1002.22  Student records and reports; rights of parents and students; notification; penalty.--

(1) PURPOSE.--The purpose of this section is to protect the rights of students and their parents with respect to student records and reports as created, maintained, and used by public educational institutions in the state. The intent of the Legislature is that students and their parents shall have rights of access, rights of challenge, and rights of privacy with respect to such records and reports, and that rules shall be available for the exercise of these rights.

(2) DEFINITIONS.--As used in this section:

(a) "Chief executive officer" means that person, whether elected or appointed, who is responsible for the management and administration of any public educational body or unit, or the chief executive officer's designee for student records; that is, the district school superintendent, the director of a career center, the president of a public postsecondary educational institution, or their designees.

(b) "Directory information" includes the student's name, address, telephone number if it is a listed number, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended by the student.

(c) "Records" and "reports" mean official records, files, and data directly related to students that are created, maintained, and used by public educational institutions, including all material that is incorporated into each student's cumulative record folder and intended for school use or to be available to parties outside the school or school system for legitimate educational or research purposes. Materials that shall be considered as part of a student's record include, but are not necessarily limited to: identifying data, including a student's social security number; academic work completed; level of achievement records, including grades and standardized achievement test scores; attendance data; scores on standardized intelligence, aptitude, and psychological tests; interest inventory results; health data; family background information; teacher or counselor ratings and observations; verified reports of serious or recurrent behavior patterns; and any other evidence, knowledge, or information recorded in any medium, including, but not limited to, handwriting, typewriting, print, magnetic tapes, film, microfilm, and microfiche, and maintained and used by an educational agency or institution or by a person acting for such agency or institution. However, the terms "records" and "reports" do not include:

1. Records of instructional, supervisory, and administrative personnel, and educational personnel ancillary to those persons, that are kept in the sole possession of the maker of the record and are not accessible or revealed to any other person except a substitute for any of such persons. An example of records of this type is instructor's grade books.

2. Records of law enforcement units of the institution that are maintained solely for law enforcement purposes and that are not available to persons other than officials of the institution or law enforcement officials of the same jurisdiction in the exercise of that jurisdiction.
3. Records made and maintained by the institution in the normal course of business that relate exclusively to a student in his or her capacity as an employee and that are not available for use for any other purpose.

4. Records created or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional or paraprofessional capacity, or assisting in that capacity, that are created, maintained, or used only in connection with the provision of treatment to the student and that are not available to anyone other than persons providing such treatment. However, such records shall be open to a physician or other appropriate professional of the student's choice.

5. Directory information as defined in this section.

6. Other information, files, or data that do not permit the personal identification of a student.

7. Letters or statements of recommendation or evaluation that were confidential under Florida law and that were received and made a part of the student's educational records prior to July 1, 1977.

8. Copies of the student's fingerprints. No public educational institution shall maintain any report or record relative to a student that includes a copy of the student's fingerprints.

(d) "Student" means any child or adult who is enrolled or who has been enrolled in any instructional program or activity conducted under the authority and direction of an institution comprising a part of the state system of public education and with respect to whom an educational institution maintains educational records and reports or personally identifiable information, but does not include a person who has not been in attendance as an enrollee at such institution.

(3) RIGHTS OF PARENT OR STUDENT.--The parent of any student who attends or has attended any public school, career center, or public postsecondary educational institution shall have the following rights with respect to any records or reports created, maintained, and used by any public educational institution in the state. However, whenever a student has attained 18 years of age, or is attending a postsecondary educational institution, the permission or consent required of, and the rights accorded to, the parents of the student shall thereafter be required of and accorded to the student only, unless the student is a dependent student of such parents as defined in 26 U.S.C. s. 152 (s. 152 of the Internal Revenue Code of 1954). The State Board of Education shall adopt rules whereby parents or students may exercise these rights:

(a) Right of access.--

1. Such parent or student shall have the right, upon request directed to the appropriate school official, to be provided with a list of the types of records and reports, directly related to students, as maintained by the institution that the student attends or has attended.

2. Such parent or student shall have the right, upon request, to be shown any record or report relating to such student maintained by any public educational institution. When the record or report includes information on more than one student, the parent or student shall be entitled to receive, or be informed of, only that part of the record or report that pertains to the student who is the subject of the request. Upon a reasonable request therefor, the institution shall furnish such parent or student with an explanation or interpretation of any such record or report.
3. Copies of any list, record, or report requested under the provisions of this paragraph shall be furnished to the parent or student upon request.

4. The State Board of Education shall adopt rules to be followed by all public educational institutions in granting requests for lists, or for access to reports and records or for copies or explanations thereof under this paragraph. However, access to any report or record requested under the provisions of subparagraph 2. shall be granted within 30 days after receipt of such request by the institution. Fees may be charged for furnishing any copies of reports or records requested under subparagraph 3., but such fees shall not exceed the actual cost to the institution of producing such copies.

(b) **Right of waiver of access to confidential letters or statements.**--A parent or student shall have the right to waive the right of access to letters or statements of recommendation or evaluation, except that such waiver shall apply to recommendations or evaluations only if:

1. The parent or student is, upon request, notified of the names of all persons submitting confidential letters or statements.

2. Such recommendations or evaluations are used solely for the purpose for which they were specifically intended.

Such waivers may not be required as a condition for admission to, receipt of financial aid from, or receipt of any other services or benefits from, any public agency or public educational institution in this state.

(c) **Right to challenge and hearing.**--A parent or student shall have the right to challenge the content of any record or report to which such person is granted access under paragraph (a), in order to ensure that the record or report is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student and to provide an opportunity for the correction, deletion, or expunction of any inaccurate, misleading, or otherwise inappropriate data or material contained therein. Any challenge arising under the provisions of this paragraph may be settled through informal meetings or discussions between the parent or student and appropriate officials of the educational institution. If the parties at such a meeting agree to make corrections, to make deletions, to expunge material, or to add a statement of explanation or rebuttal to the file, such agreement shall be reduced to writing and signed by the parties; and the appropriate school officials shall take the necessary actions to implement the agreement. If the parties cannot reach an agreement, upon the request of either party, a hearing shall be held on such challenge under rules adopted by the State Board of Education. Upon the request of the parent or student, the hearing shall be exempt from the requirements of s. 286.011. Such rules shall include at least the following provisions:

1. The hearing shall be conducted within a reasonable period of time following the request for the hearing.

2. The hearing shall be conducted, and the decision rendered, by an official of the educational institution or other party who does not have a direct interest in the outcome of the hearing.

3. The parent or student shall be afforded a full and fair opportunity to present evidence relevant to the issues raised under this paragraph.

4. The decision shall be rendered in writing within a reasonable period of time after the conclusion of the hearing.
5. The appropriate school officials shall take the necessary actions to implement the decision.

(d) Right of privacy.--Every student has a right of privacy with respect to the educational records kept on him or her. Personally identifiable records or reports of a student, and any personal information contained therein, are confidential and exempt from s. 119.07(1). A state or local educational agency, board, public school, career center, or public postsecondary educational institution may not permit the release of such records, reports, or information without the written consent of the student's parent, or of the student himself or herself if he or she is qualified as provided in this subsection, to any individual, agency, or organization. However, personally identifiable records or reports of a student may be released to the following persons or organizations without the consent of the student or the student's parent:

1. Officials of schools, school systems, career centers, or public postsecondary educational institutions in which the student seeks or intends to enroll; and a copy of such records or reports shall be furnished to the parent or student upon request.

2. Other school officials, including teachers within the educational institution or agency, who have legitimate educational interests in the information contained in the records.

3. The United States Secretary of Education, the Director of the National Institute of Education, the Assistant Secretary for Education, the Comptroller General of the United States, or state or local educational authorities who are authorized to receive such information subject to the conditions set forth in applicable federal statutes and regulations of the United States Department of Education, or in applicable state statutes and rules of the State Board of Education.

4. Other school officials, in connection with a student's application for or receipt of financial aid.

5. Individuals or organizations conducting studies for or on behalf of an institution or a board of education for the purpose of developing, validating, or administering predictive tests, administering student aid programs, or improving instruction, if the studies are conducted in a manner that does not permit the personal identification of students and their parents by persons other than representatives of such organizations and if the information will be destroyed when no longer needed for the purpose of conducting such studies.

6. Accrediting organizations, in order to carry out their accrediting functions.

7. Early learning coalitions and the Agency for Workforce Innovation in order to carry out their assigned duties.

8. For use as evidence in student expulsion hearings conducted by a district school board under chapter 120.

9. Appropriate parties in connection with an emergency, if knowledge of the information in the student's educational records is necessary to protect the health or safety of the student or other individuals.

10. The Auditor General and the Office of Program Policy Analysis and Government Accountability in connection with their official functions; however, except when the collection of personally identifiable information is specifically authorized by law, any data collected by the Auditor General and the Office of Program Policy Analysis and Government Accountability is confidential and exempt from s. 119.07(1) and shall be protected in a way that does not permit
the personal identification of students and their parents by other than the Auditor General, the Office of Program Policy Analysis and Government Accountability, and their staff, and the personally identifiable data shall be destroyed when no longer needed for the Auditor General's and the Office of Program Policy Analysis and Government Accountability's official use.

11.a. A court of competent jurisdiction in compliance with an order of that court or the attorney of record in accordance with a lawfully issued subpoena, upon the condition that the student and the student's parent are notified of the order or subpoena in advance of compliance therewith by the educational institution or agency.

b. A person or entity in accordance with a court of competent jurisdiction in compliance with an order of that court or the attorney of record pursuant to a lawfully issued subpoena, upon the condition that the student, or his or her parent if the student is either a minor and not attending a postsecondary educational institution or a dependent of such parent as defined in 26 U.S.C. s. 152 (s. 152 of the Internal Revenue Code of 1954), is notified of the order or subpoena in advance of compliance therewith by the educational institution or agency.

12. Credit bureaus, in connection with an agreement for financial aid that the student has executed, if the information is disclosed only to the extent necessary to enforce the terms or conditions of the financial aid agreement. Credit bureaus shall not release any information obtained under this paragraph to any person.

13. Parties to an interagency agreement among the Department of Juvenile Justice, school and law enforcement authorities, and other signatory agencies for the purpose of reducing juvenile crime and especially motor vehicle theft by promoting cooperation and collaboration, and the sharing of appropriate information in a joint effort to improve school safety, to reduce truancy and in-school and out-of-school suspensions, and to support alternatives to in-school and out-of-school suspensions and expulsions that provide structured and well-supervised educational programs supplemented by a coordinated overlay of other appropriate services designed to correct behaviors that lead to truancy, suspensions, and expulsions, and that support students in successfully completing their education. Information provided in furtherance of the interagency agreements is intended solely for use in determining the appropriate programs and services for each juvenile or the juvenile's family, or for coordinating the delivery of the programs and services, and as such is inadmissible in any court proceedings before a dispositional hearing unless written consent is provided by a parent or other responsible adult on behalf of the juvenile.

14. Consistent with the Family Educational Rights and Privacy Act, the Department of Children and Family Services or a community-based care lead agency acting on behalf of the Department of Children and Family Services, as appropriate.

This paragraph does not prohibit any educational institution from publishing and releasing to the general public directory information relating to a student if the institution elects to do so. However, no educational institution shall release, to any individual, agency, or organization that is not listed in subparagraphs 1.-14., directory information relating to the student body in general or a portion thereof unless it is normally published for the purpose of release to the public in general. Any educational institution making directory information public shall give public notice of the categories of information that it has designated as directory information for all students attending the institution and shall allow a reasonable period of time after the notice has been given for a parent or student to inform the institution in writing that any or all of the information designated should not be released.

(4) NOTIFICATION.--Every parent and student entitled to rights relating to student records and reports under the provisions of subsection (3) shall be notified annually, in writing, of such
rights and that the institution has a policy of supporting the law; the types of information and data generally entered in the student records as maintained by the institution; and the procedures to be followed in order to exercise such rights. The notification shall be general in form and in a manner to be determined by the State Board of Education and may be incorporated with other printed materials distributed to students, such as being printed on the back of school assignment forms or report cards for students attending kindergarten or grades 1 through 12 in the public school system and being printed in college catalogs or in other program announcement bulletins for students attending postsecondary educational institutions.

(5) PENALTY.--In the event that any public school official or employee, district school board official or employee, career center official or employee, or public postsecondary educational institution official or employee refuses to comply with any of the provisions of this section, the aggrieved parent or student shall have an immediate right to bring an action in the circuit court to enforce the violated right by injunction. Any aggrieved parent or student who brings such an action and whose rights are vindicated may be awarded attorney's fees and court costs.

(6) APPLICABILITY TO RECORDS OF DEFUNCT INSTITUTIONS.--The provisions of this section also apply to student records that any nonpublic educational institution that is no longer operating has deposited with the district school superintendent in the county where the nonpublic educational institution was located.