

Senate Bill 167

By: Senators Ligon, Jr. of the 3rd, Loudermilk of the 14th, Albers of the 56th, Hufstetler of the 52nd, Hill of the 6th and others

**AS PASSED SENATE**

**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 address various issues impacting students in public schools in this state, including student  
3 data, student competencies, and student testing; to provide for a public process to review  
4 changes to content standards in core subjects; to provide for legislative findings; to provide  
5 for the establishment of Content Standards Advisory Councils; to authorize the councils to  
6 review content standards, assessments, and data collection policies; to provide for  
7 subcommittees; to provide for public hearings and public input; to provide for recommended  
8 changes; to provide for timelines; to prohibit the state from relinquishing any control over  
9 content standards or assessments; to provide for flexibility; to provide for short titles; to  
10 establish limitations and requirements regarding student data; to provide for definitions; to  
11 provide for limitations on the collection of student information; to provide for limitations on  
12 the disclosure of personally identifiable information to third parties; to provide for penalties  
13 and enforcement; to provide for related matters; to provide for an effective date; to provide  
14 for applicability; to repeal conflicting laws; and for other purposes.

15 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

16 **PART I**  
17 **SECTION 1-1.**

18 This part shall be known and may be referred to as the "Act to Restore Educational Authority  
19 to Georgia Citizens."

20 **SECTION 1-2.**

21 The General Assembly finds that:

- 22 (1) The state should establish first-class competencies and content standards that will  
23 provide a broad liberal arts education and lead to educated citizens equipped to preserve

24 a self-governing republic of free people who are prepared for postsecondary education and  
 25 a career; and  
 26 (2) In determining such competencies and content standards, there should be strong citizen  
 27 participation in the process.

### 28 SECTION 1-3.

29 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by  
 30 revising Code Section 20-2-141, relating to the review of competencies and core curriculum,  
 31 as follows:

32 "20-2-141.

33 (a) The State Board of Education shall review content standards in each of the four core  
 34 subject areas of mathematics, English language arts, science, and social studies establish  
 35 at least once every four five years a review of the adopted competencies and uniformly  
 36 sequenced core curriculum by a task force broadly representative of educational interests  
 37 and the concerned public. After considering the findings and recommendations of the task  
 38 force, the state board shall make such changes in the student competencies lists and core  
 39 curriculum as it deems in the best interest of the state and its citizens and shall report such  
 40 proposed changes to local school systems and the General Assembly for review. The state  
 41 board shall propose changes to such content standards as it deems in the best interest of  
 42 students, their parents, teachers, and taxpayers.

43 (b) The state board shall establish and implement a process in accordance with the  
 44 requirements of this Code section which includes that:

45 (1) The state board shall review relevant research in the core subject area under review  
 46 and identify the content standards where revision is appropriate;

47 (2) The state board shall examine content standards for such core subject area which  
 48 have been previously or are currently adopted by Georgia or by other states or countries,  
 49 with preference given to states that had standards which were highly rated in national  
 50 surveys of state standards before 2010 and to states and countries with highly rated  
 51 internationally competitive test results;

52 (3) Through an open and transparent process, the state board shall solicit interested  
 53 persons who are eligible to be appointed to and serve on an advisory council convened  
 54 pursuant to subsection (c) of this Code section. The state board shall submit all such  
 55 names to the Governor, Lieutenant Governor, and Speaker of the House of  
 56 Representatives for their consideration for appointment; and

57 (4) The state board shall report its proposed changes to content standards for a core  
 58 subject area to such advisory council. Upon receipt of the state board's proposed changes  
 59 to content standards, the Council shall immediately begin its review, which may include

60 review of other content standards within the same subject area, state-wide  
61 criterion-referenced assessments related to the same subject area, or data collection  
62 policies; provided, however, that nothing shall preclude the Council from commencing  
63 any review as soon as the Council members are appointed.

64 (c)(1) On a biennial basis, a Content Standards Advisory Council ('Council') shall be  
65 convened pursuant to this subsection to review proposed changes by the state board to  
66 content standards in core subject areas. Each Council convened pursuant to this  
67 subsection shall exist for a term of two years and shall review a specified subject area in  
68 each year of its two-year term. The Council shall be composed of 17 members as  
69 follows:

70 (A) Nine parent or grandparent representatives, representing public school students;  
71 the Governor, the Lieutenant Governor, and the Speaker of the House of  
72 Representatives shall each appoint three parent or grandparent representatives, one  
73 representative each from the elementary school level, one representative each from the  
74 middle school level, and one representative each from the high school level;

75 (B) Three current or retired teacher representatives, including one elementary school  
76 teacher, one middle school teacher, and one high school teacher, appointed by the  
77 Governor; and

78 (C) Two private-sector representatives, one appointed by the Lt. Governor and one  
79 appointed by the Speaker.

80 (D) Three postsecondary content specialist education representatives, appointed by the  
81 Governor. As used in this subparagraph, the term 'postsecondary content specialist'  
82 means someone currently employed or retired, who has taught the subject content at  
83 least five years in a postsecondary institution and having an advanced degree,  
84 preferably a doctorate, in the subject of study. Specifically, it means English for  
85 English language arts standards, mathematics or statistics for mathematics standards,  
86 natural sciences and engineering for science standards, and government, economics,  
87 history, or political philosophy for social studies standards. Advanced degrees in  
88 education of the subject, such as mathematics education or science education, do not  
89 qualify for the purpose of this subparagraph.

90 (2) Council members shall possess at least a bachelor's degree in at least one of the  
91 subject areas under review during such member's two-year term or a related subject area  
92 at a minimum and have appropriate experience and credentials, as determined by the  
93 appointing official. All members of the Council shall be residents of the State of Georgia  
94 for at least six months prior to appointment. To the extent possible, the Council shall  
95 include balanced representation from urban, suburban, and rural areas and representation

96 from each congressional district. The Council shall elect a chairperson and vice  
 97 chairperson from among its membership.

98 (3) Council members shall serve a two-year term and may be reappointed once. In the  
 99 event of a vacancy, such member shall be replaced within 30 days of such vacancy in the  
 100 same manner as the original appointment made pursuant to paragraph (1) of this  
 101 subsection.

102 (4) The Council shall establish subcommittees to help carry out its duties and  
 103 responsibilities under this Code section. Such subcommittees shall include Council  
 104 members and other appropriate individuals knowledgeable and experienced in the subject  
 105 area under review, including, but not limited to, retired or currently employed  
 106 early-childhood development professionals, K-5 content specialists, grades 6-8 content  
 107 specialists, grades 9-12 content specialists, certified K-5 teachers, certified grades 6-8  
 108 teachers, and certified grades 9-12 teachers and postsecondary content specialists. Each  
 109 subcommittee shall elect a chairperson and co-chairperson.

110 (5) Council members and subcommittee members shall be reimbursed for per diem and  
 111 travel expenses in the same manner as provided for in Code Section 45-7-21. Subject to  
 112 appropriations, non-public-sector members may receive an honorarium for their services  
 113 and local school systems may be reimbursed for the cost incurred in hiring substitute  
 114 teachers in the absence of educators serving on a subcommittee. Council members and  
 115 subcommittee members, as well as any members of their families or their business  
 116 entities, shall not have conflicts of interest with regard to actions taken by the Council  
 117 and shall not accept any money, meals, trips, gifts, or any other favors from any person,  
 118 business, or organization that would benefit, financially or otherwise, from actions taken  
 119 by the Council.

120 (6) The state board shall post on the department website the names, contact information,  
 121 and credentials of each Council member and subcommittee member.

122 (d) Any and all meetings conducted by the state board, the Council, or subcommittees of  
 123 the Council at which content standards are discussed or decided upon shall be subject to  
 124 Chapter 14 of Title 50, relating to open and public meetings; provided, however, that this  
 125 shall not apply to assessment instruments reviewed or discussed pursuant to subsection (i)  
 126 of Code Section 20-2-281.

127 (e) Prior to the 90 day period provided for in subsection (f) of this Code section, the state  
 128 board shall:

129 (1) Post all proposed changes to content standards on the Department of Education  
 130 website;

131 (2) Submit all proposed changes to content standards to the Council, Governor,  
 132 Lieutenant Governor, Speaker of the House of Representatives, chairperson of the Senate

133 Education and Youth Committee, chairperson of the House Committee on Education, and  
 134 each local school system. Upon receipt of proposed changes from the state board, each  
 135 local school system shall notify the parents or guardians of its students that proposed  
 136 content standards are available for review on the department website; and

137 (3) Submit all proposed changes to content standards to the president of each public  
 138 postsecondary institution in this state. Upon receipt of proposed changes from the state  
 139 board, the president of each public postsecondary institution in this state shall provide an  
 140 electronic copy of the proposed changes to the appropriate school deans, department  
 141 heads, or both, as appropriate, so that, for purposes of illustration only, proposed changes  
 142 to English language arts standards shall be sent to the heads of English departments.  
 143 High school mathematics standards shall be sent to the heads of departments of  
 144 mathematics, engineering, physical and biological sciences, and computer science.

145 (f) The state board shall provide a 90 day period for public review and comment on its  
 146 proposed content standards and on any other content standards in the same subject area.

147 Within such 90 day period:

148 (1) Each state board member shall conduct at least one public hearing and shall provide  
 149 notice of such hearing by issuing a press release to print and broadcast media serving the  
 150 congressional district and providing notice to each local school system within the  
 151 congressional district. Upon receipt of such notice, each local school system shall notify  
 152 parents and guardians of all students of such public hearing. The state board shall  
 153 provide at least one week's notice to each state legislator who represents a portion of the  
 154 congressional district. The Council shall use its best efforts to have Council members  
 155 present at each hearing. The state board shall cause minutes of the hearings to be taken  
 156 and shall distribute such minutes to all state board members and Council members within  
 157 ten business days of each such public hearing;

158 (2) The state board shall solicit feedback on the proposed content standards or on any  
 159 other content standards in the same subject area from teachers, parents, and other  
 160 stakeholders through the development, posting, and advertisement of an online survey  
 161 and shall accept any comments received via e-mail or United States mail. The state board  
 162 shall also solicit feedback from appropriate content related organizations, associations,  
 163 and agencies. All feedback received by the state board shall be made available to the  
 164 Council; and

165 (3) The Senate Education and Youth Committee and the House Committee on Education  
 166 may each hold additional public hearings to provide additional opportunity for public  
 167 comments on the proposed changes and shall submit to the Council any public comments  
 168 received from the hearings.

169 All public comments received by the state board in the 90 day period shall be part of the  
170 public record and shall be maintained by the Department of Education and available for  
171 review for at least six years.

172 (g) The Council and its subcommittees shall review the proposals made by the state board  
173 and the feedback received pursuant to subsection (f) of this Code section and, with any  
174 needed assistance from the department, propose changes to the state board's proposed  
175 content standards as it deems appropriate. Any proposed changes by the Council shall be  
176 submitted to the state board by the Council in the form of a written report no later than 60  
177 days after the expiration of the 90 day period for public review provided in subsection (f)  
178 of this Code section. The Council and its subcommittees shall also have the discretion to  
179 review and make recommendations on any related content standards in the same subject  
180 area, on any state-wide assessments administered pursuant to Code Section 20-2-281 which  
181 are criterion-referenced assessments relating to the subject area under review, and on any  
182 data collection policies of the Department of Education or Office of Student Achievement.

183 (h)(1) Simultaneously with submitting the written report to the state board pursuant to  
184 subsection (g) of this Code section, the Council, through the department, shall provide  
185 an electronic copy of the changes proposed by the Council to all members of the Senate  
186 Education and Youth Committee and House Committee on Education, to each local  
187 school system, and to the president of each public postsecondary institution in this state,  
188 and shall make such proposed changes available to the public via Internet posting on the  
189 department website.

190 (2) Upon receipt of proposed changes from the Council, each local school system shall  
191 again notify the parents or guardians of its students that proposed content standards are  
192 available for review on the department website.

193 (3) Upon receipt of proposed changes from the Council, the president of each public  
194 postsecondary institution in this state shall provide an electronic copy of the proposed  
195 changes to the appropriate school deans, department heads, or both in the same manner  
196 as provided in paragraph (3) of subsection (e) of this Code section.

197 (i) After receipt of the revised proposed content standards from the Council, the state  
198 board shall take into consideration the recommendations of the Council, and the state  
199 board, in an open public meeting, shall make changes to the content standards as it deems  
200 in the best interest of students, their parents, teachers, and this state's citizens. The  
201 adoption of content standards pursuant to this Code section shall not be subject to Article  
202 1 of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The state board  
203 shall report such approved content standards to local school systems and the General  
204 Assembly and post such approved content standards in an easily accessible location on the  
205 department website.

206 (j) The requirements contained in this Code section shall apply to all content standards in  
 207 accordance with a timetable established by the state board; provided, however, that the  
 208 review of content standards in mathematics shall be completed no later than May 31, 2015,  
 209 and implemented no later than the beginning of the 2016-2017 school year, and the review  
 210 of content standards in English language arts shall be completed no later than May 31,  
 211 2016, and implemented no later than the beginning of the 2017-2018 school year. Nothing  
 212 in this subsection shall prohibit the state board from accelerating the timetable or  
 213 conducting the review of two subject areas in the same year or prohibit a local board of  
 214 education from implementing the revised mathematics content standards in the 2015-2016  
 215 school year."

#### 216 **SECTION 1-4.**

217 Said title is further amended by adding a new Code section to read as follows:

218 "20-2-141.1.

219 (a) Beginning on the effective date of this Code section, the State of Georgia shall retain  
 220 sole control over the development and revision of the content standards established  
 221 pursuant to Code Section 20-2-140 and no content standards shall be adopted or  
 222 implemented except in accordance with the procedures required by Code Section 20-2-141;  
 223 provided, however, that such required procedures shall not apply to courses developed and  
 224 submitted by local boards of education for approval by the state board. On and after the  
 225 effective date of this Code section, the state shall not adopt any federally prescribed content  
 226 standards or any national content standards established by a consortium of states or a third  
 227 party, including, but not limited to, the Next Generation Science Standards, the National  
 228 Curriculum for Social Studies, the National Health Education Standards, or the National  
 229 Sexuality Standards.

230 (b) No official of the State of Georgia, whether elected or appointed or representing the  
 231 state in any capacity, shall join, on behalf of the state or a state agency, any consortium,  
 232 association, or entity or enter into a binding agreement, when such membership or  
 233 agreement would relinquish any measure of control over standards and assessments, to any  
 234 individual or entity outside the state.

235 (c) The Department of Education shall annually submit to the General Assembly a detailed  
 236 report of all grants, including federal, private, or from other sources, that the department  
 237 has applied for or received and of all outside funding that the department has received. The  
 238 report shall include:

239 (1) Long-term projections of unfunded costs for both state and local governments for at  
 240 least a 12 year period;

241 (2) The purpose and effect of the program, including its effect on and interrelationship  
 242 with any existing program currently operating within this state;  
 243 (3) Justification for the program and peer reviewed research, if any, that validates the  
 244 effectiveness of the program; and  
 245 (4) Any negative effects on the constitutional rights of Georgia citizens, including their  
 246 right to exercise control over education.

247 (d) All state-wide K-12 tests and assessments shall be controlled by the State of Georgia  
 248 without any obligation to other entities, states, consortia, or the federal government and  
 249 shall not be designed to test national standards or rebranded national standards or be based  
 250 on any standards established by a consortium of states or a third party, including but not  
 251 limited to the Next Generation Science Standards, the National Curriculum for Social  
 252 Studies, the National Health Education Standards, or the National Sexuality Standards.  
 253 The state shall not relinquish any binding control over testing as a condition of receiving  
 254 a grant. On and after the effective date of this Code section, criterion assessments  
 255 developed pursuant to Code Section 20-2-281 shall be aligned with the content standards  
 256 revised pursuant to Code Section 20-2-141 for each subject area. Until such new  
 257 assessments are developed, the state board shall use elementary, middle, and high school  
 258 level criterion assessments which progress toward revised content standards."

259

#### SECTION 1-5.

260 (a) Beginning September 24, 2014, a local school system shall have the flexibility to  
 261 determine its curriculum and instruction without constraint, including returning to curriculum  
 262 and instruction aligned to the former Georgia Performance Standards that were in effect in  
 263 June 2010, until the completion of the revision process established pursuant to this part and  
 264 the establishment of new standards pursuant to such process. Further, local school systems  
 265 may elect to use discrete mathematics and to adopt reading lists, instructional materials, and  
 266 support materials. Following the adoption of content standards pursuant to the process  
 267 established in Code Section 20-2-141, local school systems may sequence, expand, and  
 268 enrich the content standards to the extent deemed necessary and appropriate for its students  
 269 and communities.

270 (b) Local school systems shall ensure strict compliance with the federal Individuals with  
 271 Disabilities Education Act and with other federal disabilities laws and shall fully implement  
 272 all Individualized Education Programs, Section 504 plans, and accommodations for English  
 273 Language Learners established pursuant to such federal laws and shall not construe any state  
 274 adopted standards to supersede the requirements of any such program, plan, or  
 275 accommodation.



276

## PART II

277

## SECTION 2-1.

278 This part shall be known and may be cited as the "Student Right to Privacy Act."

279

## SECTION 2-2.

280 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by  
281 adding a new article to Chapter 1, relating to general provisions, to read as follows:

282

"ARTICLE 3283 20-1-30.284 (a) As used in this article, the term:

285 (1) 'Affective computing' means systems and devices that can or attempt to recognize,  
286 interpret, process, or simulate aspects of human feelings or emotions.

287 (2) 'Biometric data' means a record of one or more measurable biological or behavioral  
288 characteristics that can be used for automated recognition of an individual, including  
289 fingerprints, retina and iris patterns, voiceprints, DNA sequence (including newborn  
290 screening information), and facial characteristics.

291 (3) 'Cloud computing service' means a service that enables on-demand network access  
292 to a shared pool of configurable computing resources, such as networks, servers, storage,  
293 applications, and services, to provide a student, teacher, or school personnel account  
294 based productivity applications such as e-mail, document storage, and document editing  
295 that can be rapidly provisioned and released with minimal management effort or  
296 interaction with a cloud computing service provider. A cloud computing service has the  
297 characteristics of on-demand self-service, broad network access, resource pooling, rapid  
298 elasticity, and measured service.

299 (4) 'Cloud computing service provider' means an entity, other than an education  
300 institution, that operates a cloud computing service.

301 (5) 'Department' means the Georgia Department of Education.

302 (6) 'Education institution' means any public early care and learning program, elementary  
303 or secondary school, or governing board of a charter school in this state.

304 (7) 'Education program' means a program of instruction administered by a state agency  
305 or education institution within this state.

306 (8) 'Interpersonal resources' means noncognitive, emotional, and psychological  
307 characteristics and attributes and skills used to manage relationships and interactions  
308 between or among individuals.

309 (9) 'Intrapersonal resources' means noncognitive, emotional, and psychological  
 310 characteristics and attributes used to manage emotions and attitudes within an individual.

311 (10) 'Local school system' means any local board of education, local school system, or  
 312 governing board of a charter school in this state.

313 (11) 'Psychological resources' means noncognitive, emotional characteristics, attributes,  
 314 and skills, including mindsets, learning strategies, and effortful control, used by an  
 315 individual to address or manage various life situations.

316 (12) 'State agency' means the Georgia Department of Education, the State Board of  
 317 Education, the Education Coordinating Council, the Office of Student Achievement, the  
 318 Georgia Department of Early Care and Learning, the Georgia Student Finance  
 319 Commission, the Georgia Student Finance Authority, the Georgia Professional Standards  
 320 Commission, any regional educational service agency, or any other state pre-K through  
 321 grade 12 education related entity, including any education related foundation or nonprofit  
 322 entity established by Georgia statute or which derives its authority from Georgia statutes.

323 (13) 'Student data base' means the Georgia Statewide Longitudinal Data System  
 324 established pursuant to Code Section 20-2-320, including the GA AWARDS data system,  
 325 the K-12 Statewide Longitudinal Data System, or any other system or data warehouse  
 326 providing substantially the same function which collects, houses, or maintains data on  
 327 Georgia students in pre-kindergarten through postsecondary education, including  
 328 regional, interstate, or federal data warehouse organizations under contract to or with a  
 329 memorandum of understanding with the Georgia Department of Education, the Office of  
 330 Student Achievement, or other state education entity.

331 (14) 'Work force information' means information related to unemployment insurance,  
 332 wage records, unemployment insurance benefit claims, or employment and earnings data  
 333 from work force data sources, such as state wage records, the Wage Record Interchange  
 334 System (WRIS), or the federal Employment Data Exchange System (FEDES).

335 (15) 'Written consent' means signed and dated consent in written form or by electronic  
 336 signature given prior to the data collection or disclosure and specifically consenting to  
 337 the collection or disclosure of specific data.

338 (b) As used in this article, the terms 'disclosure,' 'education records,' 'eligible student,'  
 339 'parent,' 'party,' 'personally identifiable information,' 'record,' and 'student' shall have the  
 340 same meaning as those terms are defined in the regulations (34 C.F.R. Part 99.3)  
 341 promulgated under the Family Educational Rights and Privacy Act as of January 1, 2014.

342 20-1-31.

343 (a) Unless explicitly required by federal law, no student or family information may be  
 344 collected by a state agency, local school system, or education institution without the written

345 consent of parents, guardians, or eligible students unless the data is directly related to the  
346 educational needs of the student. The following information is not considered directly  
347 related to the educational needs of the student:

348 (1) Kindergarten through grade 12 student biometric data, except as may be necessary  
349 to facilitate the instruction of special needs students or students participating in school  
350 physical education and athletic programs;

351 (2) Any data collected via affective computing, including analysis of facial expressions,  
352 EEG brain wave patterns, skin conductance, galvanic skin response, heart-rate variability,  
353 pulse, blood volume, posture, and eye-tracking;

354 (3) Student or family religious affiliation or beliefs;

355 (4) Student or family political affiliation or beliefs;

356 (5) Student or family member sexual orientation or beliefs about sexual orientation;

357 (6) Student or family gun ownership;

358 (7) Kindergarten through grade 12 student or family income data, except information  
359 necessary to determine eligibility for, to facilitate participation in, or to receive financial  
360 assistance under a scholarship, free-or-reduced-lunch, or other financial-assistance  
361 program; or

362 (8) Kindergarten through grade 12 student or family social security numbers, except as  
363 otherwise authorized by law.

364 (b) Unless explicitly required by federal law, a local school system shall not allow the  
365 following information regarding its students to be entered into any state-wide student  
366 longitudinal data base without the written consent of parents, guardians, or eligible  
367 students:

368 (1) Medical, health, and mental health records, except immunization records required by  
369 state law, records needed or created by a school based health program for administering  
370 prescription drugs or otherwise treating a student at school, records needed or created by  
371 a school based counselor when a student seeks counseling while at school, or fitness  
372 assessments conducted pursuant to Code Section 20-2-777;

373 (2) Student or family workforce information, except information related to work based  
374 learning, technical, or industry-certificate programs participated in for academic credit  
375 or as used for an audit, evaluation, or compliance activity in connection with a  
376 state-supported education program provided that parents and eligible students may opt  
377 out from any personally identifiable data being disclosed for the purposes of such audits,  
378 evaluations, or compliance activities;

379 (3) Any psychological data (including any resulting from classroom, education  
380 institution, local school system, state, or national assessments) that measure  
381 psychological resources, attributes, dispositions, social skills, attitudes, or interpersonal

382 or intrapersonal resources; provided, however, that this shall not include special  
383 education assessments; or

384 (4) Any data developed through predictive modeling, except information necessary for  
385 dropout-prevention programs and as necessary for evaluation of education programs  
386 relating to student proficiencies as measured in pre-K through grade 12 education or to  
387 predict student success in higher education.

388 (c) No funds, whether from federal or private grants or other sources, shall be used on  
389 construction, enhancement, or expansion of any student data base that does not comply  
390 with the provisions of this Code section, that is designed to collect and store student data  
391 that tracks students beyond their kindergarten through grade 12 or postsecondary education  
392 or compile their personal, nonacademic information beyond what is necessary for either  
393 administrative functions directly related to the student's education or evaluation of  
394 academic programs and student progress, or that is used for an audit, evaluation, or  
395 compliance activity in connection with federal or state supported education programs.

396 (d) No state agency, local school system, or education institution shall pursue or accept  
397 any grant, whether from the federal government or any private entity, that would require  
398 the collection or reporting of any types of student data in violation of subsection (a) or (b)  
399 of this Code section.

400 (e)(1) No later than August 1, 2014, state agencies, local school systems, and education  
401 institutions shall publicly and conspicuously disclose on their websites the type of  
402 personally identifiable information from education records maintained by such state  
403 agencies, local school systems, or education institutions, directly or through contracts  
404 with outside parties, and the types of education records that are transferred to cloud  
405 computing service providers. This disclosure shall be updated within 30 days of any  
406 change. Local school systems and education institutions shall annually notify parents and  
407 eligible students of such website posting which may be accomplished through prominent  
408 posting on the website and notice through local media. Such posting shall also include  
409 a telephone number or e-mail address that parents may access to ask questions. State  
410 agencies shall also provide annual electronic notification of this information to the  
411 chairpersons of the Senate Education and Youth Committee and House Committee on  
412 Education. Such disclosure and electronic notifications shall include information for  
413 parents or eligible students regarding the process to request a copy of the education  
414 record pertaining to that student contained in the student data base, the required response  
415 time, and the process to contest its content pursuant to paragraph (2) of this subsection.

416 (2) Within 30 days of a request to a local school system, parents and eligible students  
417 shall be provided a printed copy of the student's education records that are in a student

418 data base and shall have the right to correct the records in such data base in a manner that  
419 is consistent with requirements of state and federal law.

420 20-1-32.

421 (a) Except as otherwise authorized by this Code section, access to education records in the  
422 student data base shall be restricted to the authorized representatives of the state agency,  
423 local school system, or education institution who require such access to perform their  
424 assigned duties. No individual shall be designated an authorized representative for such  
425 purposes unless he or she is employed by or under contract with the designating state  
426 agency, local school system, or education institution.

427 (b)(1) Personally identifiable information from an education record shall not be disclosed  
428 to a party conducting research or studies for or on behalf of such state agencies or  
429 education institutions unless the parent, guardian, or eligible student has had reasonable  
430 notice of the right to opt out.

431 (2) Any outside party conducting research or a study as described in paragraph (1) of this  
432 subsection shall comply with the requirements of subsection (d) of this Code section in  
433 order to receive any records.

434 (3) Each state agency and education institution shall develop and publish criteria for the  
435 approval of research related data requests from state and local government agencies, the  
436 General Assembly, academic researchers, and the public.

437 (c) Before conducting any audit or evaluation of an education program or conducting any  
438 compliance or enforcement activity in connection with legal requirements that relate to  
439 federal, state, or local school system supported programs, the state agency, local school  
440 system, or education institution shall specify the federal or state legal authority for the  
441 audit, evaluation, or compliance or enforcement activity. In conducting any audit or  
442 evaluation of an education program or conducting any compliance or enforcement activity  
443 in connection with legal requirements that relate to federal, state, or local school system  
444 supported education programs, when such audit, evaluation, or activity involves access to  
445 personally identifiable student information, education records may be released only to  
446 authorized representatives of the government auditor or evaluator or the outside auditing  
447 agency or firm. No party may be designated an authorized representative of such  
448 government auditor or evaluator or the outside auditing agency or firm unless that  
449 individual is a staff member of the government auditor or evaluator or outside auditing  
450 agency or firm. No outside auditing agency or firm shall conduct any audit or evaluation  
451 that involves access to personally identifiable student information unless it certifies in  
452 writing that it will comply with the terms and conditions set forth in subsection (d) of this  
453 Code section. Results of such audit or evaluation shall be posted on the website of the state

454 agency, local school system, or education institution administering the education program  
455 that is the subject of the audit or evaluation.

456 (d) State agencies, local school systems, and education institutions shall not disclose  
457 personally identifiable information from education records without the written consent of  
458 parents or eligible students to a contractor, consultant, or other party to whom the state  
459 agency, local school system, or education institution has outsourced services or functions  
460 unless that outside party:

461 (1) Performs a service or function which would otherwise be performed for the state  
462 agency, local school system, or education institution by its employees, provides cloud  
463 computing services, or is an authorized representative who conducts studies for, or on  
464 behalf of, the state agency, local school system, or education institution to develop,  
465 validate, or administer predictive tests as necessary for predicting student proficiency as  
466 measured in pre-K through grade 12 education, to predict success in higher education, to  
467 administer student aid programs, or to improve instruction;

468 (2) Limits internal access to education records to those individuals who require access  
469 to those records for completion of the contract;

470 (3) Does not use the education records for any purposes other than those explicitly  
471 authorized in the contract;

472 (4) Does not disclose any personally identifiable information from education records to  
473 any other party unless required by statute or court order and the party provides a notice  
474 of the disclosure to the state agency, local school system, or education institution that  
475 provided the information no later than the time the information is disclosed, unless  
476 providing notice of the disclosure is expressly prohibited by the statute or court order;

477 (5) Maintains reasonable administrative, technical, and physical safeguards to protect the  
478 security, confidentiality, and integrity of the personally identifiable student in its custody;

479 (6) Uses encryption technologies to protect data while being transmitted or in its custody  
480 from unauthorized disclosure using a technology or methodology specified by the  
481 Secretary of the United States Department of Health and Human Services in guidance  
482 issued under Section 13402(h)(2) of Public Law 111-5;

483 (7) Conducts a security audit at least annually but more often for contracts of short  
484 duration and provides the results of that audit to each state agency, local school system,  
485 or education institution that provides education records;

486 (8) Provides the state agency, local school system, or education institution with a breach  
487 remediation plan acceptable to the state agency, local school system, or education  
488 institution before initial receipt of education records;

489 (9) Reports all suspected or actual security breaches to the state agency, local school  
490 system, or education institution that provided education records and to parents of affected

491 students and to eligible students as soon as possible but not later than 48 hours after a  
492 suspected or actual breach was known or would have been known by exercising  
493 reasonable diligence;

494 (10) Is under the direction of the state agency, local school system, or education  
495 institution pursuant to a contract with respect to the use and maintenance of education  
496 records;

497 (11) Pays all costs and liabilities incurred by the state agency, local school system, or  
498 education institution related to any security breach or unauthorized disclosure, including  
499 but not limited to the costs of responding to inquiries about the security breach or  
500 unauthorized disclosure, of notifying subjects of personally identifiable information about  
501 the breach, of mitigating the effects of the breach for the subjects of the personally  
502 identifiable information, and of investigating the cause or consequences of the security  
503 breach or unauthorized disclosure; and

504 (12) Destroys or returns to the state agency, local school system, or education institution  
505 all personally identifiable information in its custody upon request and at the termination  
506 of the contract. Destruction of documents and data shall be performed in compliance  
507 with the National Institute of Standards and Technology Special Publication 800-88,  
508 Guidelines for Media Sanitation.

509 (e) All contracts entered into with a contractor, consultant, or other party which are subject  
510 to subsection (d) or (i) of this Code section shall be posted on the website of the state  
511 agency, local school system, or education institution.

512 (f)(1) Information from education records, whether consisting of personally identifiable  
513 information or not, shall not be sold to any party for any reason or disclosed to any party  
514 for a commercial use, including but not limited to marketing products or services;  
515 compilation of lists for sale or rental; development of products or services; creation of  
516 individual, household, or group profiles; employment suitability checks; background  
517 checks; or insurance rate determinations.

518 (2) A state agency, local school system, or education institution that contracts with a  
519 cloud computing service provider that includes the storage of education records shall  
520 enter into an agreement with such provider that includes the following terms:

521 (A) The types of data to be transferred or collected, including whether data will be  
522 collected directly from students and whether the provider will track students' use of the  
523 services;

524 (B) Prohibition on the provider's redisclosure of information from education records,  
525 or use of such information for any secondary purposes that benefit the provider or any  
526 third party, including but not limited to online behavioral advertising, creating or  
527 correcting an individual or household profile primarily for the provider's benefit, the

528 sale of the data for any commercial purpose, or any other similar commercial for-profit  
529 activity; provided, however, that a cloud computing service provider may process or  
530 monitor student data solely to provide such service to the state agency, local school  
531 system, or education institution, and to maintain the integrity of such service;

532 (C) A requirement that all access over the Internet to education records and student  
533 data shall be through a secure encrypted protocol, such as, but not limited to, Hypertext  
534 Transfer Protocol Secure; and

535 (D) A requirement that all servers that house education records and student data be  
536 either solely dedicated to such education records and student data or be provisioned in  
537 such a manner that no entity other than the applicable state agency, local school system,  
538 or education institution could obtain access to such records and data.

539 (3) Any cloud computing service provider that enters into an agreement pursuant to  
540 paragraph (2) of this subsection shall certify in writing to the state agency, local school  
541 system, or education institution that it will comply with the terms and conditions set forth  
542 in subsection (d) of this Code section and that the state agency, local school system, or  
543 education institution maintains ownership of all student data.

544 (4) Any student data stored by a cloud computing service provider shall be stored within  
545 the boundaries of the United States.

546 (g) Personally identifiable information from education records shall not be disclosed to any  
547 noneducation related government agency, including but not limited to the Georgia  
548 Department of Labor, whether within or outside the state, or to any party that intends to use  
549 or disclose the information or data for the purpose of workforce-development or economic  
550 planning unless used for an audit, evaluation, or compliance activity in connection with  
551 federal or state supported education programs; provided, however, that this shall not apply  
552 to disclosure of records relating to children in the care or custody of a state agency or a  
553 contractor of a state agency, whether within or outside the state, including children in foster  
554 care and youth in the custody of the Department of Juvenile Justice.

555 (h)(1) Subject to the provisions of subsections (b), (c), (d), and (f) of this Code section,  
556 and except when a student is classified as a migrant for federal reporting purposes,  
557 personally identifiable information from education records shall not be disclosed to any  
558 government agency or other entity outside the state without the written consent of the  
559 parent or eligible student.

560 (2) If the United States Department of Education demands, as a condition of making a  
561 federal education grant, personally identifiable information, without the written consent  
562 of the parent or eligible student, the grant recipient shall provide written notification to  
563 those parents and eligible students of the following:



564 (A) That the grant recipient has been required to disclose the student's information to  
 565 the United States Department of Education;

566 (B) That neither the grant recipient nor any other entity within the State of Georgia will  
 567 have control over use or further disclosure of that information or data; and

568 (C) The contact information, including the name, telephone number, and e-mail  
 569 address of the United States Department of Education official who demands the  
 570 disclosure.

571 (i)(1) Student data shared with any testing contractor by state agencies, local school  
 572 systems, or education institutions shall be limited to the following:

573 (A) Student identifier number, name, grade level, and other information directly related  
 574 to test performance, such as previous test scores, provided that no biometric data and  
 575 no psychological data of any kind is part of that information unless required pursuant  
 576 to the federal Individuals with Disabilities Education Act, the federal Americans with  
 577 Disabilities Act, or other federal law; and

578 (B) Student demographic information only as necessary for producing annual  
 579 accountability reports under the Elementary and Secondary Education Act (ESEA),  
 580 Public Law 107-110; and

581 (C) Aggregate data with no identifiable student information.

582 (2) Demographic data collected under subparagraph (B) of paragraph (1) of this Code  
 583 section may be collected at the time of test administration, after department approval of  
 584 the data-collection form, or may be transferred to the testing contractor directly from the  
 585 state data base. Only fields directly required for producing ESEA accountability reports  
 586 may be transferred.

587 (3) The testing contractor shall acknowledge in writing that ownership of the student data  
 588 remains with the state agency, local school system, or education institution that contracts  
 589 for the testing contractor's services, and the testing contractor shall not disclose the data  
 590 to any other entity without written permission of that state agency, local school system,  
 591 or education institution.

592 (4) No state agency, local school system, or education institution shall permit a testing  
 593 contractor to share any student data with any noneducation entities, or with any education  
 594 entities not under contract with the state agency, local school system, or education  
 595 institution, unless required by court order.

596 20-1-33.

597 (a) Each violation of any provision of Code Section 20-1-32 by a contractor, consultant,  
 598 or other party that has entered into a contract with a state agency, local school system, or  
 599 education institution and is subject to the provisions of this article shall, for a first violation,

600 be punishable by a civil penalty of up to \$5,000.00; a second violation shall be punishable  
 601 by a civil penalty of up to \$10,000.00 and may result in permanent disqualification by the  
 602 state agency, local school system, or education institution from access to education records;  
 603 and a third and any subsequent violation shall be punishable by a civil penalty of up to  
 604 \$20,000.00 and shall result in permanent disqualification by the state agency, local school  
 605 system, or education institution from access to education records. For a third and any  
 606 subsequent violation, each violation involving a different individual education record or  
 607 a different individual student shall be considered a separate violation for purposes of civil  
 608 penalties under this subsection.

609 (b) The Attorney General shall have the authority to enforce compliance with this article  
 610 by investigation and subsequent commencement of a civil action, to seek civil penalties for  
 611 violations of this article, and to seek appropriate injunctive relief, including but not limited  
 612 to a prohibition on obtaining personally identifiable information for an appropriate time  
 613 period. In carrying out such investigation and in maintaining such civil action, the  
 614 Attorney General is authorized to subpoena witnesses, compel their attendance, examine  
 615 them under oath, and require that any books, records, documents, papers, or electronic  
 616 records relevant to the inquiry be turned over for inspection, examination, or audit, in  
 617 accordance with Chapter 11 of Title 9, the 'Georgia Civil Practice Act.'

618 (c) Nothing contained in this Code section shall be construed as creating a private right of  
 619 action against a state agency, a local board of education, an education institution, or an  
 620 employee of any such agency, board, or institution."

### 621 PART III

#### 622 SECTION 3-1.

623 (a) This Act shall become effective upon its approval by the Governor or upon its becoming  
 624 law without such approval.

625 (b) Part II of this Act shall apply to school years beginning with the 2014-2015 academic  
 626 year.

#### 627 SECTION 3-2.

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