



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB3166

Introduced 2/6/2024, by Sen. David Koehler

SYNOPSIS AS INTRODUCED:

105 ILCS 10/2
105 ILCS 10/5

from Ch. 122, par. 50-2
from Ch. 122, par. 50-5

Amends the Illinois School Student Records Act. Provides that the term "Student Permanent Record" may include reports of psychological evaluations, including information on intelligence and personality, academic information obtained through test administration, observation, or interviews, elementary and secondary achievement-level test results, special education records, and records associated with a plan developed under Section 504 of the federal Rehabilitation Act of 1973. With respect to the term "Student Permanent Record", removes intelligence test scores, aptitude test scores, psychological and personality test results, teacher evaluations, and other information of clear relevance to the education of a student from the information allowed to be included. Provides that if consent is provided by a student or the student's parent or guardian, then a copy of the student's school student records shall be provided at no cost to the Guardianship and Advocacy Commission, an independent service coordination agency, or Equip for Equality to establish access to adult disability services and related benefits.

LRB103 37559 RJT 67685 b

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

A BILL FOR

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois School Student Records Act is
5 amended by changing Sections 2 and 5 as follows:

6 (105 ILCS 10/2) (from Ch. 122, par. 50-2)

7 (Text of Section before amendment by P.A. 102-466)

8 Sec. 2. As used in this Act:

9 (a) "Student" means any person enrolled or previously
10 enrolled in a school.

11 (b) "School" means any public preschool, day care center,
12 kindergarten, nursery, elementary or secondary educational
13 institution, vocational school, special educational facility
14 or any other elementary or secondary educational agency or
15 institution and any person, agency or institution which
16 maintains school student records from more than one school,
17 but does not include a private or non-public school.

18 (c) "State Board" means the State Board of Education.

19 (d) "School Student Record" means any writing or other
20 recorded information concerning a student and by which a
21 student may be individually identified, maintained by a school
22 or at its direction or by an employee of a school, regardless
23 of how or where the information is stored. The following shall

1 not be deemed school student records under this Act: writings
2 or other recorded information maintained by an employee of a
3 school or other person at the direction of a school for his or
4 her exclusive use; provided that all such writings and other
5 recorded information are destroyed not later than the
6 student's graduation or permanent withdrawal from the school;
7 and provided further that no such records or recorded
8 information may be released or disclosed to any person except
9 a person designated by the school as a substitute unless they
10 are first incorporated in a school student record and made
11 subject to all of the provisions of this Act. School student
12 records shall not include information maintained by law
13 enforcement professionals working in the school.

14 (e) "Student Permanent Record" means the minimum personal
15 information necessary to a school in the education of the
16 student and contained in a school student record. Such
17 information may include the student's name, birth date,
18 address, grades, and grade level, parents' names and
19 addresses, attendance records, reports of psychological
20 evaluations, including information on intelligence and
21 personality, academic information obtained through test
22 administration, observation, or interviews, elementary and
23 secondary achievement-level test results, special education
24 records, records associated with a plan developed under
25 Section 504 of the federal Rehabilitation Act of 1973, and
26 such other entries as the State Board may require or

1 authorize.

2 (f) "Student Temporary Record" means all information
3 contained in a school student record but not contained in the
4 student permanent record. Such information may include family
5 background information, ~~intelligence test scores, aptitude~~
6 ~~test scores, psychological and personality test results,~~
7 ~~teacher evaluations, and other information of clear relevance~~
8 ~~to the education of the student,~~ all subject to regulations of
9 the State Board. The information shall include information
10 provided under Section 8.6 of the Abused and Neglected Child
11 Reporting Act and information contained in service logs
12 maintained by a local education agency under subsection (d) of
13 Section 14-8.02f of the School Code. In addition, the student
14 temporary record shall include information regarding serious
15 disciplinary infractions that resulted in expulsion,
16 suspension, or the imposition of punishment or sanction. For
17 purposes of this provision, serious disciplinary infractions
18 means: infractions involving drugs, weapons, or bodily harm to
19 another.

20 (g) "Parent" means a person who is the natural parent of
21 the student or other person who has the primary responsibility
22 for the care and upbringing of the student. All rights and
23 privileges accorded to a parent under this Act shall become
24 exclusively those of the student upon his 18th birthday,
25 graduation from secondary school, marriage or entry into
26 military service, whichever occurs first. Such rights and

1 privileges may also be exercised by the student at any time
2 with respect to the student's permanent school record.

3 (h) "Department" means the Department of Children and
4 Family Services.

5 (Source: P.A. 101-515, eff. 8-23-19; 102-199, eff. 7-1-22;
6 102-558, eff. 8-20-21; 102-813, eff. 5-13-22.)

7 (Text of Section after amendment by P.A. 102-466)

8 Sec. 2. As used in this Act:

9 (a) "Student" means any person enrolled or previously
10 enrolled in a school.

11 (b) "School" means any public preschool, day care center,
12 kindergarten, nursery, elementary or secondary educational
13 institution, vocational school, special educational facility
14 or any other elementary or secondary educational agency or
15 institution and any person, agency or institution which
16 maintains school student records from more than one school,
17 but does not include a private or non-public school.

18 (c) "State Board" means the State Board of Education.

19 (d) "School Student Record" means any writing or other
20 recorded information concerning a student and by which a
21 student may be individually identified, maintained by a school
22 or at its direction or by an employee of a school, regardless
23 of how or where the information is stored. The following shall
24 not be deemed school student records under this Act: writings
25 or other recorded information maintained by an employee of a

1 school or other person at the direction of a school for his or
2 her exclusive use; provided that all such writings and other
3 recorded information are destroyed not later than the
4 student's graduation or permanent withdrawal from the school;
5 and provided further that no such records or recorded
6 information may be released or disclosed to any person except
7 a person designated by the school as a substitute unless they
8 are first incorporated in a school student record and made
9 subject to all of the provisions of this Act. School student
10 records shall not include information maintained by law
11 enforcement professionals working in the school.

12 (e) "Student Permanent Record" means the minimum personal
13 information necessary to a school in the education of the
14 student and contained in a school student record. Such
15 information may include the student's name, birth date,
16 address, grades, and grade level, parents' names and
17 addresses, attendance records, reports of psychological
18 evaluations, including information on intelligence and
19 personality, academic information obtained through test
20 administration, observation, or interviews, elementary and
21 secondary achievement-level test results, special education
22 records, records associated with a plan developed under
23 Section 504 of the federal Rehabilitation Act of 1973, and
24 such other entries as the State Board may require or
25 authorize.

26 (f) "Student Temporary Record" means all information

1 contained in a school student record but not contained in the
2 student permanent record. Such information may include family
3 background information, ~~intelligence test scores, aptitude~~
4 ~~test scores, psychological and personality test results,~~
5 ~~teacher evaluations, and other information of clear relevance~~
6 ~~to the education of the student, all~~ subject to regulations of
7 the State Board. The information shall include all of the
8 following:

9 (1) Information provided under Section 8.6 of the
10 Abused and Neglected Child Reporting Act and information
11 contained in service logs maintained by a local education
12 agency under subsection (d) of Section 14-8.02f of the
13 School Code.

14 (2) Information regarding serious disciplinary
15 infractions that resulted in expulsion, suspension, or the
16 imposition of punishment or sanction. For purposes of this
17 provision, serious disciplinary infractions means:
18 infractions involving drugs, weapons, or bodily harm to
19 another.

20 (3) Information concerning a student's status and
21 related experiences as a parent, expectant parent, or
22 victim of domestic or sexual violence, as defined in
23 Article 26A of the School Code, including a statement of
24 the student or any other documentation, record, or
25 corroborating evidence and the fact that the student has
26 requested or obtained assistance, support, or services

1 related to that status. Enforcement of this paragraph (3)
2 shall follow the procedures provided in Section 26A-40 of
3 the School Code.

4 (g) "Parent" means a person who is the natural parent of
5 the student or other person who has the primary responsibility
6 for the care and upbringing of the student. All rights and
7 privileges accorded to a parent under this Act shall become
8 exclusively those of the student upon his 18th birthday,
9 graduation from secondary school, marriage or entry into
10 military service, whichever occurs first. Such rights and
11 privileges may also be exercised by the student at any time
12 with respect to the student's permanent school record.

13 (h) "Department" means the Department of Children and
14 Family Services.

15 (Source: P.A. 101-515, eff. 8-23-19; 102-199, eff. 7-1-22;
16 102-466, eff. 7-1-25; 102-558, eff. 8-20-21; 102-813, eff.
17 5-13-22.)

18 (105 ILCS 10/5) (from Ch. 122, par. 50-5)

19 Sec. 5. (a) A parent or any person specifically designated
20 as a representative by a parent and, if the child is in the
21 legal custody of the Department of Children and Family
22 Services, the Department's Office of Education and Transition
23 Services shall have the right to inspect and copy all school
24 student permanent and temporary records of that child. A
25 student shall have the right to inspect and copy his or her

1 school student permanent record. No person who is prohibited
2 by an order of protection from inspecting or obtaining school
3 records of a student pursuant to the Illinois Domestic
4 Violence Act of 1986, as now or hereafter amended, shall have
5 any right of access to, or inspection of, the school records of
6 that student. If a school's principal or person with like
7 responsibilities or his designee has knowledge of such order
8 of protection, the school shall prohibit access or inspection
9 of the student's school records by such person.

10 (b) Whenever access to any person is granted pursuant to
11 paragraph (a) of this Section, at the option of that person or
12 the school, a qualified professional, who may be a
13 psychologist, counsellor or other advisor, and who may be an
14 employee of the school or employed by the parent or the
15 Department, may be present to interpret the information
16 contained in the student temporary record. If the school
17 requires that a professional be present, the school shall
18 secure and bear any cost of the presence of the professional.
19 If the parent or the Department so requests, the school shall
20 secure and bear any cost of the presence of a professional
21 employed by the school.

22 (c) A parent's or student's or, if applicable, the
23 Department's Office of Education and Transition Services'
24 request to inspect and copy records, or to allow a
25 specifically designated representative to inspect and copy
26 records, must be granted within a reasonable time, and in no

1 case later than 10 business days after the date of receipt of
2 such request by the official records custodian.

3 (c-5) The time for response under this Section may be
4 extended by the school district by not more than 5 business
5 days from the original due date for any of the following
6 reasons:

7 (1) the requested records are stored in whole or in
8 part at other locations than the office having charge of
9 the requested records;

10 (2) the request requires the collection of a
11 substantial number of specified records;

12 (3) the request is couched in categorical terms and
13 requires an extensive search for the records responsive to
14 it;

15 (4) the requested records have not been located in the
16 course of routine search and additional efforts are being
17 made to locate them;

18 (5) the request for records cannot be complied with by
19 the school district within the time limits prescribed by
20 subsection (c) of this Section without unduly burdening or
21 interfering with the operations of the school district; or

22 (6) there is a need for consultation, which shall be
23 conducted with all practicable speed, with another public
24 body or school district or among 2 or more components of a
25 public body or school district having a substantial
26 interest in the determination or in the subject matter of

1 the request.

2 The person making a request and the school district may
3 agree in writing to extend the time for compliance for a period
4 to be determined by the parties. If the requester and the
5 school district agree to extend the period for compliance, a
6 failure by the school district to comply with any previous
7 deadlines shall not be treated as a denial of the request for
8 the records.

9 (d) The school may charge its reasonable costs for the
10 copying of school student records, not to exceed the amounts
11 fixed in schedules adopted by the State Board, to any person
12 permitted to copy such records, except that no parent or
13 student shall be denied a copy of school student records as
14 permitted under this Section 5 for inability to bear the cost
15 of such copying. If consent is provided by a student or the
16 student's parent or guardian, then a copy of the student's
17 school student records shall be provided at no cost to the
18 Guardianship and Advocacy Commission, an independent service
19 coordination agency, or Equip for Equality to establish access
20 to adult disability services and related benefits.

21 (e) Nothing contained in this Section 5 shall make
22 available to a parent or student or, if applicable, the
23 Department's Office of Education and Transition Services
24 confidential letters and statements of recommendation
25 furnished in connection with applications for employment to a
26 post-secondary educational institution or the receipt of an

1 honor or honorary recognition, provided such letters and
2 statements are not used for purposes other than those for
3 which they were specifically intended, and

4 (1) were placed in a school student record prior to
5 January 1, 1975; or

6 (2) the student has waived access thereto after being
7 advised of his right to obtain upon request the names of
8 all such persons making such confidential recommendations.

9 (f) Nothing contained in this Act shall be construed to
10 impair or limit the confidentiality of:

11 (1) Communications otherwise protected by law as
12 privileged or confidential, including but not limited to,
13 information communicated in confidence to a physician,
14 psychologist or other psychotherapist, school social
15 worker, school counselor, school psychologist, or school
16 social worker, school counselor, or school psychologist
17 intern who works under the direct supervision of a school
18 social worker, school counselor, or school psychologist;
19 or

20 (2) Information which is communicated by a student or
21 parent in confidence to school personnel; or

22 (3) Information which is communicated by a student,
23 parent, or guardian to a law enforcement professional
24 working in the school, except as provided by court order.

25 (g) No school employee shall be subjected to adverse
26 employment action, the threat of adverse employment action, or

1 any manner of discrimination because the employee is acting or
2 has acted to protect communications as privileged or
3 confidential pursuant to applicable provisions of State or
4 federal law or rule or regulation.

5 (Source: P.A. 102-199, eff. 7-1-22.)

6 Section 95. No acceleration or delay. Where this Act makes
7 changes in a statute that is represented in this Act by text
8 that is not yet or no longer in effect (for example, a Section
9 represented by multiple versions), the use of that text does
10 not accelerate or delay the taking effect of (i) the changes
11 made by this Act or (ii) provisions derived from any other
12 Public Act.