy of such
139 records from the receiving school. Within five school business days of the receipt of a
140 copy of such records, such student's parent or legal custodian may make a written request
141 for and shall be entitled to a meeting with the principal of the sending school or of the
142 receiving school or his or her designee for the purpose of correcting the content of such
143 records as provided in Code Section 20-2-667. The parties may mutually agree for such
144 meeting to occur at a date and time outside of such five-day period."

145 "(g.1)(1) Each RESA student affairs officer shall prepare quarterly reports of the
146 following matters that originated during the most recent quarter of the school year:

147 (A) Disputes he or she received pursuant to subsection (g) of this Code section; and

- 148 (B) Contacts he or she received pursuant to subsection (c.1) of this Code section.
 149 (2) The quarterly reports required by paragraph (1) of this subsection shall identify each
 150 school involved in such dispute or contact and shall summarize the outcome of all
 151 resolved matters and the current status of all pending matters.
 152 (3) Within 30 days of the conclusion of each quarter of the school year, each RESA
 153 student affairs officer shall submit his or her report to the Department of Education's chief
 154 privacy officer.
 155 (4) By November 1 of each year, the Department of Education's chief privacy officer
 156 shall provide a summary report of the information included in the quarterly reports
 157 required by paragraph (1) of this subsection to the Lieutenant Governor, the Speaker of
 158 the House of Representatives, and the chairpersons and the members of the House
 159 Committee on Education and the Senate Education and Youth Committee."

160 **SECTION 4.**

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

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

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

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

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

174 (4) 'Parent' means an individual other than a legal custodian who has legal authority to
175 act on behalf of a student as a natural or adoptive parent or a legal guardian.
176 (b) No local board of education shall have a policy of denying, or which effectively
177 prevents, the parents or legal custodians of students who are in attendance at or who have
178 been enrolled in any facility within such system the right to inspect and review the
179 education records of their child as provided in Code ~~Section~~ Sections 20-2-667, 20-2-670,
180 and 20-2-786."

181 **SECTION 5.**

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

- 185 (1) Code Section 20-1-11, relating to advocating for divisive concepts, prohibition on
186 discrimination, practice of tolerance and mutual respect encouraged, complaint resolution
187 policies, inspection of records, and waivers prohibited;
- 188 (2) Code Section 20-2-315, relating to sexual discrimination in sports, designations of
189 teams, equal opportunity for all sexes, facilities, accommodations, and violations;
- 190 (3) Code Section 20-2-324.6, relating to complaint resolution policy for materials
191 "harmful to minors";
- 192 (4) Code Section 20-2-667, relating to parental and student review of education record
193 and model policies;
- 194 (5) Subsection (f) of Code Section 20-2-670, relating to disclosures and information
195 required for permanent enrollment in a grade higher than third, provisional enrollment,
196 and transfer of education records;
- 197 (6) Subsection (a.1) of Code Section 20-2-697, relating to cooperation of principals and
198 teachers in public schools with visiting teachers and attendance officers, attendance
199 reports and records kept by public schools, and letter indicating enrollment;

- 200 (7) Code Section 20-2-786, the "Parents' Bill of Rights"; and
 201 (8) Code Section 20-2-2064, relating to approval or denial of petition under the "Charter
 202 Schools Act of 1998."

203 **SECTION 6.**

204 Said title is further amended in Subpart 12 of Part 3 of Article 7 of Chapter 3, relating to
 205 inclusive postsecondary education grants, by revising Code Section 20-3-494, relating to
 206 definitions, eligibility, and implementation, as follows:

207 "20-3-494.

208 (a) As used in this subpart, the term:

209 (1) 'Authorized IPSE program' means an inclusive postsecondary education (IPSE)
 210 program for students with intellectual disabilities that has been authorized by the Georgia
 211 Student Finance Authority for the purposes of awarding IPSE grants to eligible students.

212 (2) 'Intellectual disability' means a person:

213 (A) With a cognitive impairment, characterized by significant limitations in:

214 (i) Intellectual and cognitive functioning; and

215 (ii) Adaptive behavior as expressed in conceptual, social, and practical adaptive
 216 skills; and

217 (B) Who is currently, or was formerly, eligible for a free appropriate public education
 218 under the Individuals with Disabilities Education Act.

219 (3) 'IPSE grant' means an inclusive postsecondary education (IPSE) grant for education
 220 awarded in accordance with this subpart.

221 (4) 'Qualified postsecondary institution' means ~~a unit of the University System of~~
 222 ~~Georgia or a unit of the Technical College System of Georgia~~ an eligible postsecondary
 223 institution, as such term is defined in Code Section 20-3-519, that offers an authorized
 224 IPSE program.

225 (b) To be eligible for an IPSE grant, a student shall:

226 (1) Meet the requirements provided for in paragraph (1) of subsection (a) and
 227 subsection (b) of Code Section 20-3-519.1; and

228 (2) Meet enrollment standards by being admitted and enrolled in an authorized IPSE
 229 program at a qualified postsecondary institution.

230 (c) Subject to the amount of funds appropriated by the General Assembly and other
 231 available funding, eligible students enrolled in an authorized IPSE program ~~on or before~~
 232 ~~July 1, 2028:~~

233 (1) Shall receive an IPSE grant in an amount equal to:

234 (A) For students enrolled in institutions of the University System of Georgia or units
 235 of the Technical College System of Georgia, the current academic year standard
 236 undergraduate tuition amount at each such student's respective qualified postsecondary
 237 institution; or

238 (B) For students enrolled in eligible private postsecondary institutions, as such term is
 239 defined in Code Section 20-3-519, the current academic year HOPE award amount at
 240 each such student's respective qualified postsecondary institution; and

241 (2) May receive an additional IPSE grant in an amount not to exceed the fees charged
 242 for the current academic year for each student's respective IPSE program.

243 (d) The Georgia Student Finance Authority, in collaboration with the University System
 244 of Georgia, the Technical College System of Georgia, other qualified postsecondary
 245 institutions, and the Georgia Council on Developmental Disabilities, shall define such
 246 terms and conditions and establish such policies, procedures, rules, and regulations as are
 247 reasonable and necessary for the implementation of this subpart, which shall include, but
 248 shall not be limited to, requirements that each authorized IPSE program shall:

249 (1) Serve students with intellectual disabilities;

250 (2) Require that a participating student be enrolled in courses with ~~non-disabled~~
 251 nondisabled peers for at least 50 percent of the courses in which such participating
 252 student is enrolled as part of an authorized IPSE program;

253 (3) Provide individual supports and services for the academic and social inclusion of
254 students with intellectual disabilities in academic courses, extracurricular activities, and
255 other aspects of the qualified postsecondary institution's regular postsecondary program;
256 (4) With respect to students with intellectual disabilities participating in the authorized
257 IPSE program, provide a focus on:
258 (A) Academic enrichment;
259 (B) Socialization;
260 (C) Independent living skills, including self-advocacy skills; and
261 (D) Integrated work experiences and career skills that lead to gainful employment;
262 (5) Integrate person centered planning in the development of the course of study for each
263 student with an intellectual disability participating in the authorized IPSE program;
264 (6) Create and offer a meaningful credential for students with intellectual disabilities
265 upon the completion of the authorized IPSE program; and
266 (7) Participate with the Georgia Student Finance Authority, the University System of
267 Georgia, the Technical College System of Georgia, other qualified postsecondary
268 institutions, and the Georgia Council on Developmental Disabilities in the evaluation of
269 the authorized IPSE program."

270 **SECTION 7.**

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

273 **SECTION 8.**

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