

Department of Legislative Services  
Maryland General Assembly  
2018 Session

FISCAL AND POLICY NOTE  
First Reader

House Bill 1060 (Delegate Hill)  
Ways and Means

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County Boards of Education – Collection and Sharing of Student Data – Policy

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This bill authorizes a local board of education, in conjunction with a local health department, to develop and implement a policy and procedures for the collection and sharing of student data for the purpose of assisting the local department of health in (1) identifying, understanding, and developing programs to improve the public health outcomes of students and other individuals in the county and (2) responding to urgent public health matters affecting the citizens of the county as those issues arise. A policy developed under the bill must include: a notice to parents and guardians explaining the policy; an opportunity for a parent or guardian to opt out of collection and sharing of their child’s personal information; and provisions that address the handling of de-identified and personally identifying data. A policy and procedures developed under this bill must comply with requirements of the federal Family Educational Rights and Privacy Act (FERPA). **The bill takes effect July 1, 2018.**

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Fiscal Summary

**State Effect:** None.

**Local Effect:** *Authorizing* local school systems and local health departments to develop and implement specified policies and procedures does not affect local finances.

**Small Business Effect:** None.

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Analysis

**Current Law:** At the federal level, FERPA governs the privacy of student data.

FERPA generally prohibits the disclosure by schools that receive federal education funding of personally identifiable information from a student's education records, unless the educational institution has obtained signed and dated written consent from a parent or eligible student or one of FERPA's exceptions applies. Education records include a range of information about a student including medical and health records that the school creates or collects and maintains.

An opportunity to opt out, as authorized by the bill, is generally not considered sufficient notice, except to permit the disclosure of appropriately designated directory information. "Directory information" is defined as information contained in the education records of a student that would not generally be considered harmful or an invasion of privacy if disclosed.

There are cases when schools or school systems decide it is in the public interest to participate in policy evaluations or research studies. If student records are to be released for these purposes, the school or school system must obtain prior consent of the parent. Signed and dated written consent must specify the records that will be released, state the reason for releasing the records, and identify the groups or individuals who will receive the records.

In general, information about each request for records access and each disclosure of information from an education record must be maintained as part of the record until the school or agency destroys the education record. Outside parties receiving records must receive a written explanation of the restrictions on the re-release of information.

According to the Code of Maryland Regulations, individual student records maintained by teachers or other school personnel under certain provisions are to be confidential in nature, and access to these records may be granted only for the purpose of serving legitimate and recognized educational ends. Individual student records, with the exception of records that are designated as permanent and with other exceptions provided by law, must be destroyed when they are no longer able to serve legitimate and recognized educational ends. Educational institutions are bound by FERPA to protect the privacy of student and family information.

**Background:** School health information is considered part of the student record and as such is subject to FERPA. In 2006, the Maryland State Department of Education published [\*Documentation of School Health Records\*](#) as guidelines regarding the documentation of student health information.

**Local Fiscal Effect:** *Authorizing* local school systems and local health departments to develop and implement specified policies and procedures does not affect local finances. Charles County advises that if implemented, in compliance with federal law, costs will

increase minimally. Montgomery County Department of Health and Human Services advises that it already has a memorandum of understanding with Montgomery County Public Schools to accomplish the goals of the bill.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Charles and Montgomery counties; Maryland State Department of Education; Maryland Department of Health; Department of Legislative Services

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