

HOUSE BILL 1508

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4r3346
CF SB 833

By: **Delegate Afzali**

Introduced and read first time: February 27, 2014

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Educational Agencies and Institutions – Education Records – Disclosure of**
3 **Personally Identifiable Information**

4 FOR the purpose of authorizing certain educational agencies or institutions to
5 designate a person as an authorized representative to conduct a certain audit,
6 evaluation, or compliance or enforcement activity only if the person is under the
7 direct control of the educational agency or institution; prohibiting a certain
8 educational agency or institution from disclosing personally identifiable
9 information from education records to a contractor, a consultant, or any other
10 person without certain written consent except under certain conditions;
11 authorizing a certain educational agency or institution to disclose personally
12 identifiable information from education records without consent to a person that
13 meets certain requirements and is conducting a certain study; prohibiting a
14 certain educational agency or institution from disclosing personally identifiable
15 information from education records to a person for a certain commercial use or
16 the provision of certain services; prohibiting a certain educational agency or
17 institution from maintaining personally identifiable information from education
18 records without certain written consent except in certain circumstances;
19 prohibiting an educational agency or institution from retaining personally
20 identifiable information on a former student for longer than a certain time
21 period; requiring the State Department of Education, the Maryland Higher
22 Education Commission, each county board of education, and each local school
23 system to disclose certain information on the entity's Web site and to report the
24 information annually to the General Assembly; prohibiting a certain
25 educational agency or institution from appending certain information to
26 education records without certain consent; establishing a penalty for a violation
27 of this Act; providing for the construction of this Act; defining certain terms; and
28 generally relating to the disclosure of personally identifiable information
29 contained in education records by educational agencies and institutions.

30 BY repealing and reenacting, without amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Education
2 Section 1–101(a), (d), (f), and (i)
3 Annotated Code of Maryland
4 (2008 Replacement Volume and 2013 Supplement)

5 BY adding to
6 Article – Education
7 Section 26–401 through 26–404 to be under the new subtitle “Subtitle 4.
8 Disclosure of Personally Identifiable Information”
9 Annotated Code of Maryland
10 (2008 Replacement Volume and 2013 Supplement)

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

13 **Article – Education**

14 1–101.

15 (a) In this article, unless the context requires otherwise, the following words
16 have the meanings indicated.

17 (d) “County board” means the board of education of a county and includes the
18 Baltimore City Board of School Commissioners.

19 (f) “Department” means the State Department of Education.

20 (i) “Person” includes:

21 (1) An individual, receiver, trustee, guardian, executor, administrator,
22 fiduciary, or representative of any kind and any partnership, firm, association, public
23 or private corporation, or other entity; and

24 (2) The State, any county, municipal corporation, or other political
25 subdivision of this State, and any of their agencies or units.

26 **SUBTITLE 4. DISCLOSURE OF PERSONALLY IDENTIFIABLE INFORMATION.**

27 **26–401.**

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

30 **(B) (1) “EDUCATION RECORDS” MEANS INFORMATION RECORDED IN**
31 **ANY WAY THAT:**

1 **(I) DIRECTLY RELATES TO A STUDENT; AND**

2 **(II) IS MAINTAINED BY AN EDUCATIONAL AGENCY OR**
3 **INSTITUTION OR BY A PERSON ACTING FOR THE AGENCY OR INSTITUTION.**

4 **(2) “EDUCATION RECORDS” INCLUDES RECORDS RELATING TO**
5 **AN INDIVIDUAL IN ATTENDANCE AT AN EDUCATIONAL AGENCY OR INSTITUTION**
6 **WHO IS EMPLOYED AS A RESULT OF THE INDIVIDUAL’S STATUS AS A STUDENT.**

7 **(3) “EDUCATION RECORDS” DOES NOT INCLUDE:**

8 **(I) RECORDS THAT ARE KEPT IN THE SOLE POSSESSION OF**
9 **THE MAKER, USED ONLY AS A PERSONAL MEMORY AID, AND ARE NOT**
10 **ACCESSIBLE OR REVEALED TO ANY PERSON OTHER THAN A TEMPORARY**
11 **SUBSTITUTE FOR THE MAKER OF THE RECORD;**

12 **(II) RECORDS OF A LAW ENFORCEMENT UNIT OF AN**
13 **EDUCATIONAL AGENCY OR INSTITUTION;**

14 **(III) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
15 **SUBSECTION, RECORDS RELATING TO AN INDIVIDUAL WHO IS EMPLOYED BY AN**
16 **EDUCATIONAL AGENCY OR INSTITUTION THAT:**

17 **1. ARE MADE AND MAINTAINED IN THE NORMAL**
18 **COURSE OF BUSINESS;**

19 **2. RELATE SOLELY TO THE INDIVIDUAL IN THE**
20 **INDIVIDUAL’S CAPACITY AS AN EMPLOYEE; AND**

21 **3. ARE NOT AVAILABLE FOR USE FOR ANY OTHER**
22 **PURPOSE;**

23 **(IV) RECORDS ON A STUDENT WHO IS AT LEAST 18 YEARS**
24 **OLD OR ATTENDING AN INSTITUTION OF POSTSECONDARY EDUCATION THAT**
25 **ARE:**

26 **1. MADE OR MAINTAINED BY A PHYSICIAN,**
27 **PSYCHIATRIST, PSYCHOLOGIST, OR OTHER RECOGNIZED PROFESSIONAL OR**
28 **PARAPROFESSIONAL ACTING IN A PROFESSIONAL OR PARAPROFESSIONAL**
29 **CAPACITY;**

30 **2. MADE, MAINTAINED, OR USED ONLY IN**
31 **CONNECTION WITH TREATMENT OF THE STUDENT; AND**

1 **3. DISCLOSED ONLY TO INDIVIDUALS WHO ARE**
2 **PROVIDING TREATMENT OTHER THAN REMEDIAL EDUCATIONAL ACTIVITIES OR**
3 **ACTIVITIES THAT ARE PART OF THE PROGRAM OF INSTRUCTION;**

4 **(V) RECORDS CREATED OR RECEIVED BY AN EDUCATIONAL**
5 **AGENCY OR INSTITUTION AFTER AN INDIVIDUAL IS NO LONGER A STUDENT IN**
6 **ATTENDANCE AND THAT ARE NOT DIRECTLY RELATED TO THE INDIVIDUAL'S**
7 **ATTENDANCE AS A STUDENT; AND**

8 **(VI) GRADES ON PEER-GRADED PAPERS BEFORE THE**
9 **GRADES ARE COLLECTED AND RECORDED BY A TEACHER.**

10 **(C) (1) "EDUCATIONAL AGENCY OR INSTITUTION" INCLUDES:**

11 **(I) THE DEPARTMENT;**

12 **(II) THE MARYLAND HIGHER EDUCATION COMMISSION;**

13 **(III) A COUNTY BOARD;**

14 **(IV) A LOCAL SCHOOL SYSTEM; AND**

15 **(V) A PUBLIC OR PRIVATE PRIMARY SCHOOL, SECONDARY**
16 **SCHOOL, OR INSTITUTION OF POSTSECONDARY EDUCATION.**

17 **(2) "EDUCATIONAL AGENCY OR INSTITUTION" DOES NOT**
18 **INCLUDE THE MARYLAND LONGITUDINAL DATA SYSTEM ESTABLISHED UNDER**
19 **TITLE 24, SUBTITLE 7 OF THIS ARTICLE.**

20 **(D) "ELIGIBLE STUDENT" MEANS A STUDENT WHO IS AT LEAST 18**
21 **YEARS OLD OR ATTENDING AN INSTITUTION OF POSTSECONDARY EDUCATION.**

22 **(E) (1) "PERSONALLY IDENTIFIABLE INFORMATION" MEANS**
23 **INFORMATION RELATED TO AN INDIVIDUAL STUDENT.**

24 **(2) "PERSONALLY IDENTIFIABLE INFORMATION" INCLUDES:**

25 **(I) THE NAME OF A STUDENT;**

26 **(II) THE NAME OF A PARENT OR ANY OTHER FAMILY**
27 **MEMBER;**

1 **(III) THE POSTAL ADDRESS OF A STUDENT OR A FAMILY**
2 **MEMBER;**

3 **(IV) A PERSONAL IDENTIFIER, INCLUDING A SOCIAL**
4 **SECURITY NUMBER, STUDENT IDENTIFICATION NUMBER, OR BIOMETRIC**
5 **RECORD;**

6 **(V) AN INDIRECT IDENTIFIER, INCLUDING DATE OF BIRTH,**
7 **PLACE OF BIRTH, OR MOTHER'S MAIDEN NAME;**

8 **(VI) OTHER INFORMATION THAT ALONE OR IN**
9 **COMBINATION:**

10 **1. IS LINKED OR LINKABLE TO AN INDIVIDUAL**
11 **STUDENT; AND**

12 **2. WOULD ALLOW A REASONABLE INDIVIDUAL IN**
13 **THE SCHOOL COMMUNITY, WHO DOES NOT HAVE PERSONAL KNOWLEDGE OF**
14 **THE RELEVANT CIRCUMSTANCES, TO IDENTIFY A STUDENT WITH REASONABLE**
15 **CERTAINTY; AND**

16 **(VII) INFORMATION REQUESTED BY AN INDIVIDUAL WHO THE**
17 **EDUCATIONAL AGENCY OR INSTITUTION REASONABLY BELIEVES KNOWS THE**
18 **IDENTITY OF THE STUDENT TO WHOM THE EDUCATION RECORDS RELATE.**

19 **26-402.**

20 **(A) AN EDUCATIONAL AGENCY OR INSTITUTION MAY DESIGNATE A**
21 **PERSON AS AN AUTHORIZED REPRESENTATIVE TO CONDUCT AN AUDIT, AN**
22 **EVALUATION, OR A COMPLIANCE OR ENFORCEMENT ACTIVITY THAT REQUIRES,**
23 **OR IS USED AS THE BASIS FOR GRANTING ACCESS TO PERSONALLY**
24 **IDENTIFIABLE INFORMATION ONLY IF THE PERSON IS UNDER THE DIRECT**
25 **CONTROL OF THE EDUCATIONAL AGENCY OR INSTITUTION.**

26 **(B) AN EDUCATIONAL AGENCY OR INSTITUTION MAY NOT DISCLOSE**
27 **PERSONALLY IDENTIFIABLE INFORMATION FROM EDUCATION RECORDS TO A**
28 **CONTRACTOR, A CONSULTANT, OR ANY OTHER PERSON WITHOUT THE WRITTEN**
29 **CONSENT OF A PARENT, A GUARDIAN, OR AN ELIGIBLE STUDENT UNLESS THE**
30 **CONTRACTOR, CONSULTANT, OR OTHER PERSON:**

31 **(1) PERFORMS AN INSTITUTIONAL SERVICE OR FUNCTION**
32 **OTHERWISE PERFORMED BY AN EMPLOYEE OF THE EDUCATIONAL AGENCY OR**
33 **INSTITUTION;**

1 **(2) IS UNDER THE DIRECT CONTROL OF THE EDUCATIONAL**
2 **AGENCY OR INSTITUTION FOR THE PURPOSE OF THE USE OR MAINTENANCE OF**
3 **EDUCATION RECORDS;**

4 **(3) LIMITS INTERNAL ACCESS TO EDUCATION RECORDS TO**
5 **INDIVIDUALS WHO HAVE LEGITIMATE EDUCATIONAL INTERESTS IN THE**
6 **RECORDS;**

7 **(4) DOES NOT USE THE EDUCATION RECORDS FOR ANY PURPOSE**
8 **THAT IS NOT EXPLICITLY AUTHORIZED BY CONTRACT;**

9 **(5) DOES NOT DISCLOSE ANY PERSONALLY IDENTIFIABLE**
10 **INFORMATION TO ANY OTHER PERSON:**

11 **(i) WITHOUT THE PRIOR WRITTEN CONSENT OF A PARENT,**
12 **A GUARDIAN, OR AN ELIGIBLE STUDENT; OR**

13 **(ii) UNLESS THE DISCLOSURE IS REQUIRED BY LAW OR**
14 **COURT ORDER AND THE PERSON GIVES NOTICE TO THE PROVIDER OF THE**
15 **INFORMATION NOT LATER THAN THE TIME THE INFORMATION IS DISCLOSED IF**
16 **NOTICE IS NOT EXPRESSLY PROHIBITED BY LAW OR COURT ORDER;**

17 **(6) MAINTAINS REASONABLE ADMINISTRATIVE, TECHNICAL, AND**
18 **PHYSICAL SAFEGUARDS TO PROTECT THE SECURITY, CONFIDENTIALITY, AND**
19 **INTEGRITY OF PERSONALLY IDENTIFIABLE INFORMATION IN THE CUSTODY OF**
20 **THE CONTRACTOR, CONSULTANT, OR OTHER PERSON;**

21 **(7) PROTECTS DATA FROM UNAUTHORIZED DISCLOSURE BY**
22 **USING A TECHNOLOGY OR METHODOLOGY SPECIFIED IN THE GUIDANCE ISSUED**
23 **BY THE U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES UNDER §**
24 **13402(H)(2) OF THE FEDERAL AMERICAN RECOVERY AND REINVESTMENT ACT**
25 **TO RENDER THE DATA UNUSABLE, UNREADABLE, OR INDECIPHERABLE TO**
26 **UNAUTHORIZED INDIVIDUALS;**

27 **(8) HAS SUFFICIENT ADMINISTRATIVE AND TECHNICAL**
28 **PROCEDURES TO MONITOR CONTINUOUSLY THE SECURITY OF PERSONALLY**
29 **IDENTIFIABLE INFORMATION IN THE CUSTODY OF THE CONTRACTOR,**
30 **CONSULTANT, OR OTHER PERSON;**

31 **(9) CONDUCTS A SECURITY AUDIT ANNUALLY AND PROVIDES THE**
32 **RESULTS OF THE AUDIT TO EACH EDUCATIONAL AGENCY OR INSTITUTION THAT**
33 **PROVIDED EDUCATION RECORDS;**

1 **(10) PROVIDES A BREACH REMEDIATION PLAN TO THE**
2 **EDUCATIONAL AGENCY OR INSTITUTION PRIOR TO THE INITIAL RECEIPT OF**
3 **EDUCATION RECORDS;**

4 **(11) REPORTS ALL SUSPECTED SECURITY BREACHES TO THE**
5 **EDUCATIONAL AGENCY OR INSTITUTION THAT PROVIDED EDUCATION RECORDS**
6 **AS SOON AS POSSIBLE BUT NOT LATER THAN 48 HOURS AFTER A SUSPECTED**
7 **BREACH WAS KNOWN OR WOULD HAVE BEEN KNOWN BY EXERCISING**
8 **REASONABLE DILIGENCE;**

9 **(12) REPORTS ALL ACTUAL SECURITY BREACHES TO THE**
10 **EDUCATIONAL AGENCY OR INSTITUTION THAT PROVIDED EDUCATION RECORDS**
11 **AS SOON AS POSSIBLE BUT NOT LATER THAN 24 HOURS AFTER AN ACTUAL**
12 **BREACH WAS KNOWN OR WOULD HAVE BEEN KNOWN BY EXERCISING**
13 **REASONABLE DILIGENCE;**

14 **(13) IF A SECURITY BREACH OR AN UNAUTHORIZED DISCLOSURE**
15 **OF PERSONALLY IDENTIFIABLE INFORMATION OCCURS, PAYS ALL COSTS AND**
16 **LIABILITIES INCURRED BY THE EDUCATIONAL AGENCY OR INSTITUTION**
17 **RELATED TO THE BREACH OR DISCLOSURE, INCLUDING THE COSTS OF:**

18 **(I) RESPONDING TO INQUIRIES ABOUT THE BREACH OR**
19 **DISCLOSURE;**

20 **(II) NOTIFYING INDIVIDUALS POTENTIALLY AFFECTED BY**
21 **THE BREACH OR DISCLOSURE;**

22 **(III) MITIGATING THE EFFECTS OF THE BREACH OR**
23 **DISCLOSURE; AND**

24 **(IV) INVESTIGATING THE CAUSE OR CONSEQUENCES OF THE**
25 **BREACH OR DISCLOSURE; AND**

26 **(14) DESTROYS OR RETURNS TO THE EDUCATIONAL AGENCY OR**
27 **INSTITUTION ALL PERSONALLY IDENTIFIABLE INFORMATION IN THE CUSTODY**
28 **OF THE CONTRACTOR, CONSULTANT, OR OTHER PERSON ON REQUEST AND AT**
29 **THE TERMINATION OF THE CONTRACT.**

30 **(C) AN EDUCATIONAL AGENCY OR INSTITUTION MAY DISCLOSE**
31 **PERSONALLY IDENTIFIABLE INFORMATION FROM EDUCATION RECORDS**
32 **WITHOUT THE CONSENT OF A PARENT, A GUARDIAN, OR AN ELIGIBLE STUDENT**
33 **TO A PERSON THAT:**

1 **(1) MEETS THE REQUIREMENTS UNDER SUBSECTION (B) OF THIS**
2 **SECTION; AND**

3 **(2) IS CONDUCTING A STUDY FOR OR ON BEHALF OF AN**
4 **EDUCATIONAL AGENCY OR INSTITUTION TO:**

5 **(I) DEVELOP, VALIDATE, OR ADMINISTER A PREDICTIVE**
6 **TEST;**

7 **(II) ADMINISTER A STUDENT AID PROGRAM; OR**

8 **(III) IMPROVE INSTRUCTION.**

9 **(D) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN**
10 **EDUCATIONAL AGENCY OR INSTITUTION MAY NOT DISCLOSE PERSONALLY**
11 **IDENTIFIABLE INFORMATION FROM EDUCATION RECORDS WITHOUT WRITTEN**
12 **CONSENT TO A PERSON FOR:**

13 **(I) A COMMERCIAL USE, INCLUDING:**

14 1. **MARKETING A PRODUCT OR SERVICE;**

15 2. **COMPILING A LIST FOR SALE OR RENTAL;**

16 3. **DEVELOPING A PRODUCT OR SERVICE; OR**

17 4. **CREATING INDIVIDUAL, HOUSEHOLD, OR GROUP**
18 **PROFILES; OR**

19 **(II) THE PROVISION OF ANY SERVICES OTHER THAN**
20 **CONTRACTING, STUDIES, AUDITS, OR EVALUATIONS THAT COMPLY WITH THE**
21 **PROVISIONS SET FORTH IN SUBSECTION (B) OR (C) OF THIS SECTION.**

22 **(2) THE WRITTEN CONSENT REQUIRED UNDER PARAGRAPH (1)**
23 **OF THIS SUBSECTION SHALL:**

24 **(I) BE SIGNED BY A PARENT, A GUARDIAN, OR AN ELIGIBLE**
25 **STUDENT WITHIN 6 MONTHS BEFORE THE DISCLOSURE;**

26 **(II) BE DATED;**

1 **(III) IDENTIFY THE RECIPIENT AND THE PURPOSE OF THE**
2 **DISCLOSURE; AND**

3 **(IV) STATE THAT THE INFORMATION WILL BE USED ONLY**
4 **FOR THE IDENTIFIED PURPOSE AND NOT DISCLOSED FOR ANY OTHER PURPOSE.**

5 **26-403.**

6 **(A) SUBJECT TO SUBSECTION (B) OF THIS SECTION, AN EDUCATIONAL**
7 **AGENCY OR INSTITUTION MAY NOT DIRECTLY OR THROUGH A CONTRACT WITH**
8 **ANOTHER PERSON MAINTAIN PERSONALLY IDENTIFIABLE INFORMATION FROM**
9 **EDUCATION RECORDS WITHOUT THE WRITTEN CONSENT OF A PARENT, A**
10 **GUARDIAN, OR AN ELIGIBLE STUDENT UNLESS MAINTENANCE OF THE**
11 **INFORMATION IS:**

12 **(1) EXPLICITLY MANDATED IN FEDERAL OR STATE LAW;**

13 **(2) (I) ADMINISTRATIVELY REQUIRED FOR THE PROPER**
14 **PERFORMANCE OF THE LEGAL DUTIES OF THE EDUCATIONAL AGENCY OR**
15 **INSTITUTION; AND**

16 **(II) RELEVANT TO AND NECESSARY FOR DELIVERY OF**
17 **SERVICES; OR**

18 **(3) DESIGNED TO SUPPORT A STUDY OF STUDENTS OR FORMER**
19 **STUDENTS.**

20 **(B) AN EDUCATIONAL AGENCY OR INSTITUTION MAY NOT RETAIN**
21 **PERSONALLY IDENTIFIABLE INFORMATION ON A FORMER STUDENT FOR A**
22 **PERIOD LONGER THAN 5 YEARS FROM THE DATE OF LATEST ENROLLMENT IN**
23 **ANY EDUCATIONAL INSTITUTION IN THE STATE.**

24 **(C) (1) THE DEPARTMENT, THE MARYLAND HIGHER EDUCATION**
25 **COMMISSION, EACH COUNTY BOARD, AND EACH LOCAL SCHOOL SYSTEM SHALL**
26 **DISCLOSE THE EXISTENCE AND CHARACTER OF ANY PERSONALLY**
27 **IDENTIFIABLE INFORMATION FROM EDUCATION RECORDS THAT THE AGENCY**
28 **MAINTAINS, DIRECTLY OR THROUGH CONTRACTS WITH OTHER PERSONS, BY**
29 **PUBLICATION ON THE WEB SITE OF THE AGENCY, INCLUDING:**

30 **(I) THE NAME AND LOCATION OF EACH DATA REPOSITORY**
31 **WHERE INFORMATION IS MAINTAINED;**

1 **(II) THE LEGAL AUTHORITY FOR THE ESTABLISHMENT AND**
2 **EXISTENCE OF THE DATA REPOSITORY;**

3 **(III) THE INTENDED PRINCIPAL USE OF OR PURPOSE FOR**
4 **MAINTAINING THE INFORMATION;**

5 **(IV) THE CATEGORIES OF INDIVIDUALS WHOSE**
6 **INFORMATION IS MAINTAINED;**

7 **(V) THE CATEGORIES OF EDUCATION RECORDS AND**
8 **INFORMATION MAINTAINED;**

9 **(VI) EACH EXPECTED DISCLOSURE OF THE EDUCATION**
10 **RECORDS CONTAINED IN THE DATA REPOSITORY, INCLUDING THE CATEGORIES**
11 **OF RECIPIENTS AND THE PURPOSE OF THE DISCLOSURE;**

12 **(VII) THE POLICIES AND PRACTICES OF THE AGENCY**
13 **REGARDING STORAGE, RETRIEVAL, ACCESS CONTROL, RETENTION, AND**
14 **DISPOSAL OF EDUCATION RECORDS;**

15 **(VIII) THE TITLE AND BUSINESS ADDRESS OF THE AGENCY**
16 **OFFICIAL RESPONSIBLE FOR THE DATA REPOSITORY;**

17 **(IX) THE TITLE AND BUSINESS ADDRESS OF ANY**
18 **CONTRACTOR OR OTHER PERSON MAINTAINING THE DATA REPOSITORY FOR OR**
19 **ON BEHALF OF THE AGENCY;**

20 **(X) THE PROCEDURES THE AGENCY WILL USE TO NOTIFY A**
21 **PARENT, A GUARDIAN, OR AN ELIGIBLE STUDENT IF REQUESTED AND THE DATA**
22 **REPOSITORY CONTAINS INFORMATION PERTAINING TO THE INDIVIDUAL OR A**
23 **CHILD OF THE PARENT OR GUARDIAN;**

24 **(XI) THE PROCEDURES THE AGENCY WILL USE TO NOTIFY A**
25 **PARENT, A GUARDIAN, OR AN ELIGIBLE STUDENT, IF REQUESTED, REGARDING**
26 **HOW TO GAIN ACCESS TO OR CONTEST THE CONTENTS OF EDUCATION RECORDS**
27 **CONTAINED IN THE DATA REPOSITORY PERTAINING TO THE INDIVIDUAL OR A**
28 **CHILD OF THE PARENT OR GUARDIAN; AND**

29 **(XII) THE CATEGORIES OF SOURCES OF EDUCATION**
30 **RECORDS AND INFORMATION IN THE DATA REPOSITORY.**

31 **(2) THE DEPARTMENT, THE MARYLAND HIGHER EDUCATION**
32 **COMMISSION, EACH COUNTY BOARD, AND EACH LOCAL SCHOOL SYSTEM SHALL**

1 REPORT ANNUALLY THE INFORMATION REQUIRED UNDER PARAGRAPH (1) OF
2 THIS SUBSECTION TO THE GENERAL ASSEMBLY IN ACCORDANCE WITH § 2-1246
3 OF THE STATE GOVERNMENT ARTICLE.

4 (D) AN EDUCATIONAL AGENCY OR INSTITUTION MAY NOT APPEND
5 PERSONALLY IDENTIFIABLE INFORMATION OBTAINED FROM FEDERAL OR
6 STATE AGENCIES THROUGH A DATA MATCH TO EDUCATION RECORDS WITHOUT
7 THE WRITTEN CONSENT OF A PARENT, A GUARDIAN, OR AN ELIGIBLE STUDENT
8 UNLESS THE MATCH IS:

9 (1) EXPLICITLY MANDATED IN FEDERAL OR STATE LAW; OR

10 (2) (I) ADMINISTRATIVELY REQUIRED FOR THE PROPER
11 PERFORMANCE OF THE LEGAL DUTIES OF THE EDUCATIONAL AGENCY OR
12 INSTITUTION; AND

13 (II) RELEVANT TO AND NECESSARY FOR DELIVERY OF
14 SERVICES.

15 26-404.

16 (A) EXCEPT FOR AN EDUCATIONAL AGENCY OR INSTITUTION, A PERSON
17 THAT VIOLATES ANY PROVISION OF THIS SUBTITLE IS SUBJECT TO A CIVIL
18 PENALTY NOT TO EXCEED:

19 (1) \$1,000 FOR THE FIRST VIOLATION;

20 (2) \$5,000 FOR THE SECOND VIOLATION INVOLVING THE SAME
21 STUDENT; AND

22 (3) \$10,000 FOR ANY SUBSEQUENT VIOLATION INVOLVING THE
23 SAME STUDENT.

24 (B) EACH VIOLATION INVOLVING A DIFFERENT INDIVIDUAL EDUCATION
25 RECORD OR STUDENT SHALL BE CONSIDERED A SEPARATE VIOLATION UNDER
26 THIS SUBTITLE.

27 (C) THE PROVISIONS OF THIS SUBTITLE MAY NOT BE CONSTRUED TO:

28 (1) CREATE A PRIVATE RIGHT OF ACTION AGAINST AN
29 EDUCATIONAL AGENCY OR INSTITUTION; OR

1 **(2) LIMIT AN ADMINISTRATIVE USE OF EDUCATION RECORDS**
2 **THAT IS OTHERWISE REQUIRED BY LAW AND CONDUCTED BY A PERSON ACTING**
3 **SOLELY IN THE PERSON'S CAPACITY AS AN EMPLOYEE OF A COUNTY BOARD, A**
4 **LOCAL SCHOOL SYSTEM, A STATE AGENCY, A POLITICAL SUBDIVISION OF THE**
5 **STATE, A COURT, OR THE FEDERAL GOVERNMENT.**

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 July 1, 2014.