

SUBSTITUTE FOR
SENATE BILL NO. 33

A bill to amend 1976 PA 451, entitled
"The revised school code,"
(MCL 380.1 to 380.1852) by adding section 1136.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 1136. (1) TO PROTECT PUPIL PRIVACY, THE STATE BOARD SHALL
2 ENSURE THAT THE DEPARTMENT COMPLIES WITH ALL OF THE FOLLOWING:

3 (A) THE DEPARTMENT SHALL NOT SELL OR OTHERWISE PROVIDE TO A
4 FOR-PROFIT BUSINESS ENTITY ANY INFORMATION THAT IS PART OF A
5 PUPIL'S EDUCATION RECORDS. FOR A PUPIL ENROLLED IN A PUBLIC SCHOOL
6 ACADEMY, IF THE PUBLIC SCHOOL ACADEMY HAS A MANAGEMENT AGREEMENT
7 WITH AN EDUCATIONAL MANAGEMENT ORGANIZATION, THIS SUBDIVISION DOES
8 NOT APPLY TO THE DEPARTMENT PROVIDING THE INFORMATION TO THAT
9 EDUCATIONAL MANAGEMENT ORGANIZATION.

10 (B) WITHIN 30 DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION,
11 THE DEPARTMENT SHALL POST ON ITS WEBSITE A NOTICE OF THE

1 INFORMATION IT COLLECTS FOR A PUPIL'S EDUCATION RECORDS. THE NOTICE
2 SHALL INCLUDE AT LEAST AN INVENTORY OF ALL PUPIL DATA ELEMENTS
3 COLLECTED BY THE DEPARTMENT AND A DESCRIPTION OF EACH PUPIL DATA
4 ELEMENT.

5 (C) AT LEAST 30 DAYS BEFORE INITIATING THE COLLECTION OF ANY
6 PUPIL DATA ELEMENTS IN ADDITION TO THOSE ALREADY DISCLOSED IN THE
7 INVENTORY UNDER SUBDIVISION (B), THE DEPARTMENT SHALL POST ON ITS
8 WEBSITE A NOTICE OF THE ADDITIONAL PUPIL DATA ELEMENTS IT IS
9 PROPOSING TO COLLECT AND AN EXPLANATION OF THE REASONS FOR THE
10 PROPOSAL.

11 (D) THE DEPARTMENT SHALL NOT DISCLOSE ANY INFORMATION
12 CONCERNING A PUPIL THAT IS COLLECTED OR CREATED BY THE DEPARTMENT
13 EXCEPT IN ACCORDANCE WITH A POLICY ADOPTED AND MADE PUBLICLY
14 AVAILABLE BY THE STATE BOARD THAT CLEARLY STATES THE CRITERIA FOR
15 THE DISCLOSURE OF THE INFORMATION.

16 (E) THE DEPARTMENT SHALL ENSURE THAT ANY CONTRACT IT HAS WITH
17 A VENDOR THAT ALLOWS THE VENDOR ACCESS TO EDUCATION RECORDS
18 CONTAINS EXPRESS PROVISIONS REQUIRING THE VENDOR TO PROTECT THE
19 PRIVACY OF EDUCATION RECORDS AND PROVIDES EXPRESS PENALTIES FOR
20 NONCOMPLIANCE.

21 (F) UPON WRITTEN REQUEST BY A PUPIL'S PARENT OR LEGAL
22 GUARDIAN, THE DEPARTMENT SHALL DISCLOSE TO THE PARENT OR LEGAL
23 GUARDIAN ANY INFORMATION CONCERNING THE PUPIL THAT IS COLLECTED OR
24 CREATED BY THE DEPARTMENT AS PART OF THE PUPIL'S EDUCATION RECORDS.

25 (G) IF THE DEPARTMENT PROVIDES ANY INFORMATION DESCRIBED IN
26 SUBDIVISION (F) TO ANY PERSON OTHER THAN THE PUPIL'S SCHOOL
27 DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY OR

1 ITS AUTHORIZING BODY, OR THE PUPIL'S PARENT OR LEGAL GUARDIAN, THEN
2 THE DEPARTMENT SHALL DISCLOSE TO THE PUPIL'S PARENT OR LEGAL
3 GUARDIAN UPON HIS OR HER WRITTEN REQUEST ALL OF THE FOLLOWING:

4 (i) THE SPECIFIC INFORMATION THAT WAS DISCLOSED.

5 (ii) THE NAME AND CONTACT INFORMATION OF EACH PERSON TO WHICH
6 THE INFORMATION HAS BEEN DISCLOSED.

7 (iii) THE REASON FOR THE DISCLOSURE.

8 (H) THE DEPARTMENT SHALL DISCLOSE THE INFORMATION UNDER
9 SUBDIVISIONS (F) AND (G) WITHIN 30 DAYS AFTER RECEIVING THE WRITTEN
10 REQUEST AND WITHOUT CHARGE TO THE PARENT OR LEGAL GUARDIAN. IF THE
11 DEPARTMENT CONSIDERS IT NECESSARY TO MAKE REDACTED COPIES OF ALL OR
12 PART OF A PUPIL'S EDUCATION RECORDS IN ORDER TO PROTECT PERSONALLY
13 IDENTIFIABLE INFORMATION OF ANOTHER PUPIL, THE DEPARTMENT SHALL NOT
14 CHARGE THE PARENT OR LEGAL GUARDIAN FOR THE COST OF MAKING THOSE
15 COPIES.

16 (2) TO PROTECT PUPIL PRIVACY, THE BOARD OF A SCHOOL DISTRICT
17 OR INTERMEDIATE SCHOOL DISTRICT OR BOARD OF DIRECTORS OF A PUBLIC
18 SCHOOL ACADEMY SHALL ENSURE THAT THE SCHOOL DISTRICT, INTERMEDIATE
19 SCHOOL DISTRICT, OR PUBLIC SCHOOL ACADEMY COMPLIES WITH ALL OF THE
20 FOLLOWING, AND THE GOVERNING BOARD OF AN AUTHORIZING BODY SHALL
21 ENSURE THAT THE AUTHORIZING BODY COMPLIES WITH ALL OF THE
22 FOLLOWING:

23 (A) A SCHOOL DISTRICT, AN INTERMEDIATE SCHOOL DISTRICT, A
24 PUBLIC SCHOOL ACADEMY, OR AN AUTHORIZING BODY SHALL NOT SELL OR
25 OTHERWISE PROVIDE TO A FOR-PROFIT BUSINESS ENTITY ANY INFORMATION
26 THAT IS PART OF A PUPIL'S EDUCATION RECORDS. FOR A PUPIL ENROLLED
27 IN A PUBLIC SCHOOL ACADEMY, IF THE PUBLIC SCHOOL ACADEMY HAS A

1 MANAGEMENT AGREEMENT WITH AN EDUCATIONAL MANAGEMENT ORGANIZATION,
2 THIS SUBDIVISION DOES NOT APPLY TO THE PUBLIC SCHOOL ACADEMY
3 PROVIDING THE INFORMATION TO THAT EDUCATIONAL MANAGEMENT
4 ORGANIZATION.

5 (B) UPON WRITTEN REQUEST BY A PUPIL'S PARENT OR LEGAL
6 GUARDIAN, A SCHOOL DISTRICT, AN INTERMEDIATE SCHOOL DISTRICT, A
7 PUBLIC SCHOOL ACADEMY, OR AN AUTHORIZING BODY SHALL DISCLOSE TO THE
8 PARENT OR LEGAL GUARDIAN ANY INFORMATION CONCERNING THE PUPIL THAT
9 IS COLLECTED OR CREATED BY THE SCHOOL DISTRICT, INTERMEDIATE SCHOOL
10 DISTRICT, PUBLIC SCHOOL ACADEMY, OR AUTHORIZING BODY AS PART OF THE
11 PUPIL'S EDUCATION RECORDS.

12 (C) SUBJECT TO THE EXEMPTIONS UNDER SUBSECTION (3), IF A
13 SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL
14 ACADEMY, OR AUTHORIZING BODY PROVIDES ANY INFORMATION DESCRIBED IN
15 SUBDIVISION (B) TO ANY PERSON, THEN THE SCHOOL DISTRICT,
16 INTERMEDIATE SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR AUTHORIZING
17 BODY SHALL DISCLOSE TO THE PUPIL'S PARENT OR LEGAL GUARDIAN UPON
18 HIS OR HER WRITTEN REQUEST ALL OF THE FOLLOWING:

19 (i) THE SPECIFIC INFORMATION THAT WAS DISCLOSED.

20 (ii) THE NAME AND CONTACT INFORMATION OF EACH PERSON TO WHICH
21 THE INFORMATION HAS BEEN DISCLOSED.

22 (iii) THE REASON FOR THE DISCLOSURE.

23 (D) A SCHOOL DISTRICT, AN INTERMEDIATE SCHOOL DISTRICT, A
24 PUBLIC SCHOOL ACADEMY, OR AN AUTHORIZING BODY SHALL DISCLOSE THE
25 INFORMATION UNDER SUBDIVISIONS (B) AND (C) WITHIN 30 DAYS AFTER
26 RECEIVING THE WRITTEN REQUEST AND WITHOUT CHARGE TO THE PARENT OR
27 LEGAL GUARDIAN. IF THE SCHOOL DISTRICT, INTERMEDIATE SCHOOL

1 DISTRICT, PUBLIC SCHOOL ACADEMY, OR AUTHORIZING BODY CONSIDERS IT
2 NECESSARY TO MAKE REDACTED COPIES OF ALL OR PART OF A PUPIL'S
3 EDUCATION RECORDS IN ORDER TO PROTECT PERSONALLY IDENTIFIABLE
4 INFORMATION OF ANOTHER PUPIL, THE SCHOOL DISTRICT, INTERMEDIATE
5 SCHOOL DISTRICT, PUBLIC SCHOOL ACADEMY, OR AUTHORIZING BODY SHALL
6 NOT CHARGE THE PARENT OR LEGAL GUARDIAN FOR THE COST OF THOSE
7 COPIES.

8 (3) SUBSECTION (2) (C) DOES NOT APPLY TO ANY OF THE FOLLOWING
9 SITUATIONS:

10 (A) A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC
11 SCHOOL ACADEMY, OR AUTHORIZING BODY PROVIDING THE INFORMATION TO
12 THE DEPARTMENT.

13 (B) A SCHOOL DISTRICT, INTERMEDIATE SCHOOL DISTRICT, PUBLIC
14 SCHOOL ACADEMY, OR AUTHORIZING BODY PROVIDING THE INFORMATION TO
15 THE PUPIL'S PARENT OR LEGAL GUARDIAN.

16 (C) A PUBLIC SCHOOL ACADEMY PROVIDING THE INFORMATION TO ITS
17 AUTHORIZING BODY OR TO AN EDUCATIONAL MANAGEMENT ORGANIZATION WITH
18 WHICH IT HAS A MANAGEMENT AGREEMENT.

19 (D) A SCHOOL DISTRICT PROVIDING THE INFORMATION TO ITS
20 INTERMEDIATE SCHOOL DISTRICT.

21 (E) AN INTERMEDIATE SCHOOL DISTRICT PROVIDING THE INFORMATION
22 TO A SCHOOL DISTRICT IN WHICH THE PUPIL IS ENROLLED OR RESIDES.

23 (F) AN AUTHORIZING BODY PROVIDING THE INFORMATION TO A PUBLIC
24 SCHOOL ACADEMY IN WHICH THE PUPIL IS ENROLLED.

25 (4) IF AN EDUCATIONAL MANAGEMENT ORGANIZATION RECEIVES
26 INFORMATION THAT IS PART OF A PUPIL'S EDUCATION RECORDS FROM ANY
27 SOURCE AS PERMITTED UNDER THIS SECTION, THE EDUCATIONAL MANAGEMENT

1 ORGANIZATION SHALL NOT SELL OR OTHERWISE PROVIDE THE INFORMATION TO
2 ANY OTHER PERSON EXCEPT AS PROVIDED UNDER THIS SECTION.

3 (5) IN ADDITION TO ENSURING COMPLIANCE WITH SUBSECTION (1),
4 THE STATE BOARD SHALL ENSURE THAT THE DEPARTMENT COMPLIES WITH ALL
5 OTHER APPLICABLE PRIVACY LAW.

6 (6) AS USED IN THIS SECTION:

7 (A) "AUTHORIZING BODY" MEANS THAT TERM AS DEFINED IN PART 6A,
8 6C, OR 6E OR SECTION 1311B, AS APPLICABLE.

9 (B) "EDUCATION RECORDS" MEANS THAT TERM AS DEFINED IN 34 CFR
10 99.3.

11 (C) "EDUCATIONAL MANAGEMENT ORGANIZATION" MEANS THAT TERM AS
12 DEFINED IN SECTION 503C, 523C, OR 553C, AS APPLICABLE.

13 (D) "MANAGEMENT AGREEMENT" MEANS THAT TERM AS DEFINED IN
14 SECTION 503C, 523C, OR 553C, AS APPLICABLE.

15 Enacting section 1. This amendatory act takes effect 90 days
16 after the date it is enacted into law.