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Bill Analysis

Version: As Introduced

Primary Sponsor: Rep. Koehler

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SUMMARY

- Generally prohibits the release of a student's school directory information without the written consent of a minor student's parents or of a student if at least 18 years old.

DETAILED ANALYSIS

Sharing school directory information

Under current law, K-12 students and parents generally must opt out to prevent their schools from sharing directory information with certain third parties, such as institutions of higher education or military recruiters. The bill reverses this presumption; instead, it generally prohibits schools from sharing any student directory information with third parties without the prior written consent of a student's parents or the student if at least 18 years old.¹

However, the bill leaves in place several current exceptions that allow the sharing of directory information without consent. For example, employees of the state, a board of education, or other political subdivision may obtain public school records for "administrative use," subject to several limitations on their use. Similarly, a student's record can be transferred to an educational institution "for a legitimate educational purpose."² Current law also allows schools to provide student records to law enforcement to assist in a missing child investigation, in response to certain court orders relating to a child found to be unruly or delinquent, and in the event a student commits one of the serious offenses for which a student may be permanently excluded from the public schools.³

¹ R.C. 3319.321(B); conforming changes in R.C. 149.381.

² R.C. 3319.321(C).

³ R.C. 3319.321(E), (G), and (H). See also R.C. 3313.662, not in the bill.

The bill also leaves in place an outright prohibition on sharing directory information with any person or group that would use it in a profit-making plan or activity.⁴

Application

The bill's provisions apply to all public schools.⁵ It does not appear to apply to nonpublic schools, but the State Board of Education's operating standards for chartered nonpublic schools does require their compliance with the federal Family Educational Rights and Privacy Act (FERPA), which permits the release of directory information unless a student or parent opts out.⁶ However, the most recent version of that rule was invalidated by the General Assembly for unrelated reasons. Prior to 2015, the rule did refer to the state student privacy law (R.C. 3319.321).⁷

FERPA, which applies to state and local educational agencies and higher education institutions that receive federal funding, and its implementing regulations prescribe several other exceptions for the release of student records that are not merely directory information.⁸

Potential inconsistencies with federal law

Current law in R.C. 3319.321 appears incongruent with federal law. Federal law requires schools receiving federal funding to provide access to "the name, address, and telephone listing of each secondary school student" at the request of a military recruiter or institution of higher education.⁹ R.C. 3319.321, on the other hand, currently requires the "names and addresses" of students in grades 10-12 to be released at the request of a recruiting officer of the U.S. armed forces.¹⁰

The bill itself also differs from federal law. Under federal law, schools that receive federal funding expressly may not implement an opt-in process for the sharing of directory information with military recruiters and institutions of higher education.¹¹ Federal law allows only an opt-out process in this context. The bill generally does not allow the sharing of directory information with military recruiters and institutions of higher education unless the school

⁴ R.C. 3319.321(A).

⁵ R.C. 3319.321 applies to community schools and STEM schools by references in R.C. 3314.03(A)(11)(d) and 3326.11, neither in the bill.

⁶ 20 United States Code (U.S.C.) 1232g.

⁷ Ohio Administrative Code (O.A.C.) 3301-35-09 (the general rule on chartered nonpublic school operations) refers to O.A.C. 3301-35-04 which refers to FERPA in division (E)(2). Formerly, O.A.C. 3301-35-04(H)(2) referred to both FERPA and R.C. 3319.321.

⁸ See 20 U.S.C. 1232g(b) and 34 Code of Federal Regulations 99.31(a).

⁹ 20 U.S.C. 7908.

¹⁰ R.C. 3319.321(B)(2)(b).

¹¹ 20 U.S.C. 7908(a)(4).

obtains the consent of the relevant parents and students.¹² This constitutes an opt-in process that is expressly barred by federal law as applied to military recruiters and institutions of higher education.

HISTORY

Action	Date
Introduced	04-21-22

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¹² R.C. 3319.321(B).