

21st Century Student Privacy Act

Be it Enacted by the Legislature of the State of Dixie

Section 1. Definitions

(a) As used in this section, the following words shall have the following meaning:

1. "Educational institution", means a public or private institution providing elementary, secondary, or post-secondary education located in the Dixie.
2. "Personal social media account", means a social media account, service or profile that is used by a current or prospective student exclusively for personal communications unrelated to any educational purpose of the educational institution; provided however, that "personal social media account" shall not include any social media account created, maintained, used or accessed by a student or prospective student for education related communications or for an educational purpose of the educational institution.
3. "Social media", means an electronic medium allowing users to create, share and view user-generated content including, but not limited to, uploading or downloading videos or still photographs, blogs, video blogs, podcasts, messages, e-mails or internet website profiles or locations.

Section 2. Prohibitions

(a) An educational institution shall not:

1. Require, request or cause a student or applicant to disclose a user name, password or other means for access, or provide access through a username or password, to a personal social media account.
2. Compel a student or applicant, as a condition of acceptance or participation in curricular or extracurricular activities, to add a person, including but not limited to, a coach, teacher, school administrator or other school employee or school volunteer, to the student's or applicant's list of contacts associated with a personal social media account.
3. Require, request or cause a student or applicant to reproduce in any manner, photographs, videos, or information contained within a personal social media account.
4. Take or threaten adverse action against a student or applicant, including, but not limited to, restraining the student's participation in extracurricular activities, for refusing to disclose information specified in clause (1) or clause (3) or for refusing to add a coach, teacher, school administrator or other school employee or school volunteer to a list of contacts associated with a personal social media account, as specified in clause (2)

(b) This section shall not apply to information about a student or applicant that is publicly available.

(c) Nothing in this section shall limit an educational institution's right to promulgate and maintain lawful policies governing the use of the educational institution's electronic equipment, including policies regarding use of the internet, email or social media.

(d) An aggrieved student or prospective student may bring a cause of action to seek declaratory or injunctive relief if a violation of this section occurs and may recover:

1. \$1,000 for each request that violates clause (1) or (2) of subsection (a).

2. \$1,000 for each adverse action, which violates clause (3) of subsection (a), or actual damages, whichever amount is higher.
3. Punitive damages if a court determines that a violation was willful
4. Reasonable attorneys' fees and other litigation costs reasonably incurred.

(e) Nothing in this section shall prevent the educational institution, after receipt of specific relevant information, from requesting access to a student's personal social media account to ensure compliance with applicable state or federal laws, rules or regulations; legally mandated investigations of students' actions; or judicial directives; provided, however, that an educational institution, prior to requesting access to a personal social media account, shall notify the student and the student's parent or guardian, if a minor, of the grounds for the request to a personal social media account; and provided further that:

1. The educational institution has no other means of obtaining the relevant information
2. The information gained from access to the student's personal social media account shall be used solely for purposes of the investigation or a related proceeding
3. Any access to a student's personal social media account shall be limited to identifying relevant evidence.