

# HOUSE BILL 436

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5r1688  
CF SB 266

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By: **Delegates Long, Aumann, Beitzel, Carozza, Cassilly, Cluster, Folden, Ghrist, Glass, Grammer, Hornberger, S. Howard, Kittleman, Krebs, McConkey, Metzgar, W. Miller, Reilly, Saab, Shoemaker, Simonaire, Szeliga, West, and B. Wilson**

Introduced and read first time: February 9, 2015

Assigned to: Ways and Means

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## A BILL ENTITLED

1 AN ACT concerning

2 **Education – Privacy of Education Records and Personal Information of**  
3 **Students**

4 FOR the purpose of authorizing the State Department of Education, the State Board of  
5 Education, a county board of education, a local school system, a primary school, or a  
6 secondary school to collect or disclose the education records, or personally  
7 identifiable information contained in the education records, of a student only as  
8 necessary or required for certain purposes; prohibiting a person from requiring a  
9 certain student, without prior written consent, to submit to a survey, an analysis, or  
10 an evaluation that reveals certain information; requiring the Department to develop  
11 security measures and procedures to protect personally identifiable information  
12 contained in education records from release to any unauthorized person or for any  
13 unauthorized purpose; requiring the Department to comply with all federal and  
14 State privacy protection laws when collecting, maintaining, or disclosing education  
15 records; establishing that this Act does not prohibit the disclosure of aggregate data  
16 from education records in certain circumstances; authorizing the Department to  
17 adopt certain regulations; defining certain terms; and generally relating to the  
18 privacy of education records and personal information of students.

19 BY adding to  
20 Article – Education  
21 Section 7–1701 through 7–1706 to be under the new subtitle “Subtitle 17. Privacy of  
22 Student Information”  
23 Annotated Code of Maryland  
24 (2014 Replacement Volume and 2014 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
26 That the Laws of Maryland read as follows:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



## Article – Education

## SUBTITLE 17. PRIVACY OF STUDENT INFORMATION.

## 7-1701.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “EDUCATION RECORDS” HAS THE MEANING STATED IN 34 C.F.R. § 99.3.

(C) “PERSONALLY IDENTIFIABLE INFORMATION” HAS THE MEANING STATED IN 34 C.F.R. § 99.3.

## 7-1702.

(A) THE DEPARTMENT, THE STATE BOARD, A COUNTY BOARD, A LOCAL SCHOOL SYSTEM, A PRIMARY SCHOOL, OR A SECONDARY SCHOOL MAY COLLECT OR DISCLOSE THE EDUCATION RECORDS OR PERSONALLY IDENTIFIABLE INFORMATION CONTAINED IN THE EDUCATION RECORDS OF A STUDENT ONLY AS NECESSARY OR REQUIRED TO:

(1) EVALUATE THE ACADEMIC PROGRESS OF THE STUDENT;

(2) CALCULATE FUNDING FOR PUBLIC EDUCATION;

(3) COMPLY WITH THE DATA REQUIREMENTS AND IMPLEMENTATION SCHEDULE OF THE MARYLAND LONGITUDINAL DATA SYSTEM ESTABLISHED UNDER TITLE 24, SUBTITLE 7 OF THIS ARTICLE; OR

(4) SUBJECT TO SUBSECTION (B) OF THIS SECTION, COMPLY WITH A REPORTING REQUIREMENT OR ANY OTHER DUTY IMPOSED BY FEDERAL OR STATE LAW.

(B) EXCEPT FOR INFORMATION RELATING TO PROGRAMS FOR MIGRANT STUDENTS THAT IS REQUIRED TO BE REPORTED UNDER 20 U.S.C. § 6398, THE DEPARTMENT MAY NOT REPORT PERSONALLY IDENTIFIABLE INFORMATION CONTAINED IN EDUCATION RECORDS TO THE U.S. DEPARTMENT OF EDUCATION UNDER ANY REPORTING REQUIREMENT TIED TO FEDERAL FUNDS.

## 7-1703.

1           **(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, UNLESS EXPLICITLY**  
2 **MANDATED IN FEDERAL OR STATE LAW, A PERSON MAY NOT REQUIRE A STUDENT IN**  
3 **KINDERGARTEN THROUGH GRADE 12, WITHOUT PRIOR WRITTEN CONSENT, TO**  
4 **SUBMIT TO A SURVEY, AN ANALYSIS, OR AN EVALUATION THAT REVEALS**  
5 **INFORMATION CONCERNING:**

6           **(1) A POLITICAL AFFILIATION OR BELIEF OF THE STUDENT OR A**  
7 **PARENT OR GUARDIAN OF THE STUDENT;**

8           **(2) MENTAL OR PSYCHOLOGICAL PROBLEMS OF THE STUDENT OR**  
9 **THE STUDENT'S FAMILY;**

10           **(3) SEXUAL BEHAVIOR OR ATTITUDES OF THE STUDENT OR THE**  
11 **STUDENT'S FAMILY;**

12           **(4) ILLEGAL, ANTISOCIAL, SELF-INCRIMINATING, OR DEMEANING**  
13 **BEHAVIOR;**

14           **(5) A CRITICAL APPRAISAL OF AN INDIVIDUAL WITH WHOM THE**  
15 **STUDENT HAS A CLOSE FAMILY RELATIONSHIP;**

16           **(6) A LEGALLY RECOGNIZED PRIVILEGED OR ANALOGOUS**  
17 **RELATIONSHIP WITH ANOTHER INDIVIDUAL, SUCH AS A LAWYER, PHYSICIAN, OR**  
18 **MINISTER;**

19           **(7) A RELIGIOUS PRACTICE, AN AFFILIATION, OR ANY OTHER BELIEF**  
20 **OF THE STUDENT OR A PARENT OR GUARDIAN OF THE STUDENT;**

21           **(8) PERSONAL OR FAMILY GUN OWNERSHIP;**

22           **(9) INCOME, UNLESS THE INFORMATION IS REQUIRED BY LAW TO**  
23 **DETERMINE ELIGIBILITY FOR PARTICIPATION IN OR RECEIPT OF FINANCIAL**  
24 **ASSISTANCE UNDER A PROGRAM THAT THE DEPARTMENT, THE STATE**  
25 **SUPERINTENDENT OF SCHOOLS, THE U.S. DEPARTMENT OF EDUCATION, OR THE**  
26 **U.S. SECRETARY OF EDUCATION IS RESPONSIBLE FOR ADMINISTERING; OR**

27           **(10) ANY OTHER INFORMATION OF A SIMILAR NATURE AS**  
28 **DETERMINED BY THE DEPARTMENT AND SPECIFIED IN A REGULATION ADOPTED**  
29 **UNDER THIS SUBTITLE.**

30           **(B) THE WRITTEN CONSENT REQUIRED UNDER SUBSECTION (A) OF THIS**  
31 **SECTION SHALL BE SIGNED BY A PARENT OR GUARDIAN OF THE STUDENT OR BY THE**  
32 **STUDENT IF THE STUDENT IS AN ADULT.**

1 **7-1704.**

2 **THE DEPARTMENT SHALL:**

3 **(1) DEVELOP SECURITY MEASURES AND PROCEDURES TO PROTECT**  
4 **PERSONALLY IDENTIFIABLE INFORMATION CONTAINED IN EDUCATION RECORDS**  
5 **FROM RELEASE TO ANY UNAUTHORIZED PERSON OR FOR ANY UNAUTHORIZED**  
6 **PURPOSE; AND**

7 **(2) COMPLY WITH ALL FEDERAL AND STATE PRIVACY PROTECTION**  
8 **LAWS WHEN COLLECTING, MAINTAINING, OR DISCLOSING EDUCATION RECORDS.**

9 **7-1705.**

10 **(A) THIS SUBTITLE DOES NOT PROHIBIT THE DISCLOSURE OF AGGREGATE**  
11 **DATA FROM EDUCATION RECORDS IF:**

12 **(1) ALL PERSONALLY IDENTIFIABLE INFORMATION HAS BEEN**  
13 **REMOVED; AND**

14 **(2) THE DISCLOSURE OF THE AGGREGATE DATA IS ALLOWED UNDER**  
15 **FEDERAL AND STATE PRIVACY PROTECTION LAWS.**

16 **(B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THIS SUBTITLE**  
17 **DOES NOT PROHIBIT THE DISCLOSURE OF AGGREGATE DATA FROM EDUCATION**  
18 **RECORDS IF THE DISCLOSURE IS NECESSARY TO APPLY FOR IMPACT AID UNDER**  
19 **TITLE VIII OF THE FEDERAL ELEMENTARY AND SECONDARY EDUCATION ACT OF**  
20 **1965.**

21 **7-1706.**

22 **THE DEPARTMENT MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.**

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
24 1, 2015.