

\_\_\_\_\_ offers the following  
 substitute to SB 167:

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:

PART I

**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."

**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 15 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 private-sector representatives, appointed by the Governor; and

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

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

94 (3) Council members shall serve a two-year term and may be reappointed once. In the  
 95 event of a vacancy, such member shall be replaced within 30 days of such vacancy in the

96 same manner as the original appointment made pursuant to paragraph (1) of this  
 97 subsection.

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

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

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

121 (e) Prior to the 90 day period provided for in subsection (g) of this Code section, the state  
 122 board shall:

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

125 (2) Submit all proposed changes to content standards to the Council, Governor,  
 126 Lieutenant Governor, Speaker of the House of Representatives, chairperson of the Senate  
 127 Education and Youth Committee, chairperson of the House Committee on Education, and  
 128 each local school system. Upon receipt of proposed changes from the state board, each  
 129 local school system shall notify the parents or guardians of its students that proposed  
 130 content standards are available for review on the department website; and

131 (3) Submit all proposed changes to content standards to the president of each public  
 132 postsecondary institution in this state. Upon receipt of proposed changes from the state

133 board, the president of each public postsecondary institution in this state shall provide an  
 134 electronic copy of the proposed changes to the appropriate school deans, department  
 135 heads, or both, as appropriate, so that, for purposes of illustration only, proposed changes  
 136 to English language arts standards shall be sent to the heads of English departments.  
 137 High school mathematics standards shall be sent to the heads of departments of  
 138 mathematics, engineering, physical and biological sciences, and computer science.

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

141 Within such 90 day period:

142 (1) Each state board member shall conduct at least one public hearing, advertised in the  
 143 legal organs of each county in the congressional district such board member represents  
 144 at least one week in advance. The state board shall provide at least one week's notice to  
 145 each state legislator who represents a portion of the congressional district. The Council  
 146 shall use its best efforts to have Council members present at each hearing. The state  
 147 board shall cause minutes of the hearings to be taken and shall distribute such minutes  
 148 to all state board members and Council members within ten business days of each such  
 149 public hearing;

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

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

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

164 (g) The Council and its subcommittees shall review the proposals made by the state board  
 165 and the feedback received pursuant to subsection (f) of this Code section and, with any  
 166 needed assistance from the department, propose changes to the state board's proposed  
 167 content standards as it deems appropriate. Any proposed changes by the Council shall be  
 168 submitted to the state board by the Council in the form of a written report no later than 60  
 169 days after the expiration of the 90 day period for public review provided in subsection (f)

170 of this Code section. The Council and its subcommittees shall also have the discretion to  
171 review and make recommendations on any related content standards in the same subject  
172 area, on any state-wide assessments administered pursuant to Code Section 20-2-281 which  
173 are criterion-referenced assessments relating to the subject area under review, and on any  
174 data collection policies of the Department of Education or Office of Student Achievement.

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

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

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

189 (i) After receipt of the revised proposed content standards from the Council, the state  
190 board shall take into consideration the recommendations of the Council, and the state  
191 board, in an open public meeting, shall make changes to the content standards as it deems  
192 in the best interest of students, their parents, teachers, and this state's citizens. The  
193 adoption of content standards pursuant to this Code section shall not be subject to Article  
194 1 of Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act.' The state board  
195 shall report such approved content standards to local school systems and the General  
196 Assembly and post such approved content standards in an easily accessible location on the  
197 department website.

198 (j) The requirements contained in this Code section shall apply to all content standards in  
199 accordance with a timetable established by the state board; provided, however, that the  
200 review of content standards in mathematics shall be completed no later than May 31, 2015,  
201 and implemented no later than the beginning of the 2016-2017 school year, and the review  
202 of content standards in English language arts shall be completed no later than May 31,  
203 2016, and implemented no later than the beginning of the 2017-2018 school year. Nothing  
204 in this subsection shall prohibit the state board from accelerating the timetable or  
205 conducting the review of two subject areas in the same year or prohibit a local board of

206 education from implementing the revised mathematics content standards in the 2015-2016  
 207 school year."

208 **SECTION 1-4.**

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

210 "20-2-141.1.

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

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

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

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

233 (2) The purpose and effect of the program, including its effect on and interrelationship  
 234 with any existing program currently operating within this state;

235 (3) Justification for the program and peer reviewed research, if any, that validates the  
 236 effectiveness of the program; and

237 (4) Any negative effects on the constitutional rights of Georgia citizens, including their  
 238 right to exercise control over education.

239 (d) All state-wide K-12 tests and assessments shall be controlled by the State of Georgia  
 240 without any obligation to other entities, states, consortia, or the federal government and  
 241 shall not be designed to test national standards or rebranded national standards or be based

242 on any standards established by a consortium of states or a third party, including but not  
 243 limited to the Next Generation Science Standards, the National Curriculum for Social  
 244 Studies, the National Health Education Standards, or the National Sexuality Standards.  
 245 The state shall not relinquish any binding control over testing as a condition of receiving  
 246 a grant. On and after the effective date of this Code section, criterion assessments  
 247 developed pursuant to Code Section 20-2-281 shall be aligned with the content standards  
 248 revised pursuant to Code Section 20-2-141 for each subject area. Until such new  
 249 assessments are developed, the state board shall use elementary, middle, and high school  
 250 level criterion assessments which progress toward revised content standards."

251 **SECTION 1-5.**

252 Beginning September 24, 2014, a local school system shall have the flexibility to determine  
 253 its curriculum and instruction without constraint, including returning to curriculum and  
 254 instruction aligned to the former Georgia Performance Standards that were in effect in June  
 255 2010, until the completion of the revision process established pursuant to this part and the  
 256 establishment of new standards pursuant to such process. Further, local school systems may  
 257 elect to use discrete mathematics and to adopt reading lists, instructional materials, and  
 258 support materials. Following the adoption of content standards pursuant to the process  
 259 established in Code Section 20-2-141, local school systems may sequence, expand, and  
 260 enrich the content standards to the extent deemed necessary and appropriate for its students  
 261 and communities.

262 **PART II**

263 **SECTION 2-1.**

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

265 **SECTION 2-2.**

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

268 "ARTICLE 3

269 20-1-30.

270 (a) As used in this article, the term:

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



- 273 (2) 'Biometric data' means a record of one or more measurable biological or behavioral  
 274 characteristics that can be used for automated recognition of an individual, including  
 275 fingerprints, retina and iris patterns, voiceprints, DNA sequence (including newborn  
 276 screening information), and facial characteristics.
- 277 (3) 'Cloud computing service' means a service that enables on-demand network access  
 278 to a shared pool of configurable computing resources, such as networks, servers, storage,  
 279 applications, and services, to provide a student, teacher, or school personnel account  
 280 based productivity applications such as e-mail, document storage, and document editing  
 281 that can be rapidly provisioned and released with minimal management effort or  
 282 interaction with a cloud computing service provider. A cloud computing service has the  
 283 characteristics of on-demand self-service, broad network access, resource pooling, rapid  
 284 elasticity, and measured service.
- 285 (4) 'Cloud computing service provider' means an entity, other than an education  
 286 institution, that operates a cloud computing service.
- 287 (5) 'Department' means the Georgia Department of Education.
- 288 (6) 'Education institution' means any public early care and learning program or  
 289 elementary or secondary school in this state.
- 290 (7) 'Education program' means a program of instruction administered by a state agency  
 291 or education institution within this state.
- 292 (8) 'Interpersonal resources' means noncognitive, emotional, and psychological  
 293 characteristics and attributes and skills used to manage relationships and interactions  
 294 between or among individuals.
- 295 (9) 'Intrapersonal resources' means noncognitive, emotional, and psychological  
 296 characteristics and attributes used to manage emotions and attitudes within an individual.
- 297 (10) 'Local school system' means any local board of education, local school system, or  
 298 governing board of a charter school in this state.
- 299 (11) 'Psychological resources' means noncognitive, emotional characteristics, attributes,  
 300 and skills, including mindsets, learning strategies, and effortful control, used by an  
 301 individual to address or manage various life situations.
- 302 (12) 'State agency' means the Georgia Department of Education, the State Board of  
 303 Education, the Education Coordinating Council, the Office of Student Achievement, the  
 304 Georgia Department of Early Care and Learning, the Georgia Student Finance  
 305 Commission, the Georgia Student Finance Authority, the Georgia Professional Standards  
 306 Commission, any regional educational service agency, or any other state pre-K through  
 307 grade 12 education related entity, including any education related foundation or nonprofit  
 308 entity established by Georgia statute or which derives its authority from Georgia statutes.

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

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

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

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

328 20-1-31.

329 (a) Unless explicitly required by federal law, no student or family information may be  
 330 collected by a state agency, local school district, or education institution without the written  
 331 consent of parents, guardians, or eligible students unless the data is directly related to the  
 332 educational needs of the student. The following information is not considered directly  
 333 related to the educational needs of the student:

334 (1) Student biometric data, except as may be necessary to facilitate the instruction of  
 335 special needs students or students participating in school athletic programs;

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

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

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

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

342 (6) Student or family gun ownership;

343 (7) Student or family income data, except information necessary to determine eligibility  
 344 for, to facilitate participation in, or to receive financial assistance under a scholarship,  
 345 free-or-reduced-lunch, or other financial-assistance program; or

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

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

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

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

363 (3) Any psychological data (including any resulting from classroom, education  
 364 institution, local school system, state, or national assessments) that measure  
 365 psychological resources, attributes, dispositions, social skills, attitudes, or interpersonal  
 366 or intrapersonal resources; provided, however, that this shall not include special  
 367 education assessments; or

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

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

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

384 (e)(1) No later than August 1, 2014, state agencies, local school systems, and education  
 385 institutions shall publicly and conspicuously disclose on their websites the type of  
 386 personally identifiable information from education records maintained by such state  
 387 agencies, local school systems, or education institutions, directly or through contracts  
 388 with outside parties, and the types of education records that are transferred to cloud  
 389 computing service providers. This disclosure shall be updated within 30 days of any  
 390 change. Local school systems and education institutions shall annually notify parents and  
 391 eligible students of such website posting which may be accomplished through prominent  
 392 posting on the website and notice through local media. Such posting shall also include  
 393 a telephone number or e-mail address that parents may access to ask questions. State  
 394 agencies shall also provide annual electronic notification of this information to the  
 395 chairpersons of the Senate Education and Youth Committee and House Committee on  
 396 Education. Such disclosure and electronic notifications shall include information for  
 397 parents or eligible students regarding the process to request a copy of the education  
 398 record pertaining to that student contained in the student data base, the required response  
 399 time, and the process to contest its content pursuant to paragraph (2) of this subsection.  
 400 (2) Within 30 days of a request to a local school system, parents and eligible students  
 401 shall be provided a printed copy of the student's education records that are in a student  
 402 data base and shall have the right to correct the records in such data base in a manner that  
 403 is consistent with requirements of state and federal law.

404 20-1-32.

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

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

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

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

421 (c) Before conducting any audit or evaluation of an education program or conducting any  
 422 compliance or enforcement activity in connection with legal requirements that relate to  
 423 state or local school system supported programs, the state agency, local school system, or  
 424 education institution shall specify the federal or state legal authority for the audit,  
 425 evaluation, or compliance or enforcement activity. In conducting any audit or evaluation  
 426 of an education program or conducting any compliance or enforcement activity in  
 427 connection with legal requirements that relate to state or local school system supported  
 428 education programs, when such audit, evaluation, or activity involves access to personally  
 429 identifiable student information, education records may be released only to authorized  
 430 representatives of the government auditor or evaluator or the outside auditing agency or  
 431 firm. No party may be designated an authorized representative of such government auditor  
 432 or evaluator or the outside auditing agency or firm unless that individual is a staff member  
 433 of the government auditor or evaluator or outside auditing agency or firm. No outside  
 434 auditing agency or firm shall conduct any audit or evaluation that involves access to  
 435 personally identifiable student information unless it certifies in writing that it will comply  
 436 with the terms and conditions set forth in subsection (d) of this Code section. Results of  
 437 such audit or evaluation shall be posted on the website of the state agency, local school  
 438 system, or education institution administering the education program that is the subject of  
 439 the audit or evaluation.

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

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

- 452 (2) Limits internal access to education records to those individuals who require access  
453 to those records for completion of the contract;
- 454 (3) Does not use the education records for any purposes other than those explicitly  
455 authorized in the contract;
- 456 (4) Does not disclose any personally identifiable information from education records to  
457 any other party unless required by statute or court order and the party provides a notice  
458 of the disclosure to the state agency, local school system, or education institution that  
459 provided the information no later than the time the information is disclosed, unless  
460 providing notice of the disclosure is expressly prohibited by the statute or court order;
- 461 (5) Maintains reasonable administrative, technical, and physical safeguards to protect the  
462 security, confidentiality, and integrity of the personally identifiable student in its custody;
- 463 (6) Uses encryption technologies to protect data while being transmitted or in its custody  
464 from unauthorized disclosure using a technology or methodology specified by the  
465 Secretary of the United States Department of Health and Human Services in guidance  
466 issued under Section 13402(h)(2) of Public Law 111-5;
- 467 (7) Conducts a security audit at least annually but more often for contracts of short  
468 duration and provides the results of that audit to each state agency, local school system,  
469 or education institution that provides education records;
- 470 (8) Provides the state agency, local school system, or education institution with a breach  
471 remediation plan acceptable to the state agency, local school system, or education  
472 institution before initial receipt of education records;
- 473 (9) Reports all suspected or actual security breaches to the state agency, local school  
474 system, or education institution that provided education records and to parents of affected  
475 students and to eligible students as soon as possible but not later than 48 hours after a  
476 suspected or actual breach was known or would have been known by exercising  
477 reasonable diligence;
- 478 (10) Is under the direction of the state agency, local school system, or education  
479 institution pursuant to a contract with respect to the use and maintenance of education  
480 records;
- 481 (11) Pays all costs and liabilities incurred by the state agency, local school system, or  
482 education institution related to any security breach or unauthorized disclosure, including  
483 but not limited to the costs of responding to inquiries about the security breach or  
484 unauthorized disclosure, of notifying subjects of personally identifiable information about  
485 the breach, of mitigating the effects of the breach for the subjects of the personally  
486 identifiable information, and of investigating the cause or consequences of the security  
487 breach or unauthorized disclosure; and

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

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

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

502 (2) A state agency, local school system, or education institution that contracts with a  
 503 cloud computing service provider shall enter into an agreement with such provider that  
 504 includes the following terms:

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

508 (B) Prohibition on the provider's redisclosure of information from education records,  
 509 or use of such information for any secondary purposes that benefit the provider or any  
 510 third party, including but not limited to online behavioral advertising, creating or  
 511 correcting an individual or household profile primarily for the provider's benefit, the  
 512 sale of the data for any commercial purpose, or any other similar commercial for-profit  
 513 activity; provided, however, that a cloud computing service provider may process or  
 514 monitor student data solely to provide such service to the state agency, local school  
 515 system, or education institution, and to maintain the integrity of such service;

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

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

523 (3) Any cloud computing service provider that enters into an agreement pursuant to  
 524 paragraph (2) of this subsection shall certify in writing to the state agency, local school

525 system, or education institution that it will comply with the terms and conditions set forth  
 526 in subsection (d) of this Code section and that the state agency, local school system, or  
 527 education institution maintains ownership of all student data.

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

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

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

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

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

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

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

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

557 (A) Student identifier number, name, grade level, and other information directly related  
 558 to test performance, such as previous test scores, provided that no biometric data and  
 559 no psychological data of any kind is part of that information unless required pursuant  
 560 to the federal Individual with Disabilities Education Act; and



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

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

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

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

575 (4) No state agency, local school system, or education institution shall permit a testing  
 576 contractor to share any student data with any noneducation entities, or with any education  
 577 entities not under contract with the state agency, local school system, or education  
 578 institution.

579 (5) The testing contractor may disclose to the United States Department of Education  
 580 aggregate reports required under ESEA after receiving written authorization from the  
 581 department.

582

583 20-1-33.

584 (a) Each violation of any provision of Code Section 20-1-32 by a contractor, consultant,  
 585 or other party that has entered into a contract with a state agency, local school system, or  
 586 education institution and is subject to the provisions of this article shall, for a first violation,  
 587 be punishable by a civil penalty of up to \$5,000.00; a second violation shall be punishable  
 588 by a civil penalty of up to \$10,000.00 and may result in permanent disqualification by the  
 589 state agency, local school system, or education institution from access to education records;  
 590 and a third and any subsequent violation shall be punishable by a civil penalty of up to  
 591 \$20,000.00 and shall result in permanent disqualification by the state agency, local school  
 592 system, or education institution from access to education records. For a third and any  
 593 subsequent violation, each violation involving a different individual education record or  
 594 a different individual student shall be considered a separate violation for purposes of civil  
 595 penalties under this subsection.

596 (b) The Attorney General shall have the authority to enforce compliance with this article  
 597 by investigation and subsequent commencement of a civil action, to seek civil penalties for

598 violations of this article, and to seek appropriate injunctive relief, including but not limited  
599 to a prohibition on obtaining personally identifiable information for an appropriate time  
600 period. In carrying out such investigation and in maintaining such civil action, the  
601 Attorney General is authorized to subpoena witnesses, compel their attendance, examine  
602 them under oath, and require that any books, records, documents, papers, or electronic  
603 records relevant to the inquiry be turned over for inspection, examination, or audit, in  
604 accordance with Chapter 11 of Title 9, the 'Georgia Civil Practice Act.'  
605 (c) Nothing contained in this Code section shall be construed as creating a private right of  
606 action against a state agency, a local board of education, an education institution, or an  
607 employee of any such agency, board, or institution."

608 PART III

609 SECTION 3-1.

- 610 (a) This Act shall become effective upon its approval by the Governor or upon its becoming  
611 law without such approval.
- 612 (b) Part II of this Act shall apply to school years beginning with the 2014-2015 academic  
613 year.

614 SECTION 3-2.

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